

Cross-Border Higher Education and Quality Assurance

Commerce, the Services Directive and
Governing Higher Education

Edited by

Maria João Rosa, Cláudia S. Sarrico,
Orlanda Tavares, Alberto Amaral

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Editors

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Editors

Maria João Rosa
University of Aveiro
Aveiro, Portugal

Orlanda Tavares
A3ES
Lisbon, Portugal

Cláudia S. Sarrico
University of Lisbon
Lisbon, Portugal

Alberto Amaral
A3ES
Lisbon, Portugal

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CONTRIBUTORS

Alberto Amaral is professor at the University of Porto and a researcher at CIPES. He was the rector of Porto University from 1985 to 1998 and former chair of CHER. He is lifetime member of IAUP and member of the Board of IMHE/OECD. At present he is the chair of the administration council of the Portuguese Assessment and Accreditation Agency for Higher Education.

Luigi Berlinguer has a degree in Law from the University of Sassari and was a member of the European Parliament from 2009 to 2014. He was the rector of the University of Siena (1985–1994) and the secretary general of the conference of the rectors of the Italian universities. He was Minister of Education from 1996 to 2000 and a minister for University Scientific Research and Technology from 1996 to 1998. He served both at the Italian Camera dei Deputati and the Italian Senate. He has also been member of the Italian higher council for the Judiciary.

Lukas Bischof is a consultant and project manager with CHE Consult, Berlin. He studied Organisational and Work Psychology, Business Administration, and Higher Education Management Organisational. At CHE Consult, he is engaged in projects on international quality assurance and does research and consulting work. He publishes regularly on quality assurance in higher education.

Judith S. Eaton is president of the Council for Higher Education Accreditation (CHEA), the largest institutional higher education membership organization in the United States. A national advocate and institutional voice for self-regulation of academic quality through accreditation, CHEA is an association of 3,000 degree-granting colleges and universities.

José Manuel Martins Ferreira was formerly Vice-President for Academic Affairs at the Faculty of Engineering of the University of Porto in Portugal, and is currently the university vice-rector in charge of information management, educational

technologies, quality and continuous improvement. He is also a Professor of Digital Electronics at the University College of Southeast Norway in Kongsberg.

Jan De Groof is professor at the College of Europe (Bruges, Belgium) and at the TiasNimbas Business School (University of Tilburg, the Netherlands). He is president of the European Association for Education Law and Policy. Jan De Groof is professor and visiting professor at Belgian, European, American and South African universities. In 1987, he was appointed Government Commissioner for Universities in the Flemish Community of Belgium. He has been Chief of the Cabinet of the Flemish Minister of Education (1985–1988). Jan De Groof holds the UNESCO Chair for the Right to Education and is former UNESCO Chargé de Mission. He is lately elected as Deputy Chair of the Appeals Committee of the ‘European Quality Assurance Register for Higher Education’ (EQAR).

Elsa Hackl holds a Master Degree in Law and Doctor Degree in Politics. She was director at the Austrian Ministry for Higher Education and Research before integrating the Department of Political Science, University of Vienna. She was also a visiting fellow at the University of British Columbia, Canada, and the European University Institute, Florence, and worked as an expert for OECD, the Council of Europe and Salzburg Seminar.

Achim Hopbach is the Managing Director of the Agency for Quality Assurance and Accreditation Austria and serves on boards and advisory bodies of various quality assurance agencies in Dubai, Hungary and Sweden. He served as President of ENQA from 2009 to 2013 and also as member of the Hong Kong Accreditation Council. In addition to quality assurance he works in the field of qualifications frameworks and published numerous articles on both topics.

Stephen Jackson is Associate Director International at the Quality Assurance Agency in the UK. Previously he had overall responsibility for the various review and audit activities that QAA is responsible for in England, Wales and Northern Ireland. He is a geographer by training and spent many years teaching at John Moores University in Liverpool. He also has interests in teaching and learning developments and transnational education.

Tiago Estêvão Martins is member of the Executive Committee of the European Students’ Union (ESU), the organization representing fifteen million students from 39 countries. Through his work in ESU, he is involved in two projects financed by the European Commission, entitled PL4SD and IDEAS. He is also a representative of ESU in the Bologna Follow-Up Group’s Social Dimension and Lifelong Learning Working Group.

Guy Neave holds a doctorate in French Political History from UC London. Onetime Professor of Comparative Education at the University of London Institute of Education (1985–1990), he is also Professor Emeritus of CHEPS

(Netherlands). In 1999 he was elected Foreign Associate of the US National Academy of Education. At present, he is the scientific director of CIPES.

Maria João Rosa is an assistant professor in the Department of Economics, Management and Industrial Engineering at the University of Aveiro. She is also a researcher at CIPES. Her main research topics are quality management and quality assessment in higher education institutions. She is a member of CHER and of EAIR.

Jamil Salmi is a global tertiary education expert providing policy advice and consulting services to governments, universities, professional associations, multi-lateral banks and bilateral donors. Until January 2012, he was the World Bank's tertiary education coordinator. Dr. Salmi was the principal author of the Bank's 2002 Tertiary Education Strategy entitled "Constructing Knowledge Societies: New Challenges for Tertiary Education". His 2009 book addresses the "Challenge of Establishing World-Class Universities".

Cláudia S. Sarrico is an associate professor at ISEG Lisbon School of Economics & Management, Universidade de Lisboa, and researcher at CIPES Centre for Research in Higher Education Policies, where she is the coordinator of the research line on resources, performance, and human capital. She works primarily on issues of quality and performance management, with a focus on education, higher education and science.

Andrée Sursock is senior advisor at the EUA. She is the author of the Trends 2015 report and serves on a number of international boards and committees, including the governing boards of Montpellier Sup Agro, AEQES the evaluation agency of the French-speaking community of Belgium, the University Quality Assurance International Board (UQAIB) in Dubai, and the appeals committee of A3ES, the Portuguese accreditation agency. She earned a first degree in philosophy from the University of Panthéon-Sorbonne (Paris 1) and a PhD in social-cultural anthropology from the University of California, Berkeley.

Orlanda Tavares is a researcher both at the Agency for Assessment and Accreditation of Higher Education (A3ES) and at The Centre for Research in Higher Education Policies (CIPES). She completed her PhD in Educational Research at University of Porto, Portugal. Her main interest areas are policies in higher education and quality assurance/enhancement. She is a member of CHER.

Padraig Walsh holds degrees in Chemical and Biochemical Engineering from University College Dublin (BE, PhD) and from the University of Missouri (MSc). In 2005, he was appointed Chief Executive of the Irish Universities Quality Board (IUQB) and subsequently of the bodies that merged in 2012 into Quality and Qualifications Ireland (QQI). He has been the President of the ENQA board since October 2013. He serves on the appeals committee of the Portuguese accreditation agency.

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Cross-Border Higher Education: A New Business?

Alberto Amaral

INTRODUCTION: SETTING THE SCENE

Internationalisation is not a new concept for universities. In his inaugural speech at the celebration ceremony of the 900th anniversary of the University of Bologna, Giovanni Agnelli, at the time the president of FIAT, stated that “from the very first universities were international in spirit. Even in the most intolerant and difficult times they held that knowledge should be free and universal” (Agnelli 1988, p. 11).

From the Middle Ages until the seventeenth century Latin was the common teaching language of universities. The structure of universities was similar, having in general four faculties, Theology, Law, Medicine and Arts, and these were very similar in their study programmes and academic degrees.

The Faculty of Arts (in the meaning of liberal arts) had a propaedeutic character, in that the *trivium* (grammar, rhetoric and logic) and the *quadrivium* (arithmetic, geometry, astronomy and music) were taught. In the *trivium* students learned the arts of expression (*artes sermonicales*)—speaking, reading and reasoning in Latin. In the *quadrivium* students learned the classic knowledge areas and then could eventually follow into theology, medicine or law.

A. Amaral (✉)
University of Porto, Porto, Portugal

As a result of this remarkable uniformity students could very easily change from one university to another. In Medieval times students were frequent travellers despite the risks and lack of comfort in travelling. There were few higher education institutions and many kings encouraged their vassals to travel in search of good higher education, which was then a good passport for a well-paid career at the service of the State or the Church.

However, many new universities were progressively established in different European countries, as the Prince (Neave 1995) recognised the need to avoid absolute dependency on foreign institutions in order to train well-educated staff. This resulted in a dramatic change from the previous mobility policy. In several cases the Prince, to protect its newly established institution, promulgated laws forbidding cross-border movement or banning from employment any vassals educated abroad.

For example, King Frederic II, after establishing the Studium of Naples in 1215, decided to forbid its vassals from leaving the Kingdom of Sicily, either to study or to teach abroad. He even threatened to punish the parents of those students abroad who did not return before the Saint Michael's festivities (29 September). Similar measures were taken in favour of the University of Pavia in 1361, 1392 and 1412, and in favour of the University of Padova in 1407 and 1468. In the fifteenth century the Counts of Provence forced their vassals to attend the Studium at Aix to avoid its decline. Similar policies were implemented in Portugal. In 1440 King Afonso V granted a petition from the University of Coimbra asking that all subjects holding a foreign diploma pay a fine of 20 crowns to the University, and granting that those with a Coimbra diploma would have preference when competing for public employment.

The ideals of universities developed around the disinterested search for truth and the creation of new knowledge—the *amor sciendi*—if possible completely free from *pecuniae et laudis cupiditas*, meaning without greed for money and ambition. The mobility of academics was frequent, as the Pope allowed the *Studia Generalia* to confer the *licentia ubique docendi*, which allowed an academic to teach in any institution under papal jurisdiction. The academics had no need to seek the recognition of their foreign academic diplomas, which was far more favourable to mobility than the present situation, despite of all the good intentions in building a European union as a space for the free movement of goods, people, services and capital.

This freedom of movement created problems, as it was not very difficult to transfer an institution to a new place, which actually occurred in several cases. As facilities were in general precarious, sometimes consisting

of only several rooms rented by the masters for teaching purposes, moving to a different place did not present excessive difficulties. To counter this possibility, in 1215, the Commune of Bologna forbade academics from associating *in sectam vel conspirationem* with the objective of leaving the university, and asked rectors, as representatives of the institution, to make a solemn vow that they would never promote the transfer of the university to another town.

In the Middle Ages and especially in the fifteenth century, as each country was able to establish its own higher education institution, the general rule progressively became the choice, voluntary or imposed, of a regional university or of the nearest university. We may argue that over the fourteenth and fifteenth centuries, the establishment of new universities resulted in increasing regionalisation of student recruitment, and by the end of the fifteenth century the *peregrinatio academica* had almost come to an end, only to be revived under the influence of Italian humanism (Nardi 1996).

Those examples show that universities have internationalisation in their genes since their very early foundation, although the intensity and the nature of their activities changed over time. Over the last decades, internationalisation has not only assumed a more prominent role in the agenda of universities but has also entered the rhetoric of politicians and of international and supranational organisations. According to a survey of the International Association of Universities (2003), 73% of higher education institutions declared that they considered internationalisation a high priority issue. New concepts such as globalisation and Europeanization are assuming growing prominence in political discourses as competition for students in a global market is becoming a new reality.

In many countries, universities are being forced to look for alternative sources of funding to compensate for cuts in public expenditure. This includes student fees and the offer of education programmes to foreign students at prices substantially higher than those paid by national students. Competition for students is assuming new forms, including Cross-Border Higher Education (CBHE), while for-profit providers of education are playing an increasing role in this competition. And the recent emergence of the MOOCs (Massive Open Online Courses) is a new development that deserves attention.

At the global level there were efforts to consider education a tradable service and to liberalise education services through the General Agreement on Trade and Services (GATS) in the framework of the World Trade

Organisation (WTO), although so far with limited effects. However, the European Union has recently taken a very bold step in liberalisation by means of the so-called Services Directive and its extension to education.

These developments raise new challenges to national governments and higher education institutions. Higher education has been traditionally an area of high political sensitivity, which has justified national governments taking frequent measures to protect national higher education institutions from what is seen as unfair external competition, and to protect students from poor quality provision. The UNESCO and the OECD-produced joint guidelines aim to protect students and other stakeholders from low-quality provision and rogue providers. National governments have been exploring the possibility of regulating new forms of cross-border provision by using quality assessment and accreditation mechanisms, as recommended by UNESCO and the OECD. The European Commission apparently wants to close this route, in order to uphold the primacy of liberalisation, by promoting measures that favour, above all other considerations, the free movement of goods, services, capital and persons. The immaterial nature of open online provisions will create additional difficulties if MOOCs become an effective mechanism for borderless education.

In this conference we will examine the problems associated with these recent developments of internationalisation, with particular emphasis on the Services Directive and its consequences in terms of national sovereignty and consumer protection from low-quality provision of education. Substantial attention will be dedicated to the development of MOOCs, another emerging model of provision that promises to introduce “disruptive innovation” into the realm of the secular university.

DEFINITIONS AND TYPOLOGY

Until a few decades ago the most common form of internationalisation of higher education consisted of faculty exchanges and the movement of students from one country to study in an institution of a different country, either financed by scholarships or paying for their own studies. In recent decades, new forms of education provision for foreign students have emerged that are known as cross-border, borderless or trans-national higher education. There is no unanimously accepted definition for these terms. The British Council (2012) collected a number of definitions of CBHE from several international organisations (Table 1.1).

Table 1.1 Multilateral definitions of CBHE (British Council 2012, p. 12)

<i>Name of institution</i>	<i>Year</i>	<i>Definition</i>
Global Alliance for TNE	1997	Cross-Border Higher Education denotes any teaching or learning activity in which the students are in a different country (the host country) to that in which the institution providing the education is based (the home country). This situation requires that national boundaries be crossed by information about the education, and by staff and/or educational materials
Council of Europe— Lisbon Recognition Convention	2002	Defines CBHE as ‘All types of higher education study programmes, or sets of courses of study, or educational services (including those of distance education) in which the learners are located in a country different from the one where the awarding institution is based
UNESCO/OCDE Guidelines for quality provision in cross-border education	2005	Cross-border higher education includes higher education that takes place in situations where the teacher, student, programme, institution/provider or course materials cross national jurisdictional borders. Cross-border higher education may include higher education by public/private and not-for-profit/for-profit providers. It encompasses a wide range of modalities, in a continuum from face-to-face (taking various forms such as students travelling abroad and campuses abroad) to distance learning (using a range of technologies and including e-learning)
INQAAHE	2010	CBHE includes distance education courses offered by higher education providers located in another country, joint programs offered between a local provider and a foreign institution, franchised courses offered with or without involvement of staff members from the parent institution, and foreign campuses of institutions developed with or without local partnerships

However, in some cases national authorities adopt different definitions. For the Australian government, delivery must include a face-to-face component, which eliminates e-learning provided in a purely distance mode (IEAA 2008, p. 4). The Chinese Ministry of Education (British Council 2012, p. 13) defines TNE as “Those foreign corporate, individuals, and related international organisations in cooperation with educational institutions or other social organisations with corporate status in China, jointly establish education institutions in China, recruit Chinese citizens as major

Table 1.2 Typology of modes of delivery (Tilak 2011)

<i>Mode of delivery</i>	<i>Examples</i>	<i>Type of mobility</i>
Cross-border supply	Distance learning, online, franchising	Programme mobility
Consumption abroad	Students in other countries	Student mobility
Commercial presence	Branch campus, joint venture, investment	Institution mobility
Delivery abroad	Faculty moves to other country	Academic mobility

educational objectives, and undertake education and teaching activities” (British Council 2012, p. 13). Tilak (2011) presents an interesting typology of cross-border education, which corresponds to the classification of education services under the GATS (Table 1.2).

In this book we will dedicate substantial attention to franchising due to its implications with the European Services Directive. Franchised programmes are designed by the foreign provider (franchiser) and delivered in a domestic institution (franchisee) and the student is awarded the diploma from the franchiser. In general the franchise is only partial, meaning that the franchiser tries to ensure some control over provision.

DEGREE MILLS, ROGUE PROVIDERS AND THE NEED FOR STRONG REGULATION

In the absence of regulation, rogue providers and rogue quality agencies emerge. Matthew Chapman (2000) reports a number of degree mills operating in London including “at least 15 universities or colleges promising a PhD, Ba, BSc or even a medical degree in ten days”. He refers that in the case of a degree mill in Palmers Green:

...every few months, the university morphs into a new institution, with a different name, a new website, and even a new Latin motto, just to keep prospective students interested. So far, the same semi in north London has been the mailing address for the University of Palmers Green, Harrington University, Brentwick University, the University of St Moritz and, in most recent incarnation, the University of Devonshire. (Chapman 2000)

Senator Kim Carr (2000) reports similar cases in Australia, presenting a number of examples of rogue institutions, such as the case of an Australian company offering MBA courses when it was in fact registered to run cleaning and security courses. He also found a university that operated

out of a whiskey distribution firm in South Australia. It was known as the Australian Tertiary Education Administrations Limited (Carr 2000, p. 5).

Quality problems are even more evident in TNE as in general it has developed outside of the national boundaries of quality assurance agencies, which in many cases do not scrutinise TNE programmes (Daniel and Kanwar 2005; Davis et al. 2000), and where they have been scrutinized, serious problems were identified (Martin and Peim 2011, p. 131). Bashir's report for the World Bank is very clear about the frequent quality problems of TNE:

Foreign providers invest heavily in marketing and advertising the “foreign brand” as the essence of quality and it takes time before the market becomes sufficiently sophisticated to place emphasis on quality, value and proven reputation... The weakness or lack of domestic licensing or quality assurance/accreditation measures is a major factor raising these risks. (Bashir 2007, p. 67)

And the Italian government has promoted the compilation of 50 examples of rogue providers and rogue accreditation agencies. Just to give an example of bad practices, the “Global University” run by the consortium Universitas21 is accredited by its own agency, Pedagogia.

However, public providers do not all have a clean record and examples of bad practice and poor quality provision are publicly documented. Vicent-Lancrin (2006) argues that the significant decrease in public funding for higher education created the need to raise money from other sources and the size of a global higher education market provides an almost irresistible temptation. Martin and Peim refer to “public institutions engaged in significant profit generation and aggressive marketing, the use of contingent labour, the branding of education and cultural insensitivity” (2011, p. 128).

Several countries including Hong Kong, Israel, Malaysia, Romania, the United Arab Emirates, Singapore and South Africa have complained about the poor quality of the activities developed by foreign providers (Van der Wende 2001). The government of Israel accused the University of Derby of compromising standards in a franchising operation in order to make as much money as possible. Israel's Ministry of Justice arrested the head of a teachers' union for buying a fraudulent degree and allowing his name to be used in marketing campaigns by a company that held the franchises for Burlington College, Vermont and the University of Latvia. In an audit of Britain's operations in Spain, QAA expressed concerns about the activities of five of the six audited universities. Naidoo (2006) refers that the

evaluation of four MBA programmes offered in South Africa by foreign institutions from the UK, the Netherlands and Australia resulted in one conditional accreditation while three had their accreditation withdrawn. Martin and Peim (2011, p. 136) refer to some of detected problems in the UK, including (i) overly fast expansion with excessive recruitment (Martin 2004a); (ii) poor programme development (QAA 2000; Martin 2004b); (iii) lack of sensitivity to cultural context (Li 2002); (iv) absence of appropriate quality infrastructure (Lieven and Martin 2006); (v) choice of partner, including some seriously unwise and potentially scandalous liaisons (Baty 2000; *The Times Higher Education* January 2005).

Similar problems were detected in the case of Australia. Martin and Peim (2011, p. 136) refer to the sector as a \$14 billion industry riddled with corruption (*The Australian* 14/06/09) following reports that an Australian television station had conducted an investigation showing that “foreign students have been ripped off to the tune of tens of thousands of dollars by hundreds of allegedly shady vocational institutions collaborating with independent migration and education agents” (*the Chronicle of Higher Education*, August 3, 2009). Plagiarism, tolerated or even encouraged by institutions, has been another problem, as mentioned in the *Global Corruption Report: Education*. Ghali Hassan (2009) reports that the University of New Castle, in 2003, reprimanded a lecturer and accused him of being “insensitive to other cultures for objecting to plagiarism, as if plagiarism is cultural... The scandal cost the University’s vice-chancellor his job”. Martin and Peim argue that the shortcomings found by the Australian quality agency (AUQA) do not differ from those found in the UK, namely:

... non equivalence of standards in progress review, inadequate moderation procedures and poor staff induction and support, no student evaluations and too few staff involved in decision making, review and quality control and compressed courses that allow insufficient time for intellectual development, mature reflection on the topic or adequate independent study. (Martin and Peim 2011, p. 137)

Australia and the UK have robust quality assurance systems and even so there are several cases of dubious quality of provision. Senator Kim Carr (2000) considers that universities were pushed to enter an area of commercial activity for which they were not prepared and in many cases established corporate arms, a device by which they could avoid public scrutiny:

Universities are increasingly operating in a commercial environment in which they are very poorly equipped. University staff and university administrators are not trained in the finer points of fraud and corporate governance and are not able necessarily to deal with the details of the international trade. (Carr 2000, p. 4)

Marginson recognises that in the case of Australia, “short-term incentives are pulling and pushing our managers to focus on whatever keeps the dollars rolling in, rather than whatever sustains a good long-term global, international and local strategy” (Marginson 2000, p. 6). Bashir argues that “Low income countries typically attract lower quality providers, often those which are not accredited in their countries” and he considers “the weakness or lack of domestic licensing or quality assurance/accreditation measures” (Bashir 2007, p. 67) as factors contributing to the low quality problems of TNE. And Sheeny proposes that because of the significant non-market characteristics of higher education, the use of markets as regulators is problematic (Sheeny 2010, p. 67), with the three important market failures being information asymmetries, poor distribution to marginalised groups and problems in the provision of public goods—“because it neither acknowledges the collective nature of the educational endeavour of the higher education community, nor the collective aspirations of the nation” (Sheeny, *ibid.*).

These developments raise the serious problem of consumer protection associated with lack of adequate information (and therefore transparency) available to the potential students, employers and competent recognition authorities. There is a need to eliminate ‘rogue’ transnational providers, degree mills and bogus institutions. Andrée Sursock argues in favour of consumer protection and regulation, especially to curb what some perceive as ‘rogue’ transnational providers (Sursock 2001). Knight proposes “...frameworks for licensing, accreditation, qualification recognition and quality assurance are important for all countries, whether they are importing or exporting education services” (Knight 2002) while Tilak argues in favour of “strong regulatory mechanisms and sound accreditation systems that regulate private universities as well as foreign universities and their functioning” (Tilak 2011, p. 129).

These principles are shared by a number of international organisations. The OECD recommends the implementation of “appropriate local strategies or regulatory frameworks for foreign (but also domestic) education provision” (OECD 2008, p. 3), including issues of accreditation, quality

assurance and recognition of foreign qualifications. Hopper proposes that, “At a minimum, receiving countries should endeavour to develop clear policies and strategies toward foreign providers of cross-border tertiary education, particularly as they relate to issues of access, equity, relevance to the labour market and funding...” (Hopper 2007, p. 154). And the UNESCO/OECD Guidelines for Quality Provision of Cross-border Higher Education (2005) recommend that governments establish a comprehensive, fair and transparent registration or licensing for CBHE operators and reliable quality assurance and accreditation mechanisms.

Countries that are exporters of higher education (USA, UK, Australia) have established codes and/or principles of ethical and/or good practice for the assurance of academic quality and standards in the provision of education to foreign students. These countries want to ensure that the behaviour of their national institutions does not in any way tarnish the reputation of the country’s higher education system, which could forsake new medium/long-term market opportunities. For Carr (2000), “The health and success of education in the international arena depends crucially on our reputation for quality of provision and of the integrity of the qualifications that we actually award” (Carr 2000, p. 2).

LIBERALISATION AND THE GATS AGREEMENT

Education services are an important component of the exports of some countries such as the USA, the UK and Australia. It was in this context that the USA made a proposal to the World Trade Organisation to consider education as a tradable service or commodity to be included in the GATS (General Agreement on Trade and Services). The intention of this proposal was to remove barriers to the provision of higher education services by foreign institutions and companies.

The provisions of the GATS agreement aim at promoting an environment that will provide foreign service providers with equitable conditions when operating in the states that have signed the agreement. This includes the most favoured nation article, specifying that any company from a new country entering the market will be given operational conditions that cannot be worse than the most favourable conditions already given to companies from other countries; giving foreign companies equal treatment with domestic companies under national law; free access to the market, meaning that the state cannot limit the access of foreign companies to the domestic market.

The reactions of most countries to GATS in education were far from enthusiastic. Tilak recognises that GATS considers “education not as a public good or service, but as a tradable commodity and a commercial activity, and supply of education as a commercial undertaking” (Tilak 2011, p. 58). Kelsey (as cited by Ziguras 2003) expresses his opposition at seeing education treated:

...purely as a commercial, tradable commodity. There is no recognition of its role as a means of nation-building; a local storehouse of knowledge; the vehicle to transmit culture and language; the pre-requisite for a vibrant democracy and a contest of ideas; a source of innovation and change; or a desirable activity per se. (Kelsey 1999)

Saner and Fasel analysed the coalition clusters of stakeholders in education services, concluding that the Ministries of Trade and Commerce favour liberalisation while the Ministries of Culture and Labour favour the protection of the sector against liberalisation (Saner and Faser 2003, p. 301).

On September 28, , the presidents of the Association of Universities and Colleges of Canada, the American Council on Education (ACE), the European University Association (EUA), and the Council for Higher Education Accreditation (CHEA) signed a joint declaration expressing strong opposition to the inclusion of education in the GATS negotiations, while also expressing willingness to reduce barriers to internationalisation by means of agreements negotiated outside of a trade policy regime (Saner and Faser 2003, p. 300). Other organisations opposing the inclusion of education in the GATS include Education International¹ and the International Association of Universities² (Tilak 2011, p. 126).

European students represented by the National Unions of Students in Europe (ESIB, now ESU) expressed a not very different view:

...the concept of the student as a consumer and education as a product fails to acknowledge the importance of education as a social tool... Additionally, ESIB thinks that the concept of education as mere tradable project jeopardizes the academic freedom of universities, as markets fail and a sell-out of education might lead to decreasing diversity and freedom of research throughout Europe. (ESIB 2002)

ESIB “rejects the idea of education as a commodity and is therefore in opposition to the process of commoditisation of education”, and although

they agree that CBHE may offer some advantages if properly implemented, in practice it makes its operation unfeasible by firmly opposing “enterprises who provide education with the aim of making profit” (ESIB 2002).

So far, progress in the GATS agenda for education was modest, and many countries decided not to make commitments in education. Bashir argues that one of the reasons for the limited number of commitments is a result of the strategy in developing countries of not making further concessions in services without progress in agricultural reform, with a second one being “the perceived loss of policy-making discretion and national sovereignty associated with the acceptance of multilateral trading rules in a sector considered to be of strategic importance” (Bashir 2007, p. 57). Another deterrent factor is that, once a commitment is made, it cannot be withdrawn and no further restrictions can be introduced (Bashir 2007, p. 57) unless compensation is granted to the trading partners affected, in the form of market access in other sectors (Bashir 2007, p. 57).

It is interesting to realise that the USA, one of the most zealous proponents of the liberalisation of education services, although having submitted a proposal on education in the first phase of negotiations (2000–2001), so far made no commitment in higher education (Tilak 2011, pp. 69–70; Bashir 2007, p. 56) while Canada explicitly rejected scheduling commitments under GATS. The USA advocates the systematic dismantling of barriers to higher education trade. However, “in the U.S., foreign operators in higher education face major disincentives due to differing state-level regulation and accreditation mechanisms, which effectively create barriers to access into the U.S. market as a whole” (Bashir 2007, p. 61). Even in the case of distance education “states and territories regulate higher education within their borders, with varying requirements for out-of-state institutions that want to do business in the state”, which imposes that “each institution must independently pursue any needed approvals in each state and territory where it enrolls students” (Hill 2014).

GATS recognises “the right of Members to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives” (WTO 1995, p. 285). This means that a country, even after making a commitment to GATS in higher education, is entitled to protect consumers from rogue providers and to safeguard the achievement of educational goals, for instance by means of quality assurance and accreditation processes, provided they are not discriminatory, meaning that they apply equally to national and foreign providers. There are however

two problems: developing countries may not have robust quality systems, and quality assurance and accreditation measures “remain contentious issues of GATS/ES negotiations, since both measures could be seen as a measure to create barriers to trade in ES [Education services]” (Saner and Faser 2003, p. 296).

Saner and Fasel propose a compromise, arguing that “A balance has to be achieved between legitimate requests for consumer protection and the sovereign right by governments to pursue high quality education without falling into a trap of completely closing market access to foreign ES providers” (Saner and Faser 2003, p. 296).

THE EU SERVICES DIRECTIVE

In the European Union, defining policy is a rather delicate task due to the need to accommodate the different interests of its members, which makes convergence a core issue. National preferences and capacities (Schimmelfennig et al. 2011) trigger partial convergence, as “Full convergence is unlikely at both the policy and institutional levels” (Bache 2008, p. 18), meaning that Europeanization “implies differentiated responses” (Bache 2008, p. 18).

One way to muster the good will of Member States relies on the use of political ambiguity. As argued by Dehousse, “Carefully crafted drafting allied to delicately weighed wording are designed to pass lightly over and around the incapacity of member states to agree on essential goals and priorities” (Dehousse 2005).

The use of ambiguous language, written in the most obscure legal jargon, allows for diverse interpretations of the treaties, which the different Member States use to accommodate the meaning of European legislation to their particular political contexts. However, the Commission frequently asks the European Court of Justice for an interpretation, which systematically upholds the Commission’s neoliberal stance (Fagforbundet 2008, p. 4). As Amaral and Neave argue:

The use of ‘weasel words’, which seek to deprive a statement of its force or to turn a direct commitment aside, allows not only for diverse interpretations of the treaties, it enhances and reinforces the supranational role of the European Court of Justice, a development that certain member states view as increasingly undermining the sovereignty of the nation state. (Amaral and Neave 2009, p. 282)

A report from the Norwegian Union of Municipal and General Employees confirms the previous opinion:

Throughout its existence, and in an increasingly target-oriented fashion, the Commission has been a driver of internal liberalisation within the EU. There are no examples of the Commission taking the initiative to change things in the opposite direction... The ECJ has a similar key driver role. From the start, the ECJ has regarded it as its supreme duty to realise the fundamental principles of the EU Treaty on the free movement of goods, services, capital and persons. Whatever the politicians cannot—or dare not—clarify, is clarified by the judges in the ECJ. (Fagforbundet 2008, p. 4)

In Europe, the European Parliament and the Council of the European Union passed, on 12 December 2006, the Directive 2006/123/EC, about services in the internal market, usually referred to as the Services Directive (European Union 2006). The Directive aims at creating a EU internal market in services by “removing barriers preventing providers from extending their operations beyond their national borders and from taking full advantage of the internal market” (European Union 2006, p. 37). Under the Services Directive a provider from Country A is allowed to offer its services in Country B while complying with the regulatory framework of the country of origin, where the provider is registered.

The Services Directive explicitly excludes areas such as health, environment, public health and security, and even less noble sectors such as gambling. However, it does not explicitly exclude education, although it excludes the national education systems. The Directive excludes the “Services of General Interest” (SGI) but includes the “Services of General Economic Interest” (SGEI), which introduces substantial ambiguity in defining which activities fall within SGI or SGEI, as there is no legal basis for their definition. ETUCE³ explains:

Based on the previous rulings of the Court of Justice, the category of SGI can be defined as comprising courses of education funded “*essentially out of public funds*”, provided by a non-profit making institution, and serving a general interest purpose, whereas the category of SGEI can be defined as comprising education courses “*funded essentially out of private funds*”, provided by an institution aiming to make a profit, and entrusted with a specific public interest task by the authorities at national level. (ETUCE 2006, p. 2)

The Directive entrusts the Member States with the right to define their national application of the categories SGI/SGEI, but it conditions this definition with compliance with community law. In the case of disputes about the national definitions, the final decision lies with the European Court of Justice, which means that the definition rests on the case-by-case judgements. The fact that the Commission considers that no clear boundary can be defined between SGI and SGEI and that the boundary is not a fixed one, introduces an additional uncertainty in European education policies. As argued by the Norwegian Trade Union, “it gets even worse when the Commission explains that in any event it will be impossible for the Member States to consider all the services in a given area, for example all education services, as non-economic services of general interest” (Fagforbundet 2008, p. 56).

So far the Commission has considered that private provision of education falls under SGEI. This means that if a private institution registered in Member State A is operating in Member State B, either by physical presence or through franchising, the host can neither forbid the franchising operations nor determine the accreditation of the programmes by the national agency. The Commission, supported by former decisions of the European Court of Justice, considers that ensuring the quality of such programmes lies with the authorities of the exporting Member State, not with the authorities of the receiving country (from a letter addressed by the Commission to the Portuguese authorities). However, the Commission surprisingly argues:

The “borderless” delivery of higher education has made cross-border quality assurance increasingly important. The emergence of so-called “degree mills” (fake universities selling fake “degrees” on the internet) makes it vital to distinguish legitimate education undertaken abroad from spurious qualifications. (European Commission 2009)

We may conclude that the European Union has gone much further than the WTO/GATS in the liberalisation of trade in education services. While GATS allowed the hosting states to establish quality assurance and accreditation systems, provided they were non-discriminatory, the EU Services Directive transfers all the responsibility for quality to the exporting country and does not allow the receiving state to intervene, even when the need to protect national consumers is invoked. Therefore, hosting countries are sitting ducks if an exporting country decides to authorise its

private institutions to operate in another country. The Services Directive is in absolute contradiction with the recommendations of international organisations such as UNESCO and OECD and even the World Bank.

Has the Commission gone too far in its unfettered pursuit of liberalisation? In a recent 2014 report on quality (European Commission 2014) the Commission suggests, for instance, the possibility of bilateral agreements mandating that the QA agency in the receiving country act on behalf of the sending country's QA agency. Is this the recognition that there has been too much intrusion in an area protected by subsidiarity, stripping the nation state of some of its prerogatives in an area of high political sensitivity?

DISTANCE EDUCATION AND MOOCs

A discussion centred on CBHE would be incomplete without a reflection on distance modes of delivery. This discussion has become far more pressing due to the recent emergence of the MOOCs, Massive Open Online Courses.

Distance education has been a reality for a long time, although using quite diverse communication technologies. The term “distance education” was coined for the first time for correspondence study more than 100 years ago:

In fact, the term “distance education” was first used in a University of Wisconsin catalog in 1892. Fourteen years later professors extended correspondence study to the use of “new media” as they began recording their lectures and sending the records to be played on phonographs by distant students. (archive.today 2014)

Purdy and Franke (2014) argue that college courses for credit on major American Television Networks in the 1950s and 1960s were a mirror for MOOCs. The University of Houston offered the first televised college credit classes via KUHT, the first public television station in the United States. By the mid-1960s, with about one-third of the station's programming devoted to education, more than 100,000 semester hours had been taught on KUHT.

The 1980s saw the emergence of distance education using computers and soon the prophets of doom were forecasting the death of the traditional university and face-to-face learning. However, pure e-learning did

not meet the expectations of explosive growth and there was only a limited demand for online degree-granting liberal arts programmes. The UK Open University became aware of this when it was forced to close down the Open University United States. And Harvard Business Online, which offered clients a non-credit completion certificate, found out that less than 10% of students actually took this option for getting their completion certificates, as their main intention was to improve performance, not to gain a qualification (Ryan 2002). Ryan attributes low student enrolment (with exceptions such as University of Phoenix Online and University of Maryland University College) to a number of factors, such as employer reluctance to accept the quality of online programmes and the apparent resistance by many students to the notion of exclusively online education (see also Knight 2002).

More recently, MOOCs emerged as a new disruptive phenomenon in higher education. The first MOOC was “CCK08: Connectivism and Connective Knowledge”, developed by George Siemens and Stephen Downes in 2008 at the University of Manitoba (Lowe 2014, p. ix).

The development of MOOCs was explosive. 2012 was declared the “Year of the MOOC” in *The New York Times*. Sebastian Thrun, founder of Udacity, prophesied with uncontrolled enthusiasm that “in 50 years there will be only 10 institutions in the world delivering higher education” (Krause 2014, p. 223). However, in 2014, difficulties with Udacity’s partnership with the University of San Jose forced Thrun to concede, “we don’t educate people as others wished, or as I wished. We have a lousy product” (Krause 2014, p. 224). There are references to the poor quality of other MOOCs, for instance a course on the fundamentals of online education offered by Georgia Tech through the US Coursera platform—suspended due to technical problems—and a machine learning report containing “poor-quality videos of the professor speaking into his laptop camera, alternating with fairly conventional PowerPoint slides” (LERU 2014, p. 8). And Laura Gibbs, a Coursera student, expresses her disappointment with the poor quality of the software (Gibbs 2014, p. 56). Some authors consider that the MOOCs may have lost some steam. Krause agrees that “the invasion of MOOCs might be over... but this does not mean MOOCs specifically and innovation in online education in general are over” (Krause 2014, p. 224).

Over the last few years there were heated debates about the role and future of MOOCs and their effect over traditional modes of education. Some refer to MOOCs as a disruptive technology that will affect higher

education beyond recognition, leading to higher education without professors, only competencies. Others suggest that MOOCs will be just another fad, relegated to the start-up dustbin and soon forgotten. While politicians see MOOCs as an alternative route to cheap education, which is also attractive to the public, others like Aaron Barlow foresee its demise:

Africa is littered with dinosaur bones—the remains of grandiose development projects that once were going to save the continent. They are constant reminders that progress is made by local people working together and not by great designs conceived at a distance. Just so, the history of education is the study of failed projects also of revolutionary design. Real progress comes when students and teachers interact face-to-face, as the programmed-instruction gurus of the fifties had all learned by the end of the sixties. Perhaps the proponents of MOOCs, in light of the stalling of their great new vehicle, are also, though belatedly, learning this ages-old lesson. (Barlow, cited by Krause 2014, p. 225)

For Krause, “The invasion of the MOOCs hasn’t stopped; it’s just slowed, changed directions, and begun to morph into the next big thing” (2014, p. 227). Steven Ward suggests that a possible development will follow that of Oplerno, a Vermont online start-up, where professors develop their own courses and teach online classes of about 25 students, while keeping 80% of the tuition fees and complete control of intellectual property—this is education without universities but with professors (Ward 2014). Ward suggests that an even more drastic development will consist in having neither professors nor universities, only pure, for-profit corporate information delivery systems and platforms offering credentials.

Being difficult and risky to foresee the future, I prefer to embrace less drastic prophecies such as the one proposed by Kyle Peck (2014). Peck suggests that technologies will “re-place,” not replace, higher education, meaning that higher education will still exist but the place of the professor will change, adapting to newer technologies. He argues that gathering information and developing understanding can be better done through technology than by attending classes. However, “The development of skills and attributes requires multiple opportunities to perform in front of a competent reviewer and solid assessments that provide comprehensive feedback to inform improvement. MOOCs can’t do that, and that’s what really matters. Knowledge is necessary, but not sufficient, for success” (Peck 2014).

SOME OPEN QUESTIONS

In recent years education has become a tradable service with a substantial economic value. Modes of delivery have diversified and while the mobility of students is still the major source of internationalisation, other modes, generally classified as Cross-Border Higher Education (CBHE), are emerging.

The available data show that quality of provision is a real issue in CBHE, and international organisations have developed guidelines that recommend the implementation of quality assurance and accreditation systems and strong regulatory systems in the host countries. There are many examples, not only of rogue providers but also of rogue accreditation agencies. In the context of WTO/GATS, there were attempts at removing barriers to commerce of higher education services but so far only a limited number of countries made commitments in higher education. However, the GATS framework still allows hosting countries the right to subject the foreign provision of education services to the national rules on quality assurance and accreditation, provided they are non-discriminatory.

In Europe, the European Parliament and the Council have passed the Services Directive, aimed at creating an internal market for services and removing barriers to trade. The European Services Directive has gone much further than GATS, as it forbids host countries from submitting the foreign provision of education services to any form of national control, including quality assurance and/or accreditation. The responsibility for ensuring quality of provision lies with the exporting country, not with the host country. A 2014 report from the Commission seems to recognise that something needs to be done to protect consumers and apparently opens the way to an intervention of the host countries.

At last, we address the problems of the MOOCs, a new disruptive development emerging in the area of higher education. After an explosive start there is an apparent slow-down in the development of MOOCs and there are uncertainties about their future: will they replace traditional modes of delivery or will they be another fad, soon to disappear and be forgotten?

Recalling the words of Giovanni Agnelli, universities were always international. What has apparently changed was the rationale for internationalisation. The available data also show that the old Medieval tradition of absence of *pecuniae et laudis cupiditas* is lost in the remote past. Many public institutions, either voluntarily or forced by progressive budget cuts, are operating as for-profit organisations when they operate in foreign countries.

The problems and scandals resulting from examples of malpractice should be seen by governments as a warning that retrenchment policies may have very negative effects over the quality of higher education systems and their institutions. Wheelahan concludes, apropos of the Australian vocational education and training (VET) system:

A clear lesson is that when the creation of a market becomes an end in itself and profit becomes the driver rather than the provision of education, rent-seeking behaviour is going to occur at the expense of the public provider and quality of provision. (Weelahand 2012, p. 6)

These are some questions to be analysed in this book, which we are sure will help us to better understand the intricate problems of CBHE.

NOTES

1. Education International represents organisations of teachers and other education employees across the globe.
2. IAU, founded in 1950, is the UNESCO-based worldwide association of higher education institutions.
3. ETUCE is the European Trade Union Committee for Education.

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PART I

Analysing the Problem

Crossing the Border: Some Views, Largely
Historical and Occasionally Heretical,
on the Sudden Enthusiasm
for an Exceedingly Ancient Practice

Guy Neave

*'Now you pay
For what you used to get for free
In my hometown.'*

Revised: songs by Tom Lehrer, 1960.

INTRODUCTION

Anyone who casts even a wandering eye over the latter-day rise of Cross-border Higher Education (CBHE) cannot fail to be struck by one curiously recurrent feature. This feature is the apparently stupendous amount of money such activities supposedly bring in. Irrespective of whether the sums hawked about are accurate, objective in their presentation, the unwitting 'hype' of the credulous, a heaven-sent opportunity to unlock the pockets of the *rentier* or the financially venturesome, they amount to

G. Neave (✉)
CIPES, Matosinhos, Portugal

both a redefinition and a would-be alternative legitimation to the purpose of higher education.

You will, of course, note that I have deliberately avoided the adjective ‘new’. For new, it is not. On the contrary, learning, qualification and the advancement of knowledge have always been subject to the pendulum’s swing between learning defined ‘for its own sake’—*amor scientiae* in the once universal tongue of our ancestors’ erudition—and learning for wealth—or *amor pecuniae* in that same vehicle.

RISE OF A NEW UNIVERSALISM

What is new, I would suggest, is the rapid drawing apart of these two universal—and some would say—complementary concepts: the older one, of learning and humanism as the universal task of the university, in contrast to what appears today as the potential relegation of higher education to becoming the servant to a ‘new universalism’. This new universalism revolves around the three contemporary orthodoxies of technology, transnational corporatism and the market. Or, to put matters in the language of Everyman, which—alas—appears to be an art that has vanished in the dialogue between Europe’s political classes and its citizens,—which master our institutions—and the university not the least amongst them—are to serve: the concrete interests of the community or the propelling forward of a literally boundless abstraction, to wit, globalization?

It remains to be seen what the implications are that follow from one particular form of CBHE. This particular variety involves what are euphemistically termed ‘new providers’ of higher education and, no less important, new means of providing it. As with most major issues that involve a scale beyond the nation-state, the question we do well to bear in mind is: what is the alternative? Or are we to content ourselves with the conclusion that publicists everywhere seek to perpetuate and have Everyman—and Everywoman—fall in with, namely, the famous formula launched three decades back by Margaret Thatcher: There Is No Alternative?

That said, as we focus on ‘new providers’ of higher education on the one hand and new ways of providing it on the other, it is as well not to lose sight of another very basic fact. Since the earliest of times, the crossing of borders in quest of knowledge, qualification, self-advancement, self-discovery or the advancement of the human condition has been inseparable from the thousand-year saga of higher education itself. Indeed, the history of the university in Europe could easily be written around the

theme we are gathered here to dissect. Agreed, rewriting the history of the universities in Europe is most certainly *not* for us. Yet, it is important we remain alert to both the broader context and to the particular circumstances that accompany the topic before us.

I will advance two reasons for taking this stance: first, precisely because the crossing of borders is a generic theme in the history of the institution we all study, it is singularly important to make explicit the factors and forces that have brought this issue to the fore. Case studies are fine, indeed indispensable. If, however, we are to have a balanced and rigorous dissection of the issue before us, we cannot disregard something our lawyer colleagues know full well, namely, circumstances alter cases. Change in circumstance also changes the reasons advanced to justify new forms of CBHE, though not all that their adepts advance is either accurate or original. Thus, for instance, the claim of ‘new providers’ to open opportunities to ‘poor students’ comes as a thin latter-day echo of the reason advanced for founding new universities in Europe from the end of the fourteenth century onwards (de Ridder Simoens 1994). *Bis repetita, non placent*. Indeed so.

...AND TERMINOLOGICAL JUGGLING

Nor, I would argue, is this apparent ‘historical awareness deficit syndrome’ (Andrew 2009) entirely coincidental. On the contrary, one of the more curious accompaniments of today’s higher education policy—and that, as we shall see later, at all levels—is an incessant terminological juggling, the coining of new labels and the multiplication of new descriptors. True, such juggling often entails a post-modern—and perhaps even deliberate—confusion between the essential and the nominal. Such re-labelling in its turn serves to fuel the impression of progress made, and because progress is evident, therefore success has been achieved (Amaral and Neave 2008). *Sub sole semper aliquid novi*. Give an old thing a new name and one has seemingly moved ahead.

VERY OLD WINE IN NEW BOTTLES

But nominal novelty does not always betoken essential advance or change in itself. Thus, that self-same practice already remarkable in late Medieval times and known as the ‘*peregrinatio academici*’ today marches under the new flag of ‘student mobility’—organised, tracked and regulated, as dis-

tinct from what is sometimes known as ‘wildcat mobility’ (Maslet 1975). Yet, the *peregrinatio academici* and student mobility, whether organized or ‘wildcat’, both involve the individual crossing borders in order to have physical access to the institution, people and facilities where knowledge is created, organised and disseminated. Indeed, present-day student mobility to sites of learning is far and away the predominant mode of cross border student traffic.

Over the past three decades, it has flourished spectacularly in Europe and has radically enriched the student experience. In the United States, current statistics suggest it is no less healthy. Between 2001 and 2014, the number of foreign students holding F1 visas rose from 110,000 to 524,000 (Ruiz 2014, p. 1). It is also the most ancient form of that traffic. Already in what many see as the first of Europe’s universities—eleventh century Bologna—‘foreign student presence’ had a clear, organizational form. Students grouped themselves into ‘nations’—a practice taken further by the Sorbonne in the second half of the twelfth century (History of Universities in Europe vol.1).

Students crossing frontiers was not, however, the only dynamic. There is a second. It is no less important to our exchanges. It may best be described as the dynamic of institutional establishment. It is important not just because today’s ‘new providers’, as well as what they provide, mark a new stage in this dynamic. There is another angle to it. That angle in turn casts a rather different light on the hitherto conventional origins of “globalization” itself.

THE UNSATISFACTORY ORIGINS OF GLOBALIZATION

From the historian’s perspective, globalization is an interesting concept. The concept first saw the light of day some three decades ago. It was an attempt to provide an overarching explanation to changes in economic structure, industry and social hierarchy that had gathered momentum during the 70s, and very particularly in the seminal writings of the Spanish sociologist, Manuel Castells (Castells 1996, 1997, 1998). Globalization has since become one of the most powerful explanative and analytical tools that give us purchase over the impact on social organizations—and the university not least—with regard to their behaviour and redefinition of role, which follow from new forms of communication and the advent of network technology (Frølich et al. 2014).

Powerful and ubiquitous though this particular paradigm is and very certainly so in our field, tracking its origins is singularly unsatisfactory. Over the years, I have seen its beginnings variously traced back to the days of the Roman Empire, or as coterminous to the rise of the Dutch East India Company (Gaastra 2003). Indeed, if most major developed and one-time imperial nations has each its own account—and they do—so different disciplinary domains—comparative higher education policy included—may also lay claim to their very own home-grown chronologies.

So a very good case can be made for seeing the universities in Europe less as the object of globalization, though that is what they are today in process of becoming. Rather, an account *de longue durée* would see them as one of the earliest examples of what today would be termed ‘global outreach’. Seen within the framework of the history of the universities in Europe and very particularly from the perspective of the dynamic of institutional establishment, globalization may be interpreted as the latest instalment in a very long saga indeed.

THE DYNAMIC OF INSTITUTIONAL ESTABLISHMENT

Grosso modo viewed as a spatial dynamic, institutional establishment passed through two clear phases—first, the intra-European and second, the inter-continental phase. At the risk of the crudest of anachronisms, the former could be seen as a *de facto* medieval parallel to today’s European Higher Education Area. By the start of the sixteenth century, Europe could claim to have some 43 universities in place (Verger), the greater part in the urbanised areas of Italy, Spain and France. The intra-European dynamic of institutional establishment drove from the Mediterranean heartland northwards and eastwards eventually to embrace the confines of what today is broadly coterminous with the frontiers of the European Union.

The first instance of institutional establishment acquiring an inter-Continental scope also sprang from within this same Mediterranean heartland. By the late 16th century, Spain embarked on the first steps in inter-Continental outreach with the founding of two universities in what is present-day Colombia: the Universidad de Santa Tomas de Aquino (1580) and the Pontificia Universidad Javeriana (1623) Both drew heavily on the philosophy and teaching methods of long-established metropolitan universities—Salamanca and Alcalá (Alvarez and Alvarez 1992).

ACCOMPANYING JUSTIFICATIONS

The significance of this development as an historical phenomenon, I would suggest, ought not to be passed up lightly. Rather, it may be re-interpreted as a first phase in the centuries-long process, which today emerges in its current form as globalization. The motives that accompanied inter-continental outreach were not devoid of ambivalence, not least because in this specific instance, institutional outreach was itself the result of prior military conquest. True, conquest was justified as ‘spreading the Word of God’. In a later phase, when the influence of the Enlightenment was harnessed to colonial expansion, institutional export was presented as a *‘mission civilisatrice’*. Today, these two accompanying justifications appear different indeed—as doubtless they did then to the recently occupied.

TWO KEY DISTINCTIONS: ‘THE OCCUPIED’ AND ‘THE SETTLED’

It is important, however, to draw a line between outright military conquest and occupation on the one hand, and settlement on the other. Though inter-continental outreach involved both, they are very different beasts. And the way universities were created in the two settings differed accordingly. In the case of the former, establishing a university was an act of external authority. Not untypical of this latter was the case of nineteenth century India. In 1854, a despatch to Whitehall from the then President of the Board of Control of the British East India Company proposed to strengthen Western knowledge and science by founding British-type universities. It also called for radical change with the introduction of English as the medium of teaching. In 1857, universities in Calcutta, Bombay and Madras, based explicitly on the model of London University, then an examination board, were set up (Behar 1992).

By contrast, in such lands of settlement as the USA (Stadtman 1992) and Canada, (Watson 1992) early institutional establishment was the initiative of local communities, acting on their own to sustain a common religious identity, to train ministers for the churches and to inculcate both knowledge and, not surprisingly, godliness to the young (Stadtman 1992). In short, occupation delivered external, metropolitan models of higher education, whilst sedulously ignoring if not actively uprooting any

indigenous counterpart. Settlement, however, created higher education *ex nihilo* and on local initiative, though its sources of inspiration may well have harked back voluntarily to the metropolis as was indeed the case, for instance, between Harvard and Cambridge.

NEW LABELS

In an age that now scorns enforced collective cultural betterment as an ill-disguised expression of cultural, if not intolerable racial, superiority, the inter-continental dimension of institutional establishment has taken on a more neutral, technical vocabulary. ‘Civilisers’ and the hopefully to-be ‘civilised’ are notions rightly thrown onto the heap of the unacceptable. Other binary distinctions have taken their place: the metropolis vs. the periphery, or alternatively, the core vs. the periphery. Viewed within this perspective, globalization has served simply to shift the descriptors of imbalance from the religious domain, via the cultural into the spatial and technical.

That the labels of acceptability have changed does not mean, however, that the ambivalences of the past have been forgiven let alone, forgotten. Or, that in the Knowledge Economy the essential dichotomy has greatly altered, despite new products, new media innovation and new methods of production (Houtondji 2006). *Plus ça change, plus c’est la même chose!*

AN UNDYING HERITAGE

That the imbalance between centre and periphery in the Knowledge Society is expressed in economic or technical terms most certainly does not allay the suspicions on the periphery that dependency, subordination and external hegemony, the essential forms of imperialism, persist, whatever label adorns them (Cunningham et al. 2000; Houtondji 2006). Such doubts are particularly pronounced in countries where the development of higher education in a postcolonial world is currently seen as key to that self-same task, which in Europe unfolded across the nineteenth century—namely, ‘nation-building’.

Agreed, such sensibilities today are most pronounced in developing nations. They are, however, especially marked in the case of ‘new providers’. They seemingly pose a threat to the further development of higher

education in ‘new nations’. Their threat is twofold: ‘skimming off’ more capable students, attracting the better-off amongst them and, by so doing, undermining the value of national qualifications with the lure of foreign diplomas of seemingly greater worth (Knight 2002). In short, a form of intellectual decapitation on the one hand and resource expropriation on the other, with the prospect that public higher education, far from forging a nation, must fight tooth and claw against its further fragmentation. Agreed, the advent of new providers in Europe does not pose so dramatic a prospect as it does for developing countries.

To admit this, however, is very far from saying that second thoughts are absent in Europe or that they spring from similar considerations.

At first glance, such ‘Eurofrouse’ appears puzzling if not a little absurd, comparable to the elephant terrorized by the mouse! For not only is Europe the motherland of the modern university. As I have argued up to this point, Europe was long the prime driver in its dissemination worldwide. Nor is this impression altered in the slightest when one turns to the sheer numbers involved. There are across the Europe of the 27, some 4,500 establishments of higher education, universities, polytechnics, *Grande Écoles*, *Fachhochulen e tutti quanti*.

NEW FORMS OF CROSS-BORDER HIGHER EDUCATION

A recent study by the Bertelsmann Foundation in Germany, which we will hear more about in the course of our debate, showed there to be some 253 establishments across the Europe of the 27 which fall into the Foundation’s definition of being engaged in CBHE (Brandenberg et al. 2013). The Bertelsmann definition, if nominally confusing, is in fact both precise and restrictive. The Bertelsmann enquiry, carried out for the European Commission with astounding expedition in 2013, attaches the term ‘Cross-Border Higher Education’ ‘to establishments recognised in the Member State where they are based and which *provide services abroad* (our italics) through branch campuses or in the framework of franchising/validation agreements between an exporting and a receiving institution’ (Brandenberg et al. 2013, p.19). Clearly and as the Bertelsmann report itself admits, CBHE defined thus, is both highly fragmented and, compared to Europe’s institutional strength in higher education, minuscule.

Yet, the Bertelsmann document is singularly useful beyond the empirical information it provides about the geographical distribution of what, *faute de mieux*, I will call ‘Type 2 CBHE’.

TYPE 2 CROSS-BORDER HIGHER EDUCATION: ITS DIFFERENCES

Type 2 CBHE differs from its predecessors. It *projects* institutions and courses across borders rather than seeking to *draw in students* across the same. In the Bertelsmann document, projection takes two forms: branch campuses on the one hand and ‘franchising’ or validation agreements on the other. The latter entails an external institution’s underwriting the design, content and quality of courses, which are dispensed by their outpost in the receiving country. In short, the equivalent for CBHE to the Good Housekeeping Seal of Approval.

Of these two forms of projection, franchising is most evident in Spain, Greece, Romania, Germany, Austria, Hungary and Denmark. The branch campus mode tends to be the predominant institutional arrangement in the Netherlands, France and the United Kingdom (Brandenberg et al. 2013).

As an exploration of the present state of Type 2 CBHE narrowly defined, *Delivering Education across Borders* eschewed the historical dimension. In all fairness, that was not its remit. The broader context, whether contemporary or historical, shines therefore by its absence. True, one cannot have everything. But, it does leave the study open to Friedrich Nietzsche’s testy observation, “*Ceux qui ne connaissent pas le passé ne sont pas dignes du futur.*”

INTERNAL PROJECTION, EXTERNAL AUTHORITY

As techniques of institutional location, both franchising and branch campuses rest on an authority external to their host country. They rely very heavily indeed on the vicarious quality and image, standing and reputation that supposedly rub off on the branch or on the enfranchised by dint of the ties of association and guarantees they enjoy from the external authority which claims to possess them in the first place. To put no finer point on the matter, externalizing the underwriting authority beyond the ‘receiving’ nation is curiously reminiscent of that dynamic, which as we suggested earlier, once held sway in occupied lands.

ISSUES POSED: A DICKENSIAN PROSPECT

The key issues that Type 2 CBHE poses in its present state have less to do with what it is now. The overriding issue lies elsewhere—namely whether CBHE is to be made to serve another purpose. That purpose entails

‘leveraging’ an ‘indirect strategy’ to shape Europe’s higher education in the near future. It is not the ghost of Christmas present we should worry about. That spectre is after all scarcely visible to the eye of the naked analyst! More important by far is the haunting prospect of the ghost of Christmas that is yet to come.

THE USES OF COMPARISON

Here, CBHE is singularly useful when we weigh the shape of things to come for the plain and simple reason that the debate accompanying it gives a new urgency to many of the trends and developments already implicit in mainstream higher education, and very especially so given the fundamental changes in higher education’s referential model, which the three orthodoxies of technology, ‘trans-national corporatism’ and ‘the market’ have brought about these two decades past.

Whilst mainstream higher education is faced with the quandary of how to align itself on the models, practices and criteria of the modern ‘corporation’, quite apart from overhauling its internal governance, its curricular offerings and the way these are diffused, Type 2 CBHE builds on them from the start. In terms both symbolic and concrete, the key issue is whether higher education as an instrument at the cutting edge of cross border student mobility—and that in both directions—is to remain a mission grounded in the nation-state or whether it is to become a trans-national business accordingly to be weighed up and judged in terms of quasi-corporate criteria. Beneath this very obvious dilemma, another one lurks, namely, the degree of which higher education is to remain a public good or slide into becoming a private commodity.

THE ONSET OF ENTREPRENEURDOM, THE SHIFT IN PARADIGM

Even if the basic issue may be presented in such stark terms, reality is more complex, confused, and certainly more protracted, depending on the perspicacity of the observer! Even if we seek evidence of that shift towards ‘market responsiveness’ in today’s universities and polytechnics (Frølich et al. 2014), history can most assuredly come up with earlier precedents (Rothblatt 1995).

One pointer to the strength of the corporate paradigm working its way into higher education is very clearly revealed in changes in the way univer-

sity outreach is now perceived. Agreed, utilitarian aspects have never been entirely absent. But the basic rationale of student traffic after World War Two rested primarily on what is best described as forging contact between peoples, an act of socialization, alternatively the generation of understanding, appreciation and awareness of the particularities and culture of the host nation. Higher education did not stand apart from the struggle for hearts and minds! (Kallen and Neave 1991).

Such considerations, for instance, lay behind launching the Fulbright programme in the United States towards the end of World War Two (Neave 1992). And, nearer home, they provided the political bedrock for European integration (Corbett 2005).

Student traffic then certainly involved knowledge exchange—to use today’s wooden tongue of bureaucracy’s wordsmiths. But it was both primarily and literally a projection of the basic cultural mission that the university fulfilled within the nation itself, namely the identity, advancement, modification, valuation, preservation and upholding of the national genius (Neave and van Vught 1994). Thus, what passed for cultural outreach when seen from the standpoint of the individual university or polytechnic provided the pragmatic underpinning for cultural diplomacy at the national and international levels (Coombes 1964).

THE WANING OF THE CULTURAL PARADIGM?

To determine precisely when foreign student inflow and the projected foreign presence of external stakeholders became an alternative constructing definition—or, indeed, whether individual systems of higher education have officially even admitted this transformation—is no easy matter. National claims to exceptionalism are as powerful as they are universal—even in an integrating Europe (Neave and Amaral 2011).

There are, however, useful pointers to the onset of ‘marketization’ and, within individual systems, the recasting of CBHE *sensu lato* as an entrepreneurial activity. Amongst the clearest examples is the UK of the early 80s, which introduced a policy of charging full-cost fees for overseas students. It was swiftly followed in 1985 by the Jarratt Report. The Jarratt Report projected the market principle back into the home front. It defined the Student Estate as ‘consumers’ and, with a remarkable lack of deference to learning, described the Academic Estate as mere deliverers of knowledge. Under this new definition, the purpose of knowledge reaching out took on a new perspective and function. Such a task, if not absent before,

now involved a very different prime function: revenue generation. And revenue generation in its turn became one pointer both to institutional performance and efficiency at the level of the individual institution *within* the national system of higher education and, as the weight of globalization began to make itself felt, as a pointer to the standing that system enjoyed worldwide. Knowledge, once held to be '*gratis et pro Deo*' was thus re-defined as the prime commodity in the Knowledge Economy.

How far other European systems of higher education have trodden this weary path, whether it has been pursued with the same élan, with reluctance or not at all, is up to you. Your patience is magnificent but finite. Of course. So I will not go a search for other examples. I will, however, simply note that the summons to "Goe forth into the highways and hedges and compell them to come in, that my (coffers) may be filled" (Luke 14:23) was not without challenge. The apparent evaporation of the cultural paradigm in general—and higher education most specifically—was not without its defenders, however (Neave 2003; Robertson and Dale 2003).

MERGING THE NARRATIVES

It is at this point that we need to bring together two narratives. In the ordinary way of things, these narratives tend to be kept apart. Yet, talks now ongoing in the marble halls of the rue Archimède in Bruxelles appear to be doing just that. Few of us have the power of divination. But it is fair to say that current haggings between the European Commission and the United States for a North Atlantic Free Trade Agreement, regardless of its outcome, merely underline the significance to our discussions, just as they do for the merging of the two narratives of higher education and European integration on the one hand and the potential impact of new organizational forms for projecting information, learning or knowledge, on the other.

Whatever details the document cobbled together by Washington and Bruxelles may contain, it is unlikely to leave higher education aside, if only for the fact that the United States is home to two key developments. Both introduce further complexity into CBHE. Both raise issues of extreme delicacy to the ongoing European dynamic in higher education between the Commission and Member States. The first emerges in the shape of the transnational, for-profit, internet-based corporation—the Apollo Group and the Western Governors' University may serve as

examples of the former. The second is the development of Massive Open Online Courses (MOOCs).

THE NARRATIVES MERGED

There are good reasons for bringing our two narratives together. And there are equally cogent reasons for suggesting that the merger point occurs with the 2006 EU Directive on Goods and Services. In effect, the issue of CBHE engages two very different interpretations of the terms, conditions, procedures and ways it should go forward. There is the Commission interpretation. There is the Member State interpretation.

As has been pointed out earlier, the first rests on the principle of the free circulation of goods and services. Whilst the Directive defines CBHE as a service, it leaves some latitude for negotiation. It distinguishes between services of General Interest and Services of General Economic Interest. Essentially, the former is funded from public monies. The latter is funded from private sources and has a ‘for profit’ dimension (ETUC Comment on Directive).

CLEAR DEFINITIONS, UNCLEAR CONDITIONS

The distinction, however, is rather less clear than it appears on paper and very especially given that even formally designated public sector HEIs are actively encouraged to seek funding outside the public purse. For many, extra territorial presence is a way to do precisely that. Despite its apparent clarity, the line the Directive draws between Services of General Interest and Services of General Economic Interest is, in the reality of higher education, very far from being hard, fast or engraved in granite. On the contrary, the Directive sheds an artificial ‘sweetness and light’ on a reality—higher education—which is highly dynamic. In short, definitions take very little account of general condition. Nor, *soit dit en passant*, should this contradiction be seen surprising in the least. The Services Directive was drawn up to define services, not higher education. Contradictions arise, however, precisely because the Directive is now being used by the Commission’s services progressively to redefine higher education as a service. This it does by seeking to accumulate precedents, which an extremely small sub set of CBHE, appears to open up. By seeking to impose on franchise agreements conditions that previously applied uniquely to the free circulation of goods

and services, Commission services are, in effect, using Type 2 CBHE as a slim instrument for a rather broader agenda.

SINS OF OMISSION

The binary distinction between Services of General Interest and Services of General Economic Interest appears to take little if any account of the dynamic nature of CBHE. Nowhere in the Directive is any threshold point in the balance between public and private sources of institutional income set out to determine whether the formal status of a given institution is to be classified as being of General Interest or General Economic Interest. Even less does the Directive bear in mind the possibility of that status altering as the balance between the two income streams in turn evolves. Effectively, the line drawn between Services of General Interest and Services of General Economic Interest assumes higher education to be static in this respect.

This is not all. There is a second sin of omission. It has far-reaching implications for CBHE generally. How does the Directive propose to accommodate a similar dynamism in that particular relationship between ‘exporting university’ and its ‘foreign’ output, best described as a de facto ‘hybrid model’? Hybridism in this form emerges when publicly funded HEIs in their home state operate on a ‘for profit’ basis abroad. Nor does the ticklish nature of hybridism cease here. In theory, for hard information is not easy to come by, it would be strange indeed if there were not a *second* underlying dynamic. From the standpoint of income flow, the relationship between the validating home base and its outpost abroad cannot be seen as stable or constant either. It too can evolve as local circumstances, demand, take-up or rejection either flourish or wither on the vine. These are central issues precisely because, depending on the way the circumstances of the individual university, polytechnic or *Fachhochschule* evolve or its fortunes fluctuate, so its basic juridical status within the terms set out in the Directive could, in theory at least, alter as well.

To say the least, this is passably confusing. Certainly, this state of affairs reflects deep changes to the purpose, use and function of institutional outreach. Some amongst the more unkind observers might also underline certain degrees of moral ambiguity that such ventures entail: subscribing to *amor scientiae* at home whilst raking in the fruits of *amor pecuniae* abroad!

THE DEVIL IN THE DETAIL

Bringing the principle of the freedom of goods and services to bear on higher education can, however, bear another interpretation. Nor is this second Member State interpretation necessarily at odds with the Commission's initiative. It does, however, entail marked differences and divergence over particular details. And divergence in detail engages the question of legitimate authority.

Such differences in detail may be viewed as the outcome of sustained efforts over some two decades by Member States to adapt their systems of higher education to marked changes then taking place on their immediate home market. *Grosso modo*, change involved setting up agencies for defining and evaluating quality, for the regular monitoring of institutional performance, efficiency and outcome and, last but not least, laying down conditions for the territorially-based accreditation of courses and establishments (Schwartz-Hahn and Westerheijden 2004).

Putting in place quality evaluation systems, sometimes interpreted as the rise of the Evaluative State in the EU (Neave 2012), overhauled two key functions. On the one hand, it reinforced territorially-based accountability. On the other, it provided an instrumentality, precise, operational and regular. This instrumentality lends itself to both disaggregation down to the level of the individual HEI and its component disciplines. It also lends itself, though more rarely so, to re-aggregation as a means to assess both the overall impact of policy, and by extension, system 'take up' and response (Veiga and Neave 2013).

It is an instrumentality that supplements the fundamental principle of legal homogeneity on which mainland European systems of higher education have historically rested (Neave and van Vught 1994; Neave 2012).

Accreditation, recognition and validation of courses and diplomas, irrespective of status—public or private—and regardless of sector—university or non-university, as well as the conditions required for vetting their good standing and legal conformity—are then territorially defined. And applied.

DEFINITIONAL DIFFERENCES

It is at this point that Member State procedures for quality control in higher education but up against the Commission's interpretation of higher education as a service good. Certainly, there are Member States—the

United Kingdom is one—where special procedures for vetting establishments operating franchise agreements or extraterritorial branch campuses abroad exist. Not all Member States make this specific provision, however. The Commission interpretation, like the UNESCO definition, takes the view that accrediting franchise and branch campuses is the responsibility of the ‘exporting’ HEI. Conditions and criteria governing recognition by territorial authorities are today being made subject to scrutiny by the Commission’s services ostensibly to ensure that territorially defined procedures are fully in keeping with the principles of non-discrimination and do not infringe the freedom of circulation for goods and services.

Within the terms laid down in the Services Directive, Type 2 CBHE appears to be a *régime d’exception*, where accountability for what it produces is extraterritorial. It is exceedingly difficult to avoid the conclusion that in present-day Europe there are, in effect, two distinct forms of quality system: the first being territorial in definition, scope and responsibility; the second being a species of enclaved provision within it. This latter would appear subject to very different conditions of establishment, criteria of legitimacy and sources of guarantee for the quality of what it provides. Whether the first strengthens the conventional view of higher education as a nation-state concern or whether the second amounts to a redistribution of definitional power away from Member States and adds to that of Bruxelles is delicate indeed. As with the advice given by the French Republican, Leon Gambetta in 1871 to his fellow countrymen, following the loss of Alsace Lorraine, so with the consequences that appear to follow for CBHE from the Directive on Goods and Services: “*On y pense toujours. On en parle jamais*”. Now, of course, is the moment to do so—loudly!

MASSIVE ON-LINE OPEN COURSES (MOOCs): THE WILD CARD

Whilst the Directive on Goods and Services may appear to some as a bid to insert the operant features of Neo Liberalism and commodification into CBHE by allying calculated ambiguities in the bureaucratic process with terminological juggling, other developments do not involve the crossing of borders. They ride over them unaware if not roughshod!

Massive Open Online Courses (MOOCs) are the latest in a long line of technology-driven ventures that have risen with dazzling speed into the

firmament of Higher Education, beginning with Educational Technology in the mid Seventies.

Two Perspectives

MOOCs deserve our attention on a number of counts, not, it has to be said, on account of what they have done (Bare 2014). The evidence, such as exists, tends often to derive from special pleading and from what English law cuttingly describes as ‘mere puffery’ by those who have already taken them on board. But the initiatives some leaders in the World Higher Education Order have taken, notably MIT and Harvard, to cite the best known, are important for several reasons. Some are symbolic; others because MOOCs provide a useful purchase over that central driver which today urges higher education forward—the need to demonstrate ‘competitiveness’. In examining this novel form of disseminated knowledge, I shall deliberately leave aside the detailed impact it seems to have in what is becoming known as ‘learning analytics’ (Bare 2014)—the nerd’s equivalent of *Hochschuldidaktik*, learning theory, pedagogics or ‘the student experience’. There are colleagues far more deeply engaged in this undertaking. Rather, I shall focus first on the implications that MOOCs present for CBHE; second, I will deal with MOOCs from what is perhaps best described as ‘public statements of performance’.

To the best of my knowledge, this particular concept has not previously been explored in this setting. It is, however, significant if only for the fact that self-advertisement by universities and polytechnics is an inevitable part of higher education’s competitive landscape. It is also significant because it represents the image an establishment seeks to project of itself. In this respect, public statements of performance form an institutional counterpart to the formal and official portrait that evaluation, quality assessment and League Tables all provide.

MOOCs are important precisely because they make no distinction between domestic consumption and external outreach. In effect, they eliminate the spatial dimension from learning. Both domestic consumption and external outreach are part—literally—of a seamless web. Outreach is now consumer-determined, though clearly the decision to guide MOOCs as to which subject areas are to have priority, and at what level of sophistication, remains an institutional decision. MOOCs are a clear expression of institutional strategy. For elite establishments, they provide the opportunity to demonstrate social engagement to those who stand little chance of enter-

ing them. Seen in this light, MOOCs explicitly revert to an earlier definition of higher learning *pro bono publico*. Similarly, but from a European perspective, they restate—though for how long remains uncertain—that no less time-honoured principle—namely, the gratuity of higher learning.

Yet, outreach in the form of knowledge projected via MOOCs fulfils a range of functions over and above those historically associated with CBHE. Today's world, which presses institutions to be competitive, innovative and adaptable, by the same token lays a series of additional associations on outreach in general and on MOOCs in particular. Certainly, the enthusiasm MOOCs appear to command may be interpreted within an entrepreneurial perspective. Seen in this light, MOOCs may be regarded as a lever in *creating* a market, which, once identified, may later be mined more thoroughly. MOOCs in their present form are simply an exercise in 'priming the pump' or, to use an alternative descriptor, well-known to supermarket chains: creating "a loss leader."

This, however, is only part of the significance of MOOCs. There is also their value as concrete examples of institutional audacity and creativity, in short as symbolic either of repute, standing and excellence upheld amongst those pioneering them or as a bid to make similar claims by establishments which, whilst not in the forefront nevertheless seek prestige by association and by their rapid take-up of the cutting edge learning medium. In this respect, MOOCs harness the innovative cycle to the quest for institutional standing. In so doing, they play a key role in the process I have qualified as public statements of performance.

MOOCs: An End to a Very Old Saga?

Still and all, MOOCs, I would suggest, are paradoxical. From one point of view, they mark an end to that long saga we have tracked here across the centuries. To have access to learning, the MOOC student does not need to travel. The content of learning does it instead. Yet, MOOCs also resuscitate one very old feature, indeed. This was an identifying feature in certain western European systems of higher education—principally those drawing heavily on the Germanic influence. The Netherlands, Denmark and, of course, Germany itself, were in one respect student-centred. Students determined when they were ready to present themselves for examination. The gradual curtailing of study time, the introduction of the concept of a normative study duration (*Regelstudienzeit*), surfaced in the Netherlands of the late 70s. In the then Federal Republic of Germany, study duration was likewise a source of grief, lamentation and wringing of hands by

authorities. And in Denmark, it was never truly solved, with the result that the Danes held the European record for the longest average time to first degree—some 13,3 semesters. Agreed, the Bologna Declaration put an end to that, though not without protests. In Portugal, for instance, engineers and medical doctors were particularly outraged by Bologna's curtailing of first-degree study duration (Veiga and Amaral, 2011).

Reshaping the Student Community?

No less interesting is the potential MOOCs, because they are individually accessible, may have in re-contouring the 'Student Estate'. Agreed, much depends on whether individual HEIs embarking on MOOCs also set up network centres as 'learning points'. In doing so of course, they structure the 'student community' to some extent. That MOOCs have the individual student as their target opens further avenues of exploration. Not least of these is the implicit recognition that defining student communities in the case of MOOCs rests less on the institution than on the individual student.

One fundamental feature of the world of the web is its capacity rapidly to create links between individuals, though how permanent these links are and how far they socialize their members is by no means clear. MOOC students have the opportunity, in ways unavailable to their college-based peers, to shape their individual learning environment. Whether it is built around the individual Humboldtian virtues of *Einsamkeit* and *Freiheit* (solitude and personal freedom) or whether, for instance, it revolves around groups engaged in syndicated learning, are matters of detail.

The Estates Academic and Administrative: Towards Labour Further Divided?

If, from an institutional perspective, MOOCs 'outsource' the shaping of the student community, or even creating a 'para-student' community, what are the prospects for academia? At best, producing MOOCs is expensive. They draw on a range and combination of technical skills, some but by no means all, available in academia. Does this mean new specialized profiles will be introduced into the Academic or Administrative Estates in much the same way as the 'marketization' of higher education expanded administrative and management oversight? The rise of new species of 'professional staff'—educational designers and instructional designers, for instance—whose role it is to coordinate the development of courses (Bare 2014) is a straw in the wind. Are they to figure as part of the Academic

Estate or as a further coordinating layer of overseers who dwell in the Administrative Estate? What are the implications of MOOCs for the role, function and purpose of academia?

Issues such as these are not to be passed up lightly. Some hints are already emerging from Australia (O'Connor 2014). Whether the Christmas that is yet to come will see terminological juggling applied to the Academic Estate, re-jigged as 'learning strategists' (sic) or as 'quality assurance officers' (re-sic)—or both—(Bare 2014), academia's lot, like that of the Policeman in the Gilbert and Sullivan operetta, *The Pirates of Penzance*, appears most decidedly to be 'not a happy one'. Indeed, whether the toiling of 'learning analysts' will ultimately succeed in divorcing academics from the instruction of students, (Bare 2014) is anyone's guess. Or nightmare. Whether one cringes or rejoices loudly at the prospect, MOOCs would appear to usher in a further round in re-defining the boundaries not just between historic nations but also between academic and administrative labour

ENVOI

In this chapter, I have set out to explore the more salient issues CBHE poses in a perspective *de longue durée*. I have done this so we may have a better contextual grip over the questions which today CBHE forces us to face up to.

What one may retain from this account could well be the start of a counter swing by history's pendulum, moving back from an earlier oscillation, which began in 1573 with the establishment of the University of Leiden. This was a key moment in the start of a centuries-long process of repatriating authority in higher education first to kingdoms and later, to the nation-state. Leiden was the first university to be created as an exclusive act of sovereignty vested in the nation (Hammerstein 1996). Today, and very specifically in the case of private and for-profit forms of higher training, the momentum seems to be shifting in the opposite direction. That CBHE is associated with such a dynamic is precisely its essential significance.

What permanent arrangements higher education will seek out either to substitute for, or act as a complement to, the nation-state, no one worth his salt can easily anticipate. It is tempting to suggest that the tensions between the emerging duality of higher education as the prime instrument of technological progress and as one of the means of generating wealth are simply another turn in the Hegelian spiral, as well as being, at the same time, the mercantile equivalent to that earlier division between the powers

spiritual and temporal which regulated higher education in an era long since gone. Just to suggest that, however, is to cross another frontier, this time metaphorical as well as historical—and perhaps even a trifle heretical to the conventional historians of Europe’s universities.

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The Business of Cross-Border Higher Education

Jamil Salmi and Orlanda Tavares

INTRODUCTION

Universities are secular institutions that already existed in the Middle Ages. Portugal has one of the oldest European universities, the University of Coimbra, founded in 1260. Other examples of old European universities are Oxford (1167) and the Sorbonne (1160), whereas Bologna (1088) is recognised as the oldest European university. There are also old universities in other parts of the world, namely in the Arab world, and it is accepted that the Al Qarouine University (859) established in Fez, Morocco, was probably the first modern university to be founded. It is interesting to note that, in those ancient times, universities were already very international and students travelled frequently—despite the difficulties and dangers of travelling in those times—to attend some of the best existing institutions and study under the most renowned professors. Academics were also frequent travellers—consider the *peregrinatio academica* (Nardi 1996).

J. Salmi (✉)

Professor Emeritus, University Diego Portales, Santiago, Chile

O. Tavares

A3ES, Lisboa, Portugal

Today, internationalisation is considered to be one of the major developments in higher education (Teichler 1999; Altbach 2002). Fuelled by both growing international competition and by the process of globalisation, which tends to “increase convergence and interdependence of economies and to the liberalisation of trade and markets” (Källemark and Van der Wende 1997, in Van der Wende 2001, p. 253), internationalisation is considered as “any systemic, sustained effort aimed at making higher education (more) responsive to the requirements and challenges related to the globalisation of societies, economy and labour markets” (ibid.).

Assuming diverse shapes according to various rationales, namely political, cultural, academic and economic (Knight and de Wit 1995), internationalisation can reflect perceptions about the role of a given country in the world (political rationale) or the use of a common language and the cooperation links with former colonies (cultural rationale), or it can be aimed at the core activities of higher education, promoting international standards for education and research (academic rationale) (Amaral and Rosa 2008). However, in a context increasingly characterised by global competition, the economic rationale is becoming more and more prominent. Since knowledge is considered to be a prime factor of economic growth, internationalisation has also become more market-oriented, aiming to attract talented students and highly skilled workers as key resources for the knowledge economy (Van der Wende 2010).

Dealing with financial constraints and public expenditure cuts, higher education institutions (HEIs) are being encouraged to find alternative sources of funding. In this context, trade in higher education has been growing rapidly and in a variety of forms. The most common form is the movement of students to study in foreign universities, which has increasingly been supplemented by the delivery of foreign higher education programmes and institutions in transitioning and developing countries (Bashir 2007). As Altbach and Knight (2007) claimed, “international higher education initiatives exist in almost every country (...) especially the large English-speaking [developed] nations” (ibid., 294). This form of trade is called cross-border, borderless or transnational higher education, which may or may not include e-learning (Amaral and Rosa 2008). Therefore, the term borderless higher education can refer “to a range of interlocking activities—including e-learning, other forms of transnational provision and new providers (e.g., for profit universities)—that cross a variety of ‘borders’, whether geographic, sectorial or conceptual” (Ryan 2002, p. 1).

In this chapter, we firstly describe the scope of Cross-border Higher Education (CBHE). Secondly, we present the economics of cross-border higher education as a business, and thirdly we discuss the opportunities and threats associated with the growth of cross-border higher education.

THE SCOPE OF CROSS-BORDER HIGHER EDUCATION

The introduction of a market and trade approach to international education, along with an increased demand for tertiary education—especially the unmet demand regarding first-time, adult and career-changing students—renewed emphasis on education mobility, and the great advance in the use of information and communication technologies for education delivery is one of the positive contexts that have fostered cross-border higher education (Middlehurst 2010). Additionally, favourable higher education laws, the capacity to build partnerships in countries willing to expand private HE (e.g. Malaysia, Yemen), the use of English as an international language (especially in Asia) and national e-learning policies (e.g. in Malaysia where the government has planned to have one-third of all HE online by 2015) have also contributed to this increasing phenomenon of cross-border higher education provision (UNESCO 2014).

There are, according to Middlehurst (2001), five main types of providers and provision: *individual* (offering the traditional range of educational processes), *consortia* (offering the full educational process according to the nature of the consortium and its purposes), *part or joint* and *multi-agent*, divided into two separate groups according to the types of collaboration (different agents are responsible for different parts of the educational process and some agents involved are commercial organisations), and *'self-assembly'* (the curriculum is designed by the learners in negotiation with the academics). These providers were also typified by Knight (2005) into two main kinds: (i) the traditional higher education institutions that are usually oriented to teaching, research and service/commitment to society (including public non-profit, private non-profit and private for-profit institutions as well as rogue or low-quality providers); and (ii) the “new or alternative providers” that primarily focus on teaching and the delivery of education services (usually companies or organisations that provide education programs and/or services for profit purposes, commercial education, corporate universities, professional, governmental and non-governmental organisations, virtual universities as well as other sort of organisations) (Knight 2005; Middlehurst 2010). An example of a traditional higher

education institution moving abroad is the Australian Monash University, a public institution which, beyond five Australian campuses, has a campus in Malaysia, a joint graduate school in China, a learning centre in Italy, and a research centre in India. Monash University courses are also delivered at other locations, including at Monash South Africa. Other traditional higher education institutions are also providing blended and online courses (e.g. the University of Maryland), which might be a reflection of the new technological environment surrounding universities. Finally, an example of a for-profit institution is the University of Phoenix, owing its name to the fact that it is headquartered in Phoenix, Arizona in the USA. The university has 112 campuses worldwide and awards degrees in over 100 degree programs at the associate, bachelor's, Master's and doctoral degree levels. It is a wholly owned subsidiary of Apollo Group Inc., a publicly traded Phoenix-based corporation that owns several for-profit educational institutions.

As technology advances, new modes of education delivery are also emerging. Besides the traditional face-to-face interactive mode, education can also be delivered at a distance, in a virtual mode (synchronous and asynchronous) and in a mixed mode (Middlehurst 2001). At the same time, media for education provision is also assuming different types, from a traditional text/print, visual (pictures, films, and symbols), and sound/voice type to a multimedia and technology-mediated one. Therefore, the locations of education provision might be multiple: at home, at work, in learning centres, at an overseas campus, in a franchised operation, in a public institution or in a for-profit institution (*ibid.*). Moreover, it seems that the academic world no longer has the monopoly on the generation of new knowledge. In fact, curricula and content need to be both 'fit for purpose' and to offer 'value for money' (*ibid.*) and thus "the authority to design and determine 'content' (and ensure its currency and credibility) is likely to become more widely shared—with significant implications for standards, assessment and qualification frameworks" (Middlehurst 2001, p. 13). If the authority to design content is likely to become more widely shared, so will the qualifications. An example comes from the IT industry, which is involved not only in the design of programmes but also in the certification process at different levels, and this happens outside national quality assurance arrangements (*ibid.*). New qualifications include professional doctorates, professional certification, "integrated" degrees, dual/mutual awards and joint degrees (*ibid.*).

The three main forms of CBHE are student mobility, branch campuses/franchise campuses, and borderless e-learning. Available data show that mobile students across borders (consumption abroad) are still the most popular mode of delivery and probably will continue to be the main source of internationalisation in the future. The number of students studying abroad has increased very quickly. The World Bank reports that the number increased by almost 50%, from 1.64 million in 1999 to 2.45 million in 2004 (Bashir 2007). The OECD reports a 100% increase between 2000 and 2010 (OECD, various Education at a Glance reports). Data from the UNESCO Institute for Statistics for 2012 show that all over the world there were just over four million mobile students. So, the number of mobile students has increased, as Fig. 3.1 shows, from 0.8 million in 1975 to 4.4 million in 2012.

Mobile students are mainly from Asia (53%) and Europe (23%), as shown in Fig. 3.2

The main importers and exporters of mobile students are shown in Table 3.1 (UNESCO 2014). In 2014, five destination countries hosted nearly one-half of the total number of mobile students: the United States (18%), United Kingdom (11%), France (7%), Australia (6%), and Germany (5%). But the top five saw their share of international enrolment decline from 55% in 2000 to 47% in 2012. This might be due to the emerging new attraction countries: China, Malaysia and India (UNESCO 2014).

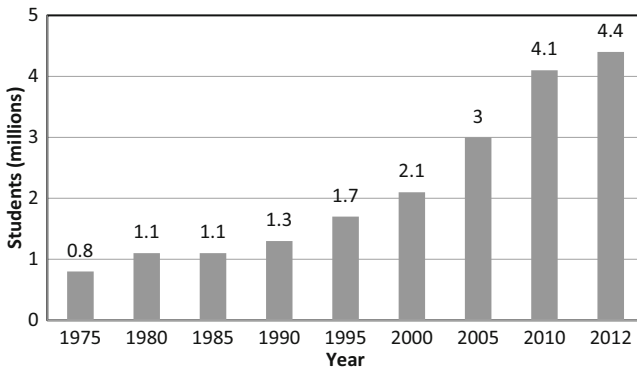


Fig. 3.1 Number of mobile students (millions) (*Source*: UNESCO Institute of Statistics)

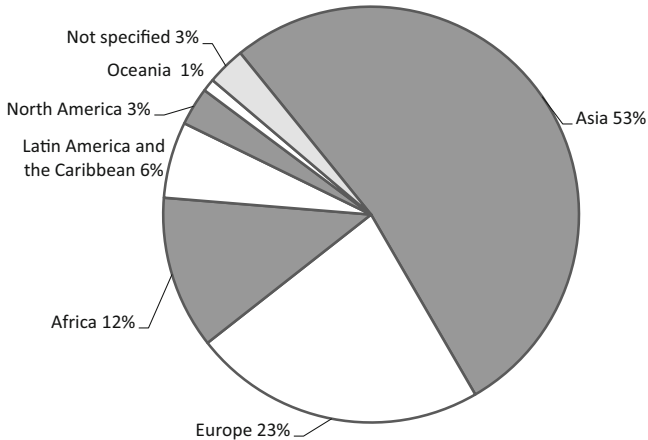


Fig. 3.2 Origin of mobile students (*Source:* UNESCO Institute of Statistics)

Table 3.1 Main importers and exporters of mobile students

<i>Main importers</i>		<i>Main exporters</i>	
<i>Country</i>	<i>Number of students</i>	<i>Country</i>	<i>Number of students</i>
United States	740,482	China	694,400
United Kingdom	427,686	India	189,500
France	271,399	Republic of Korea	123,700
Australia	249,588	Germany	117,600
Germany	206,986	Saudi Arabia	62,500

Source: UNESCO 2014

Countries such as China and South Korea, Saudi Arabia (160,000), Brazil,¹ Chile, Ecuador, Kazakhstan and Russia invest large sums of money to offer their nationals scholarships for studying abroad. International rankings might play an important role as they have a potential influence on international students' choices of destinations (Dill and Soo 2005). In fact, as argued by Hazelkorn (2011), "in the absence of institutionally generated comparative material, rankings have arguably and controversially become the accountability and transparency instrument by which students—especially international students—governments and other stakeholders acquire such information" (Hazelkorn 2011, p. 13).

CBHE has been developing fast, with foreign universities providing higher education abroad, in partnership with local institutions or by themselves, either through commercial presence or cross-border supply. The survey run by Adam (2001) identified branch campus, franchise, and distance learning as the major modes of CBHE. According to the Cross-Border Research Team's definition, a branch campus is "an entity that is owned, at least in part, by a foreign education provider; operated in the name of the foreign education provider; engages in at least some face-to-face teaching; and provides access to an entire academic program that leads to a credential awarded by the foreign education provider" (C-BERT 2014). Indeed, a provider in Country A establishes a satellite campus in Country B to deliver courses and programs to students in Country B (in some cases Country A students may also take a semester or courses abroad). The qualification awarded is from the provider in Country A (Knight 2006). A franchise is an arrangement whereby a provider in source Country A authorises a provider in Country B to deliver a course/program/service in Country B or other countries. The qualification is awarded by the provider in Country A. Arrangements for teaching, management, assessment, profit-sharing and awarding of credit/qualification are customised for each franchise arrangement and must comply with national regulations (if they exist) in Country B. Virtual/distance learning is an arrangement where a provider delivers courses or a program to students in different countries through distance and online modes, using predominantly the Internet technology mode. It may include some face-to-face support for students through domestic study or support centres (*ibid.*).

The Cross-Border Research Team (C-BERT) database (2014) registers 217 Branch Campuses from 31 exporting countries, with 19 planned to open in the near future while 28 are known to have closed. The largest exporters (in order of branches) are the United States (83), the United Kingdom (32), Australia (17), France (16) and India (8). There are 67 importing countries and the largest importers are the United Arab Emirates (33), China (29), Singapore (14), Qatar (11) and Malaysia (9). The United Arab Emirates' government, for instance, has provided free education for all nationals by encouraging private education providers to establish themselves in Dubai's Knowledge Village, a human resources management, professional learning and educational free-trade zone campus to operate with 100% foreign ownership (Godwin 2006). There are over 400 companies and institutions operating within it, including universities, occupational assessment and testing providers, professional cen-

tres, computer training providers, executive development providers and consultancy companies. Malaysia is another relevant example: recognising higher education as a potential new source of growth and export revenue, the country has emerged as an unexpected contender in the world market for international students, aiming to become a regional hub for higher education (Tham 2010; Mazzarol et al. 2003).

At the same time, the desire to compete actively in the Asian and Pacific region makes it likely that new entrants to this lucrative international industry might emerge (Mazzarol et al. 2003). Malaysia, Turkey and China are new players in CBHE provision. So, even in traditionally importing countries, it is possible to find examples of universities operating abroad, such as Limkokwing University of Creative Technology in Malaysia or Megatrend University in Serbia. They are both private universities working in English with branches abroad; the former has branch campuses in London, Lesotho, Botswana, Vietnam, China and Cambodia, while the latter has a branch campus in London and another big campus in Vienna, with 26,000 students enrolled.

Zhang et al. (2014) interpret the distribution of branch campuses using the World Economic Forum's global competitive index, which classifies countries in *factor-driven economies* (low wages and natural resources), *efficiency-driven economies* (higher education and training, market, labour market, financial market efficiency, technology readiness and market size) and *innovation-driven economies* (business sophistication and innovation). From a total of 201 branch campuses, 168 were established by innovation-driven economies, 21 by efficiency-driven economies and only 12 by factor-driven economies. When we look at the host country, 109 were established in innovation-driven economies (the biggest importer being the United Arab Emirates), 74 in efficiency-driven economies and only 18 in factor-driven economies. Countries welcome those campuses for a number of reasons such as "unmet demand for education, building a competitive workforce combined with regulatory incentives that encourage foreign investment in the direct provision of education" (Zhang et al. 2014, p. 9).

Distance learning is another form of CBHE provision. Wilson and Vlasceanu (2000) define distance learning as encompassing a wide range of learning activities characterised by the separation of the learner from the teacher. These learning activities—or the framework within which they are organised—may or may not belong to the higher education system of a given country. Although used in an interchangeable way, distance

learning, as argued by Guri-Rosenblit (2005), is different from e-learning: while distance education adopts the opposite course of a campus-based university, reaching out to students wherever they live or wish to study, “e-learning, on the other hand, is a relatively new phenomenon which is related to the use of electronic media for a variety of learning purposes that range from add-on functions in conventional classrooms to full substitution for the face-to-face meetings by online encounters” (Guri-Rosenblit 2005, p. 469). E-learning is therefore accessible through technological tools that are either web-based/web-distributed, or web-capable. It not only covers content and instructional methods delivered via CD-ROM, the internet and intranet but also includes audio and videotape, satellite broadcast or interactive TV (Moore et al. 2011).

Higher education systems are being challenged all over the world by the new information and communication technologies (ICT), which have had a huge impact on the world economy, having the potential to redesign the nature of study environments everywhere, in both conventional and distance teaching institutions (Guri-Rosenblit 2005). Blended learning, MOOCs, digital content (libraries and courses) and open educational resources are some of the signs of this new technological environment. While Asia is the continent that leads in borderless e-learning (seven out of the ten fastest growing countries—Myanmar, Thailand, Malaysia, Vietnam, Indonesia, Nepal and Pakistan), other countries are also taking part of this kind of provision, such as Slovakia, Ethiopia and Mozambique, which suggests that Africa might become the next high growth market (UWN 2014). The largest online providers are Cisco (1,000,000), University of Phoenix (400,000), ChinaEdu (311,000) and Korea National Open University (210,000) (ibid.).

Massive Open Online Courses (MOOCs) are a relatively recent online learning phenomenon that is generating significant interest from higher education institutions and venture capitalists that see it as a new business opportunity. MOOCs have developed initially through US initiatives, within international cooperative partnerships such as Coursera (www.coursera.org), which is a partnership including 62 world class universities, led by Stanford University and EdX (www.edx.org), which brings together the Massachusetts Institute of Technology, École Polytechnique Fédérale de Lausanne and The Hong Kong University of Science and Technology (Liyaganawardena, Adams and Williams 2013). Udacity (www.udacity.com), P2P University, Futurelearn (the UK Open University’s MOOC platform), iVersity (German), UniMOOC (Spanish) and XuetaangX

(Chinese) are other related platforms. Veduca, in Brazil, with three million visitors, has raised 1.3 million dollars since January 2014 (Department of Business Innovation and Skills 2013a). The number of people registering for MOOCs, for instance at EdX, has reached 2.5 million people, 300,000 of them from India (*ibid.*). Further developments on this issue will be discussed later on in this book.

THE ECONOMICS OF CROSS-BORDER HIGHER EDUCATION

Driven by the traditional egalitarian and social welfare ideals, education has been historically seen as a public good in support of building literate and informed communities of citizens. In recent years, however, under the influence of globalisation and the rise of the knowledge-based economy (Peters 2006), some steps towards a greater commercialisation of education took place alongside the fiscal pressure on the welfare state and the growth of neo-liberal concepts, which make education policy increasingly embedded in economic imperatives (Martens and Starke 2008).

In order to create a global economy and a knowledge-based society, neo-liberal ideologies have advocated for the elimination of national barriers to allow for an open market and international trade. In this perspective, free trade would contribute to the intellectual progress of mankind (Jones 1998) while others argue against the “increasing colonisation of education policy by economic policy imperatives” (Ball 1998, p. 122), shifting the paradigm of higher education as a social and cultural right to a new paradigm that emphasises economic returns, whereby institutions become service providers and students become consumers (Tavares and Cardoso 2013). Efforts to liberalise education services are being made through the General Agreement on Trade in Services (GATS) at a global level, under the framework of the World Trade Organization (WTO) (Amaral and Rosa 2008). In fact, the United States made a specific proposal to the WTO to consider education as a tradable service or a commodity to be included in the GATS. Commoditisation is the process of standardisation of products and services: “When a product or a service is commoditised, it can be readily compared with other products like it, and competition revolves strictly around the price of the good” (Van Weigl 2000, p. 14). Education has therefore gradually been “discovered as a lucrative service industry and export commodity, and governments of industrialised countries have actively sought to take advantage of a growing national and international market” (Martens and Starke 2008, p. 3).

Being lucrative is the key motive, as argued by Altbach and Knight (2007), for most of the internationalisation projects. This motive applies not only in the for-profit sector but also in some traditional not-for-profit universities, which are dealing with financial problems generated by government cuts. It is however difficult to quantify the economic scope of CBHE, although one might imagine that the sums are large as higher education often forms a substantial part of the total economy. Similarly, it is problematic to estimate the impact of international activities on participating academic institutions and firms, but it seems that the amount is not only large but is also growing fast (Altbach and Knight 2007).

Across the European Union (EU), besides the Bologna Process and the ERASMUS program, which encourage students to study abroad within Europe by promoting compatible program structures/academic qualifications and transferable credits, internationalisation is also taking place through the cross-border expansion towards the Latin American and Asian Pacific regions (Altbach and Knight 2007). The governments of the leading exporters of education, such as Australia, United Kingdom and the United States, are the ones that have the most interest in removing the barriers from the global provision of higher education services. In fact, according to the Observatory on Borderless Higher Education Report (2009), the flows of international mobile students are not homogenous; the flow of outgoing students from East (Asia) to West (Anglophone countries—United Kingdom, U.S., Canada and Australia) is significantly larger (Brooks and Waters 2009).

The economic contribution of foreign students is high; it includes fees, accommodation, food, transportation, miscellaneous expenditures and the related tourism of students and their families (Altbach 1991; Vickers and Bekhradnia 2007). In the United Kingdom, in the academic year of 2011–12, the higher education sector represented 118 billion American dollars, 750,000 jobs and 2.8% of the Gross Domestic Product (GDP). Foreign students and international visitors represented 17% of the total student population, \$13 billion and 64,000 jobs (Universities UK 2014).

In order to capitalise on education exports, which have significantly grown in value, new strategies are being launched. For example, the “Education is Great” campaign aims at promoting UK education to students in emerging economies. The goal is to increase the number of overseas students in British universities by up to 20% over the next five years (around an extra 90,000 students). The British government is setting up a new initiative to encourage UK students to study overseas, to promote the

UK education sector overseas and maximise commercial opportunities. It is also supporting UK companies using innovative education technology, such as MOOCs, and doubling the Department for International Development's investment in higher education partnerships, which link universities in poorer countries with British universities. Finally it is expanding the Foreign and Commonwealth Office's successful Chevening scholarships, which encourage high-fliers from around the world to study in the UK (Department for Business Innovation and Skills 2013b).

According to the Association of International Educators (NAFSA 2014), 886,052 international students are enrolled in US universities and colleges. These students (and their families) supported 340,000 jobs and contributed \$26.8 billion to the US economy during the 2013–14 academic year. This represents an 8.5% increase in job support and creation, and a 12% increase in dollars contributed to the economy compared with the previous academic year. Also US colleges and universities as well as private companies are involved in hundreds of initiatives and partnerships to deliver cross-border education courses and programmes, especially for Asia (Korea, India, China, Thailand, Vietnam, etc.) and the Middle East (Kuwait). Kaplan, Apollo Group, DeVry, Career Education Corporation and Laureate Education are well known companies of the US cross-border activity (Altbach and Knight 2007).

In Canada, there were 220,000 foreign students in the 2010–11 academic year, who supported 86,000 jobs and contributed 7.7 billion American dollars to the national economy. Thirty-seven percent of those students were from China and South Korea (CBC 2014). Saudi students spend the equivalent of 44% of what the Kingdom imports from Canada on educational services in Canada (*ibid.*).

In Australia, 300,000 foreign students (29% of the total student body) contribute 15 billion American dollars to the national economy and support 95,000 jobs. The income from international students' fees represents 16% of university revenues (Ernest and Young 2012). Australia is also the lead exporter of educational services. In fact, education is regularly publicised as Australia's third-largest export behind coal and iron ore (Birrell and Smith 2010).

Self-paced e-learning represented 42.7 billion American dollars in 2013 and will represent 53 billion by 2018. This number is 7.9 billion in Asia and 355 million in Africa (Department of Business Innovation and Skills 2013a).

Hence, it seems that for-profit higher education institutions are operating much more like businesses, motivated by earning money rather than by the traditional aim of higher education, which is to promote learning (Green 2014). Laureate education is a good example of a well-known for-profit company delivering CBHE. Enrolling 800,000 students at 75 institutions in 30 countries, it earns around four billion dollars a year (Department for Business Innovation and Skills 2013a). Another example is Whitney International University System which has earned \$400 million in revenue in 2013 (Ibid.). Finally Paulo Guedes, chairman of Rio-based Bozano Investimentos, invested \$155 million in Brazilian education firms and has earned three times as much in three years. As he explained himself, “Education is the industry of the future” (Green 2014).

Described as a “disruptive innovation” (Yuan et al. 2013) that are emerging against market expectations, MOOCs are reaching millions of students who so far do not need to pay a cent. However, this cannot last for long and the most common way to achieve returns from the investment made is to charge fees for certificates. Moreover, some major MOOC providers like Coursera and Udacity, being operated by for-profit organisations, are trying to develop a variety of business models, which include: selling student information to potential employers or advertisers; fee-based assignment grading; access to the social networks and discussions; advertising for sponsored courses; and tuition fees for credited courses (Yuan et al. 2013). A non-profit platform like EdX, which is operating with the aim of helping universities to achieve shared educational missions, will also need to be self-sustaining in the longer term (ibid.).

OPPORTUNITIES AND THREATS

CBHE is not immune to controversy and debate, especially when so much money is involved. It can be seen as both an opportunity and a threat. Some of the potential positive effects in developing countries may result in more choices for students, improved quality of local institutions through increased competition, and qualifications with greater relevance in the labour market (Bashir 2007). According to Bashir (2007, p. 4) “among the factors propelling demand for foreign education services are the excess demand for domestic higher education and the need for internationally recognised qualifications in emerging regional and global

markets for highly skilled labour". She argues that the higher costs of internationalised education can be seen as justifiable as they allow access to the international market for skilled labour with much higher lifetime earnings (Bashir 2007, p. 53). Additionally it makes it easier for students to access postgraduate programs and research opportunities in the exporting countries. Adam (2001, pp. 40–41) systematised what could be the positive aspects of CBHE: it widens learning opportunities by providing more choice for citizens, challenges traditional education systems by introducing more competition and innovative programs and delivery methods, helps to make European education more competitive, benefits domestic institutions through links with prestigious foreign institutions, and represents, for exporters, the opportunity to access new sources of income.

In international trade, a commodity or service should benefit, in principle, both importing countries (who consume higher education provided by a foreign supplier) and exporting countries (who provide higher education to foreign nations). According to Bashir (2007), benefits such as more choices, improved quality and lower prices, however, have proven more theoretical than real. Indeed, while the lead exporting countries argue that cross-border educational services should be liberalised and tradable, the importing countries (mostly developing countries) could face serious problems since foreign providers might endanger national higher education systems (Bashir 2007). Therefore, developing countries fear a negative impact through "underfunded and inefficient domestic higher education systems" (Bashir 2007, p. 4) operating under weak regulatory conditions. They are also worried about the possibility of losing sovereignty in an area of national sensitivity (Gornitzka 2009). Bashir lists four broad major concerns of developing countries in relation to the liberalisation of trade in higher education: (i) unequal access to higher education markets between providers in developing and industrial countries; (ii) negative effects of competition on domestic higher education institutions; (iii) an influx of low-quality foreign providers; (iv) worsening inequality in access to higher education (Bashir 2007, p. 65).

Adam (2001) also highlighted a number of negative factors mainly related to the quality of provision. He pointed out that CBHE might raise problems associated with non-official and unregulated providers (often franchise institutions and branch campuses) who remain outside of official national quality assurance regimes and are not subject to internal or external audit/monitoring processes, problems associated with consumer pro-

tection, difficulties with ‘degree mills’ and bogus institutions that might exploit the public, unfair competition for strictly regulated domestic institutions and subsequent loss of income, and a lack of information that makes it difficult to distinguish the good quality from the poor quality CBHE institutions.

The OCDE (2008) also recognises potential risks in international education, for both mobile students and for those who obtain foreign degrees at home:

It may lead to brain drain if the students prefer to stay or go abroad to work, or education on offer may be irrelevant in the developing country. It could also lead to equity problems if only the wealthiest students are able to afford foreign higher education, at home or abroad. (OECD 2008, p. 3)

Moreover, CBHE might also be seen as a form of cultural imperialism, given the probability of Western models of education becoming the global standard (Edwards and Edwards 2001). As Patrick (1997) argues, a global perspective usually leads to an imperialistic stance of international education in which ‘one size fits all’ models are sold to ‘knowledge markets’ without taking into consideration the cultural needs and sensibilities of the communities within those markets.

CONCLUSION

The internationalisation of higher education is one of the most significant trends affecting universities all over the world in the past decade. It offers students many opportunities to become global professionals and citizens by studying overseas, spending a semester abroad or being exposed to an international curriculum in their own country.

Among the various modalities of internationalisation, the rapid growth of CBHE has been watched with interest and concern. The economic stakes are high, especially for countries receiving large numbers of foreign students and for universities or firms involved in cross-border educational activities. But the education benefits have been mixed. On the positive side, cross-border providers help increase educational opportunities in countries with limited public funding for higher education and increased competition puts pressure on local higher education institutions to improve quality and relevance. On the negative side, low-quality providers take advantage of students in countries with weak regulatory and quality assurance frameworks.

In this context, it is imperative that developing countries strengthen their quality assurance systems to ensure the quality and relevance of programs offered by cross-border providers and to prevent the operation of degree mills and bogus programs. Only under these conditions can the internationalisation of higher education be a positive force.

NOTE

1. The new program Sciences without borders aims to train 100,000 students abroad.

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PART II

The View of Stakeholders

The Shift to Strategic Internationalisation Approaches

Andrée Sursock

INTRODUCTION

The ‘knowledge society’ has put higher education and research at the centre of policy discussions in many parts of the world. The growth in the global demand for higher education, the increase in the number of mobile students and the need to prepare students to work in global companies have all contributed to giving more urgency to internationalisation strategies in higher education.

The exacerbated global competition implies that universities are vested with an even greater responsibility to meet the needs of society through their threefold mission: teaching, research and service to society. Many higher education institutions have embraced these social obligations and have sought to enhance their activities through strategic international partnerships.

Some institutions are seeking to become global players: obviously, internationalisation is a key element of their strategy. Even without this aspiration, however, all universities realise that they cannot be effective in education and research in a situation of intellectual autarchy. The

A. Sursock (✉)

European University Association, Matosinhos, Portugal

development of new information and communication technology (ICT) is increasingly supporting their international outreach. International ranking schemes and league tables help them identify international partners while membership in exclusive international networks of universities has become branding markers in the international market place.

All these changes have resulted in a shift from relatively haphazard academic partnerships and random capacity-building activities to more strategic approaches to internationalisation. Four types of agents, at three levels, are taking an interest in internationalisation strategies: (i) the European Union, (ii) national agencies (such as the British Council, Campus France, DAAD and NUFIC) and ministries of foreign affairs and (iii) the universities.¹ The 2014 *IAU Global Survey* confirms the growing importance of internationalisation strategies, particularly the lead taken by European higher education institutions in comparison to other world regions: 61% of European institutions have an institutional strategy vs. 53% globally (IAU 2014; Green 2014).

After a description of pertinent parts of the general higher education context in Europe, this chapter seeks to understand how European universities approach internationalisation. Specifically, how important are international activities in relation to other strategic priorities? What sort of international activities are important and what is the share of lucrative activities?² What could be learned from the European and the national data? What future trends could be anticipated?

The discussion is primarily based on the results of studies and projects carried out by the European University Association (EUA),³ particularly the *Trends 2015* report,⁴ which is based on the analysis of 451 responses by universities and other higher education institutions located in 46 countries in Europe (EUA 2015).

CONTEXT

European Disparity: Economic and Demographic Trends

Since 2008, the economic and financial crisis has led to a growing disparity in Europe between the countries that have been deeply affected by it—mostly in the south and central eastern parts of Europe—and the others that have been relatively spared. The 2014 report of the EUA's Public Funding observatory highlights this disparity by noting: "This contrasting situation represents a challenge for Europe as a whole, whose global

competitiveness is harmed by such imbalances and weaknesses in the European Higher Education and Research Areas” (EUA 2014c, p. 20). These findings were confirmed by the results of the Trends 2015 questionnaire (EUA 2015, p. 23):

- “The economic crisis is rated as having been highly important for 43 per cent of Trends respondents, notably in the Czech Republic, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Portugal, Romania, Slovakia, Spain and Ukraine”.⁵
- “By contrast, institutions in Norway and Sweden state that the economic crisis has had ‘low importance’ while institutions in Germany and Switzerland are evenly split in assigning it medium or even low importance”.

Furthermore, ageing populations and low birth rates are affecting many parts of Europe but the countries of Central and Eastern Europe are impacted by these negative trends more than those located in the north and west. Thus, demographic decline (EUA 2015, p. 24):

- Has been “highly important to 32 per cent of Trends respondents, most particularly to institutions in the Czech Republic, Hungary, Latvia, Lithuania, Poland, Portugal, Romania, the Russian Federation, Slovakia and Ukraine.”
- Has been “moderately important to 41 per cent of the institutions, notably in Finland, Germany, Ireland, the Netherlands, Sweden, Switzerland, Turkey, Ukraine and the United Kingdom”.⁶

When the Trends 2015 answers about the impact of the economic crisis and the demographic decline are combined, it becomes clear that, with the exception of Portugal, Central and Eastern European countries are most likely to be affected by both change drivers as captured by Table 4.1.

The *Trends 2015* report observes that the funding crisis has had a number of consequences, including introducing different ways of allocating funding to higher education institutions (EUA 2013b). EUA (2011) notes that some funding reforms have altered the balance between core funding and competitive project funding:

The increased share of project-based research funding has contributed to the growth in the number of researchers on fixed-term contracts; in parallel,

Table 4.1 The double impact of the economic crisis and demography

	<i>High importance of demography</i>	<i>High importance of economic crisis</i>
Czech Republic	X	X
France		X
Greece		X
Hungary	X	X
Ireland		X
Italy		X
Latvia	X	X
Lithuania	X	X
Poland	X	
Portugal	X	X
Romania	X	X
Russia	X	
Slovakia	X	X
Spain		X
Ukraine	X	X

Source: EUA 2015

recruitment freezes and contractual changes have swollen the number of adjunct teachers while the salaries and pensions of civil servants—including of academic and administrative staff—have been cut in a number of countries.

There is also evidence of a changing income mix with the growth of funding from private sources, including in systems that were committed to the primacy of public funding. Thus, the balance between private and public funding is changing, leading to the ever-greater privatisation of public higher education, particularly in the western parts of Europe.⁷ (EUA 2015, pp. 51–52)

This is most clearly evident in the growing number of countries that rely on student fees to partially fund higher education institutions. It should be noted, however, that fees in Europe are relatively low compared to the practice in other parts of the world. Thus, according to the data available in OECD's *Education at a Glance* (2014, p. 273), only the Netherlands and the United Kingdom, among the EU member states, charge more than 1500 American dollars a year to full-time domestic students.

International, non-EU students are now subject to higher fees than domestic students in 24 countries in Europe (Eurydice 2014), including most significantly in Denmark and Sweden, two countries that had been strongly committed to levying no student fees whatsoever. Although these

fees are introduced by the national authorities, they are sometimes unregulated and provide, on the part of governments, a further sign of budget tightening measures and, for the institutions, the temptation to recruit international students as a means of generating income. Thus, 39% of the Trends 2015 respondents report more efforts being exerted in international recruitment, notably by institutions in Denmark, the Netherlands and the United Kingdom (EUA 2015, p. 65).

Nevertheless, intra-European mobility has not been replaced by international student exchange, at least not yet. Regardless of the institutions' interest in generating income through international non-EU student fees, intra-European mobility is still strong and is being driven, in part, by the students' preferences. Although small numbers of students are starting to go further afield, quality, cost and geographical distance are perceived as barriers to faraway locations (EUA 2014e).

Collaboration and Competition

Internationalisation in Europe was traditionally measured by the number of exchange students and bilateral agreements, and many such partnerships created bonds between institutions that were not in the same league. European cooperation was important, particularly after the fall of the Berlin Wall, and it was further strengthened by the momentum that built toward the launch of the European Higher Education Area in 2010.

Early signs of a shift away from this type of cooperation toward more strategic partnerships were noted in Trends 2010, which was focused on the analysis of the 2000–10 decade:

Ten years ago, HEIs used to boast about the number of their cooperation agreements. Today, more attention is being paid to quality rather than quantity of partnerships and there is greater critical awareness for the need to select partners carefully and purposefully... In the best institutional cases, internationalisation is seen as a purposeful extension of institutional strengths and the strategic junction where the various strands of institutional activities are enhanced through international cooperation. (EUA 2010, p. 21)

This shift toward purposeful and strategic relationships should be seen as part of a larger issue related to the balance between competition and cooperation in higher education. Both the 2010 and 2015 Trends questionnaires sought to understand the importance of competition and cooperation for higher education institutions:

For now, the longitudinal results show a great deal of stability but this is expected to change in the medium term. Thus:

- 53 per cent of institutions in both 2010 and 2015 consider that ‘enhanced cooperation with other higher education institutions’ is highly important.
- ‘Competition with other higher education institutions’ is considered to be highly important by nearly the same percentage in 2010 (38 per cent) and 2015 (40 per cent).
- However, Trends 2015 respondents expect that both competition and cooperation will increase by nearly the same proportion in the medium term (+18 per cent and +17 per cent, respectively).

In another sign of growing competition, “the 2015 Trends responses show that the importance of ranking schemes is increasing and that this trend is expected to continue. Specifically, rankings and league tables are highly important to 33 per cent of the institutions (+10 per cent from 2010).” (EUA 2015, p. 27) In the medium term, their importance is expected to increase by 13%, and the number of respondents for whom these schemes have no importance is expected to shrink.

A recent EUA project documents that these schemes are used to support both competitive and cooperative institutional behaviour, notably in the choice of international partners (EUA 2014a).⁸ Thus:

- The vast majority of institutions have set up processes and structures to monitor the results of rankings, assess their performance, benchmark with other institutions, and develop institutional strategies and activities.
- More than half of the respondents state that rankings influence their choice of international partners.

An important development already identified in Trends 2010 relates to incentives aimed at promoting greater inter-institutional cooperation, particularly at the regional level (understood as infra-national). Given the ongoing policy emphasis in this area, the 2015 Trends questionnaire sought to test its importance. The results are as follows (EUA 2015, p. 54):

- ‘Collaboration within your region (with other universities, communities, employers)’ is scored as highly important by 58% across the sample and its importance is expected to grow in the medium term (+18%).

- Similarly, the percentage of institutions considering that cooperation with industry is highly important went up from 43% in 2010 to 53% in 2015 and is expected to grow by 16% in the medium term.

These results reflect the added emphasis in many countries on putting higher education and research at the centre of economic development and international competitiveness. As a sign of the times, the vocabulary is changing. The metaphor of the ivory tower is less frequently heard. The ‘entrepreneurial university’, which was a model for some institutions’ strategies, has become so commonplace among research-active institutions that this branding seems passé (Rip and Kulati 2015). The notion of ‘world-class university’ is probably replacing it. This is signalling a shift from the university as an inward-looking institution (if it ever was) to the reinvention of a civic university that is fully engaged in its community (Goddard 2009) and now—for the ‘happy few’—universities with the aspiration to become global players.

INTERNATIONALISATION

How important is internationalisation to higher education institutions in relation to other concerns? In the 2015 Trends questionnaire, institutions were questioned about major developments over the past three years: they were asked to indicate which of twelve items had high/medium/low importance. Internationalisation was ranked as the second most important development for 70% of institutions.

This questionnaire was built, to an extent, on previous Trends questionnaires, particularly the most recent one in 2010 (EUA 2010). Five years ago, Trends 2010 asked respondents to identify the most important reforms that affected their institution ‘over the past three years’ and ‘over the past ten years’. Three items came on top, with the Bologna process in first place (78%), quality assurance second (63%) and internationalisation third (61%).

In 2015, the top three items that were rated as having had ‘high importance’ were the same, albeit in a different order: quality assurance (73%) came in first, internationalisation (70%) second and Bologna degree structures (68%) third.⁹

Two contextual aspects of the 2015 responses should be emphasised in order to underscore the prominence of the top three items.

Firstly, aside from the top three developments, the other nine items to score were very compelling and their impact should not be considered

negligible. They had to do with changes in research policies, teaching and learning reforms, the implementation of learning outcomes, funding reforms, student recruitment, access, lifelong learning, tuition fees and governance and autonomy reforms. Nine of these twelve items were rated as having been highly important by over 50% of respondents.

Secondly, the longitudinal analysis reveals that at least twelve countries have been reforming their reforms or, in some cases, still implementing them. Thus, the following national policy changes were reported in both 2010 (EUA 2010, pp. 16–17) and 2015 (EUA 2015, p. 50):

- Czech Republic: funding and research policies
- Denmark: quality assurance
- Finland: funding and autonomy
- France: research and autonomy
- Germany: quality assurance
- Hungary: research
- Ireland: research
- Italy: autonomy
- Lithuania: funding
- Netherlands: funding and quality assurance
- Poland: autonomy, quality assurance and research
- United Kingdom: funding

Therefore, given this heavy policy agenda, it is certainly significant that quality assurance, internationalisation and Bologna degree structures have remained consistently important for at least the past eight years across the continent.

Although internationalisation is rising in importance, it is worth noting that the national community remains the primary one for universities. Trends 2015 respondents were asked: ‘Which community do you see your institution as primarily serving?’ The answers indicate that for more than two-thirds of the institutions, the primary community is national (45%) or ‘regional’ (23%),¹⁰ while the remaining third consider their primary community to be European (8%) or worldwide (23%). Fewer than 1% identify the local community as their primary one.

These results show stability over time and have not changed significantly from the Trends 2010 answers, although there is a slight increase (+8%) of those indicating that the worldwide community is their primary one and a general shift from smaller to wider communities.

Nevertheless, the balance is in favour of those focused on their own national community rather than reaching out beyond their borders. Most probably, this reflects the fact that funding of higher education in Europe is mostly from the public purse; therefore, institutions serve their regional and national communities as a matter of priority even as they engage in European and international activities. It should also be noted that the institutions that responded to the Trends questionnaire represent more than two-thirds of the EUA membership and that the bulk are public universities.

Given the growing importance of internationalisation, it is not surprising that “93 per cent of Trends respondents either have an internationalisation strategy (50 per cent), intend to develop one (8 per cent) or have included it as an element of the overall institutional strategy (35 per cent)” (EUA 2015, p. 30).

These results are slightly different from those received for the EUA internationalisation consultation, which worked with a smaller set of answers but probably from a slightly more homogeneous group of institutions that are highly committed to internationalisation.¹¹ The consultation results indicated that 99% of institutions that replied to the consultation either have an internationalisation strategy in place (56%), intend to develop one (13%), or have considered internationalisation in other strategies (30%) (EUA 2013a, p. 9).

The EUA internationalisation consultation also showed that the first priorities for internationalisation are (EUA 2013a, p. 10):

- Attracting more international students (30%)
- Internationalising research and teaching (19%)
- Providing home students with more opportunities to go abroad (12%)

It is interesting to note that ‘attracting more international students’ is important to more than double the institutions that claim as a top priority providing home students with international opportunities. This asymmetry might be attributed to a monetary motive, since hosting non-EU international students can entail a higher tuition fee.

The Trends answers regarding internationalisation activities show remarkable homogeneity across Europe. Thus, as shown in Table 4.2, the first eleven activities have been ticked by at least 50% of the responding institutions.

It is difficult to identify the activities most directly linked to revenue generation because this depends on the national context but it is clear that

Table 4.2 Does your institution undertake the following activities to support its internationalisation?

<i>Activity</i>		<i>%</i>
1	Student exchange	96
2	Staff exchange	92
3	Student work placement/internships	86
4	International network memberships	85
5	Degree programmes taught in English	81
6	Strategic partnerships with a select number of foreign institutions	81
7	International marketing	73
8	Summer schools	72
9	Internationalisation at home	64
10	International student recruitment campaigns	58
11	Capacity-building projects with partners in developing countries	54
12	Degree programmes taught in languages other than English	32
13	MOOCs and other types of online learning	21
14	Off-shore campuses	13

Source: EUA 2015

internationalisation is a prestige marker and as such may contribute, at last indirectly, to a positive budgetary situation.

A close look at the responses concerning the four activities that received a lower value might help anticipate future trends. The percentages of institutions interested in growing these activities are as follows:

- ‘MOOCs¹² and other types of online learning’, 29%.
- Capacity building, 17%, although a slightly higher number (19%) had no such intentions.
- ‘Offshore campuses’, 13%. It is noteworthy that offshore campuses receive the highest proportion of ‘no’ (two-thirds) and, therefore, are the least likely to grow.
- ‘Degree programmes taught in languages other than English’, 11%.

There are two interesting patterns to note in relation to these results.

Firstly, institutions in the three countries most likely to develop off-shore campuses are starting with practically a clean slate: these are institutions located in Ireland, Lithuania and the Russian Federation. Of course, this does not mean that no Irish, Lithuanian or Russian university has ever developed offshore activities but simply that those that responded to the Trends 2015 questionnaire had not done so.

Secondly, the growth of e-learning activities, including blended-learning programs and MOOCs, will affect a significant number of institutions that are located in a wide number of countries. It is clear that some institutions and some countries see MOOCs as an international outreach instrument. While the US platforms were started by individuals (such as Coursera) or groups of universities (such as EdX) that are in competition with each other, the European versions tend to be coordinated (sometimes funded) nationally. The EUA e-learning survey¹³ noted that 70% of institutions understood the potential of ICT in supporting international partnerships but that only 9% used it in this framework (2014b, p. 48). The *Trends 2015* results confirm this figure and the untapped potential in this area (EUA 2015).

What are the benefits of internationalisation? Specifically, does internationalisation contribute to income generation? None of the EUA studies raised this question directly. Instead, institutions were asked in the Trends 2015 questionnaire if ‘internationalisation contributes to improving learning and teaching’: 92% responded ‘yes’. The main contributors to the improvement process include:

- Mobility of students (66%) and staff (43%)
- International collaboration in learning and teaching (41%)
- International students (40%)
- Teaching in English (25%)
- International staff (24%)
- ‘Additional income/funding for the institution’ (8%)
- ‘Increased emphasis on language learning’ (7%)

Trends 2015 notes (EUA 2015, p. 71):

The *IAU Global Survey* complements these findings (2014, p. 50–53). The top three benefits of internationalisation for European respondents are: improved quality of teaching and learning, enhanced international cooperation and increased international awareness of students. The item ‘increased/diversified revenue generation’ did not appear on any region’s top three benefits, including in Europe.

Hazelkorn and Fritze (2014) mention, however, that international student recruitment has been an increasingly common strategy to cope with the economic crisis by increasing revenues and diversifying funding sources.

Thus, the evidence on this point is not very conclusive but the available data seem to indicate that international revenue from student fees might

be funnelled elsewhere apart from learning and teaching, particularly in the countries that have been impacted by the economic crisis. This issue would deserve further study in order to confirm it.

COUNTRY COMPARISONS

While the preceding discussion considered the European results as a whole, an analysis of institutional behaviour and attitude by country shows significant variations from the European averages that shed further light on the issue at hand.

This analysis is based on Trends 2015 results for three large higher education systems—France, Germany and the United Kingdom—and three smaller ones—Ireland, Lithuania and the Netherlands. While the rationale for comparing the three large systems is obvious, the choice of the three smaller systems was made on the following basis: Ireland and Lithuania often score much higher on future internationalisation activities than the European average while the Netherlands represents the largest percentage of institutions with aspiration to worldwide status after the United Kingdom.

The comparison focuses on the responses to the following questions:

- Which community do you primarily serve?
- What is the importance of rankings and league tables, competition and cooperation with other HEIs, regional cooperation and cooperation with business partners?
- What is your current and future engagement in capacity building and offshore campuses?
- What are your geographical targets?

Table 4.3 shows that the United Kingdom has the highest percentage of institutions that have chosen the worldwide community as their primary one but it is important not to misinterpret the responses from France and Germany. In the case of France, for instance, the policy emphasis for at least the past decade has been on building regional cooperation in order to enhance international impact.

On the issue of the balance between competition and cooperation with other higher education institutions, the results show that Germany conforms most closely to the adage that the two go hand in hand but this is not the case for either France (more cooperative) or the United Kingdom

Table 4.3 France, Germany and the United Kingdom: a side-by-side comparison

	<i>France</i>	<i>Germany</i>	<i>United Kingdom (with Scotland)</i>
Which community do you primarily serve?	Regional 44%	Regional 37%	Worldwide 87%
High importance of rankings and league tables	18%	22%	67%
High importance of competition with other HEIs	25%	47%	73%
High importance of cooperation with other HEIs	59%	47%	47%
High importance of regional cooperation (HE and non-HE partners)	88%	65%	53%
High importance of cooperation with business partners	53%	48%	80%
High importance of engaging in capacity building activities (Now + in planning stage)	81% + 19%	50% + 10%	79% + 7%
High importance of establishing offshore campuses (Now + in planning stage)	56% + 6%	13% + 4%	43% + 0%
Geographical targets	EU Asia and China Latin America and Brazil	Asia and China EU US/Canada	US/Canada Asia and China EU

Source: EUA 2015

(more competitive, also signalled by the high proportion of institutions for whom rankings and league tables are important). UK institutions seem to give a slight preference to cooperation with business partners as opposed to interuniversity cooperation.

Both France and the United Kingdom are deeply engaged in capacity building—most probably a historical legacy from their colonial past—and France shows a slightly higher proportion of institutions with offshore campuses. Germany is developing its capacity-building activities and its offshore campuses—the latter, on a modest scale. It is important to note, however, that in order to measure the impact of such activities accurately, it is necessary to calculate the number of students enrolled in offshore programmes rather than the number of institutions responsible for offshore activities.

Table 4.4 Ireland, Lithuania and Netherlands: a side-by-side comparison

	<i>Ireland</i>	<i>Lithuania</i>	<i>Netherlands</i>
Which community do you primarily serve?	National 43%	National 67%	Worldwide 57%
High importance of rankings and league tables	71%	33%	33%
High importance of competition with other HEIs	29%	83%	33%
High importance of cooperation with other HEIs	85%	67%	56%
High importance of regional cooperation (HE and non-HE partners)	85%	66%	78%
High importance of cooperation with business partners	57%	33%	44%
High importance of engaging in capacity building activities (Now + in planning stage)	57% + 25	17 + 67%	77% + 0%
High importance of establishing offshore campuses (Now + in planning stage)	0% + 43%	0% + 50+	12 + 0%
Geographical targets	Asia and China Latin America and Brazil US/Canada	EU Europe (non-EU)	Asia and China EU

Source: EUA 2015

The institutions in the three countries share, among them, four geographical priorities, with a strong tilt toward Europe for France (67%), Asia for Germany (65%) and North America for the United Kingdom (67%) (Note that intra-EU mobility does not generate income).

Turning to the second set of countries, Table 4.4 shows that while institutions in the Netherlands are most likely to claim their primary community as worldwide, they do not seem as interested in rankings and league tables as the Irish institutions are or as their ‘peer’ institutions in the United Kingdom (As mentioned earlier, the highest proportions of institutions claiming the worldwide community as their primary one are located in the United Kingdom and the Netherlands).

Paradoxically, the Irish institutions are the least competitive but also the most interested in rankings while the results for Lithuania are exactly the opposite. The institutions in the Netherlands are more consistent: the same percentage of institutions claims that both competition with

other universities and rankings are highly important and this percentage corresponds exactly to the European average (33%).

Competition and cooperation are not strictly balanced as they were in the global European averages. Lithuania scores highest on competition, a probable consequence of the demographic decline, while Ireland scores highest on interuniversity cooperation, a probable consequence of recent policies encouraging such behaviour.

The results for capacity-building activities and offshore campuses are without a doubt the most interesting. They show the strong commitment of Irish institutions toward growing these types of activities from an already healthy basis while the Netherlands seems content with the already high-level of activities of this type. Lithuanian institutions start from a very low basis and want to develop it.

The pattern for offshore campuses is also unusual. The Netherlands has a low level of activity in this area and is not interested in developing it further while the Irish and Lithuanian institutions have no offshore campuses at the moment but a significant number are interested in developing some in the future.

The pattern of their geographical targets is different from the first set of institutions to the extent that the three countries share five targets rather than four. The Irish international aspiration translates into wanting to develop partnerships across the globe rather than in Europe. By contrast, Lithuania is primarily interested in EU and non-EU European countries. These differences might be linked to (i) the economic crisis in Ireland and the fact that Irish universities can levy a very high fee for non-EU international students, and (ii) the recent history of Lithuania and the opening up of the Baltic States to Europe. In both countries, institutions want to develop offshore campuses from a clean slate.

Perhaps the most important conclusion to be drawn from the two side-by-side comparisons is that the countries with the most established experience in offshore campuses are comparatively less interested in further development, while both France and Germany show interest in growing their capacity-building activities. Ireland (in relation to offshore activities) and most particularly Lithuania seem to represent relatively new players on the international scene. It remains to be seen how their aspirations will translate into concrete activities and if others—such as Russian universities—will join them.

It is impossible for reasons of space to do justice to these comparative data, which would require careful contextual analysis. Suffice it to say that

the country comparison shows that the European averages hide important national variations that should be linked to past history and to the current demographic, political and economic context of each country.

CONCLUDING REMARKS

Europe's universities consider international activities to be very important in relation to many other developments, including a number of significant policy changes that have affected research, learning and teaching, governance and funding.

The combination of the demographic downturn and the economic crisis are resulting in pressures—also from governments—to use internationalisation as a source of income generation both for the national economy and the universities. The clearest manifestation of this development is that differentiated tuition fees for non-EU international students are spreading across the continent. In addition, aspiring global players seem to be on the starting blocks of developing and enhancing their international outreach, including through off-shore campuses.

Internationalisation is expected to be bolstered by new developments in ICT, particularly e-learning and blended learning, and by the requirement to equip students with intercultural skills and global understanding. Internationalisation and ICT are identified as important priorities for enhancing the learning environment by over two-thirds of the universities responding to the Trends 2015 questionnaire (EUA 2015).

The universities anticipate that the importance of competition and cooperation will increase in the next few years. This would explain why they identify quality assurance (understood as internal and external accountability processes) as the; most important development of the past three years and have consistently placed it, along with internationalisation, as a priority for the past eight years. It also explains the rising importance of rankings and league tables.

This chapter has documented key changes in Europe, particularly demographic trends, the deepening economic crisis and its impact on higher education funding. Both ICT developments and internationalisation are being used to enhance the core missions of universities, in a context where greater attention is being paid to rankings and international positioning. These changes are affecting the whole continent but, because of European diversity, they play out in different ways depending on the country. Beyond these differences, however, internationalisation is becoming more strategic as a sign of the changing European and global political and economic context.

NOTES

1. For ease of reading, the word university in this chapter refers to any type of higher education institution.
2. It should be noted that none of the surveys on which this chapter is based address directly the economic benefit of internationalisation but some of their questions could be used as proxies to grasp trends in this regard. Further studies would be required to test the hypotheses presented here.
3. As the organisation representing universities in Europe, EUA includes 783 members, including universities (for the most part PhD-awarding universities) in 45 countries and 34 rectors' conferences. It frequently conducts projects and studies involving its members.
4. The Trends reports have been a regular feature in the context of the Bologna Process. The first one was published in 1999. The questionnaires have included a number of questions that have been asked recurrently over the years to enable longitudinal analyses.
5. Countries with fewer than four institutions that responded to the questionnaire are excluded from all country analysis.
6. The results from the United Kingdom include answers from institutions in Scotland.
7. Kwiek (2015) notes that Western Europe will be on the opposite trajectory to the one he describes for Central and Eastern Europe. Because of demographic decline in Central and Eastern Europe, he speaks of a shift 'from privatisation to de-privatisation' and 're-publicisation'. The private system expansion that started in 1989 in these countries is coming to an end. This is expected to affect the share of fee-paying students enrolled in the public sector and the number of private institutions, primarily because of their lower prestige in that part of Europe.
8. A total of 171 institutions from 39 countries responded to the RISP survey, which was complemented by six site visits and a roundtable. Of the 171 responding institutions, 90% were included in a national or international ranking, or both.
9. It should be noted that this longitudinal analysis is tentative because 2015 respondents had more items to choose from and more response options than in 2010. Thus, in addition to low/medium/high importance, there were also the options of 'no reforms' and 'I don't know'.
10. In this context, regional does not refer to the European region but to a territorial or administrative subdivision within a country.
11. 175 EUA members in 38 countries answered the consultation on internationalisation.
12. MOOC refers to Massive Open Online Course. For a detailed explanation of this development, cf. EUA 2014d.
13. The e-learning survey, administered in 2013, was answered by nearly 250 EUA members in 38 countries.

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Student Views on Cross-Border Higher Education: The Views of the European Students' Union

Tiago Estêvão Martins

STUDENT REPRESENTATION IN EUROPE

The European Students' Union (ESU) is the umbrella organisation of the 47 National Unions of Students (NUS) from 39 European countries. In this capacity, ESU promotes and represents the interests of what is estimated to be more than fifteen million students to the key European decision-making bodies, in particular to the European Union, the Bologna Follow-up Group, the Council of Europe and UNESCO (ESU 2013a).

The European Students' Union aims to promote the views of students in the educational system and to promote the interests and human rights of students. The organisation stands for equal opportunities for all students and for equal access to higher education for all people. ESU also aims to enhance European and global cooperation, to facilitate information exchange between students and students' organisations and to

T.E. Martins (✉)
European Student Union, Brussels, Belgium

develop assistance and support to student unions in Europe in their work (ESU 2014).

Nowadays, ESU brings together, trains and informs national student representatives on policy developments in higher education at the European level. ESU's work centres on supporting its members through organising seminars, training, campaigns and conferences relevant to students; conducting European-wide research, partnership projects and campaigns; and providing information services and producing a variety of publications for students, policy-makers and higher education professionals (ESU 2014).

What we see today as the face of the European students' movement has historically confronted significant changes. ESU has changed its name and operational scope of work throughout the years, evolving from a regional European organisation to the organisation that we know today. Founded as WESIB (Western European Student Information Bureau) in 1982 by seven NUS, it developed along with the macro political shifts in Europe, turning first into the ESIB (European Student Information Bureau) and, most recently, into the ESU (ESU 2012).

However, even if the changes of name reflect a significant change both in the geography and in the operational role of ESU, the fact is that transnational education (TNE) has long been a subject that deserved the best attention from the European student movement.

This chapter reflects the work of the European Students' Union and benefits from the efforts developed by European student representatives and the political documents published on behalf of ESU.

The work that ESU developed in these areas is significant and has proven to be a clear, conscious and critical voice of the European students, who have confirmed to be worth listening to. From its older publications to its new policy papers and statements, ESU has contributed with works not just in the direct area of transnational education but also in other working fields that are directly related, namely the areas of social dimension, quality assurance, internationalisation and mobility and, last but not least, with work addressing the public responsibility of higher education.

Following the work previously developed, this chapter follows the European Student Handbook on Transnational Education published by ESIB in 2002 (ESIB 2002) and adapts it to the new realities and to the publications made on behalf of the FINST (ESU 2013b) and QUEST (ESU 2013c) projects co-financed by the Lifelong Learning Programme of the European Commission, as well as the policy papers on the General Agreement on Tariffs and Trades, on the Commodification of Higher Education, Transnational Education and Public Responsibility.

TRANSNATIONAL EDUCATION FROM THE EUROPEAN STUDENTS MOVEMENT PERSPECTIVE

The topic of the conference on *Cross-Border Higher Education* (CBHE) has merited important discussions as a hot topic in higher education policies. A topic that is so relevant cannot be discussed in isolation from the bigger picture and without a clear analysis of the meaning and deepness of some of the ongoing discussions.

Needless to say, the discussion about transnational education at the current scale is something that—arguably—would be difficult to imagine some years ago. The rampant development of a globalised world created new worlds and new challenges that are increasingly complex and dealt with on a wider scale than we were used to. Nevertheless, if some of the complexities, subtleties and scale of transnational education were things that could hardly be predictable, the same was not true with some of the trends that came with it, which endanger the real societal benefits that it may bring.

In this field, one of the most notable works was developed by Merrill Lynch & Co. in 1999, entitled *The Book of Knowledge, Investing in the Growing Education and Training Industry*. In an extensive analysis focused on the context of the United States, the opportunities that education offers to for-profit organisations can be read thus:

... market forces are providing a catalyst to alter the traditional ways education is delivered. Megatrends such as demographics, the internet, globalisation, branding, consolidation and outsourcing all play major roles in the transformation. (Merrill Lynch & Co 1999, p. 3)

The paper goes further and presents an interesting analysis of how education can be used as a potential market, compared with the health industry of the 1970s (Merrill Lynch & Co. 1999, p. 7). The global trends for commodification were present and with them the whole perversion of how educational reforms and values must be structured and valued.

The same can be seen in Europe, combined with astonishing institutional support for the inclusion of education in trade agreements and the wider defence of cost-sharing practices that are not cohesive with the social dimension, which is still highly underdeveloped in the great majority of European countries (ESU 2013a, p. 66). A recent study published by the European Commission states that the evidence is clear that the last twenty years have witnessed the trend towards the growth of private

funding for higher education in line with the comparative reduction of public investment (EC 2014, p. 8). So the question is clear: how does this operate in a growing environment of worldwide higher inequalities and in a context where students witness the construction of new barriers for access to education? How does this affect students? What are the factors that may contribute to building or destroying these new walls? And how can access to higher education be balanced with the globalisation of the educational market, when national governments develop the perception that the competitiveness of national higher education systems in the global market requires new levels of investment? This is complicated by the expectations of institutions themselves for higher education to be competitive within a global environment and to have an impact on the development of economies (ESIB 2004, p. 30).

Upon revisiting 2004 ESIB policies on transnational education it was reflected that, notoriously, since the 1990s the world has witnessed an enormous expansion of CBHE by a wide variety of institutions and new providers, and that has a serious impact.

Publishing companies, multinational corporations and also traditional higher education institutions are setting up branches around the globe and exporting their services. Arrangements for the international trade of educational services have been developed in several countries and many countries have made investments in marketing their own higher education, following the aforementioned trend of branding. In recent years, the new technologies have also played a role, with numerous virtual universities emerging and traditional universities beginning to offer degrees online (ESIB 2004).

CBHE has long been seen as a solution to some challenges posed by the increasing demand for higher education. It has also been viewed as an important asset for international cooperation and the development of flexibility in learning.

However, CBHE also has less advantageous aspects that are often lost among the scepticism and the extreme enthusiasm of some discussions. ESU feels that the diversification of educational provision may be a positive aspect; however, it is also evident that the expansion of CBHE in many cases faces challenges that can drastically endanger the development of national systems, especially in transitioning and developing countries.

Whereas some see it as a part of development cooperation, others view it primarily as a means of generating profits (ESIB 2004).

The for-profit basis of some of the new providers of CBHE reinforces the certainty that it will continue to have a significant impact on the external perception of students, who see their role as partners in the educational process, being diminished in favour of approaches that create additional exclusion mechanisms. Perceived as mere consumers, students tend to be pushed back to a secondary position and relevance, and educational systems are not able to meet the demands of the high number of young people wishing to access higher education.

Furthermore, transnational education strengthens existing trends in many countries, where the state retreats from its responsibilities of providing free education to its citizens. The for-profit basis of many types of transnational education presents changes in the curricula now focusing on education which is driven for what is perceived as what the market needs, redirecting the focus from basic research and the critical reflection of society towards a more aseptic and utilitarian perspective.

Questionable quality and difficulties in recognition might erupt from this reality, side by side with the tensions arising from the adaptation to different realities. Difficulties in the application of qualifications in certain contexts, increasing brain drain, overlooking cultural differences and the 'export' of a Western model of education are just some of the situations that pose major challenges to national higher education systems and build up conflicting situations between transnational and national education (ESIB 2004).

We can ultimately define and categorise these concerns into three basic situations. The first relates to the economisation of content and the adaptation of content and skills taught according to their economic relevance. The second relates to the economisation of educational services and the subsequent creation of a market of educational services. Lastly, there is concern about the economisation of educational institutions and pedagogical relations with implications for the governance and management of higher education institutions towards more business-like organisations (ESU 2013b, p. 102).

THE CHALLENGES OF GATS AND TTIP

One of the main aims of the student movement is to increase the participation of underrepresented groups, with the aim of the student body being representative of the diversity found in society as a whole, which we

believe will drastically contribute to the modernisation and development of our societies.

This notion of justice and social cohesion and development is widespread and accepted as one of the main fights of the student movement, since ‘if education increases skills, competence and income, then education will necessarily affect the distribution of the income’.

Although we both prioritise and advocate for internationalisation, we have clear doubts about the way that transnational education and internationalisation are being dealt with.

Focused on the concerns that we have with the precedent set by the inclusion of education in discussions being held on trade and services agreements, ESU has closely followed the negotiations of the TTIP (Transatlantic Trade and Investment Partnership) and subsidiary agreements, even if in the seventh round of negotiations it was stated by Dan Mullaney—US chief TTIP negotiator—that some concerns were heard and that negotiations should not require privatisation of public services such as water utilities, education, national healthcare, and that governments’ ability to regulate those services as they see fit would not be limited.

Nevertheless, the shock remains, since the biggest question behind this topic is related to the notion that an area as sensitive as higher education is—or has been—discussed at this scale in the middle of trades and services agreements, without transparency and academic stakeholder involvement. It seems obvious for ESU that no steps forward that directly affect the area of international educational cooperation should be made outside of a specialised and dedicated environment for discussing higher education.

The discussion behind transnational education has other central questions that justify our concerns. At the moment, we have a clear opinion on transnational bilateral negotiations:

The First

A lack of motivation and clarity in information about the discussions can be found in some of the reports and clarifications issued by the European Commission justifying the current bilateral negotiations with overly optimistic information concerning the mechanisms of Investor State Dispute Settlements (ISDS).

The lack of transparency is not secondary and must be understood in line with the growth of nationalism, euro-scepticism and the lack of trust in political institutions.

Undermining one of the basic pillars of democracy in such sensitive questions gives new legitimacy to movements that endanger the European Project and trust in political institutions, and it can have severe implications on the accepted democratic values of our societies.

The Second

The fear of commodification and its impacts on the lives of students and prospective students isn't necessarily new, but we fear that it could become even worse.

ESU sees education as a means for social and democratic innovation that can decisively contribute to the general well-being and economic development of societies. We strongly believe that access to all levels of education is the cornerstone of a socially, culturally and democratically inclusive society and a prerequisite for individual development and well-being. But it is clear that this definition of education is continually contested, and that education is increasingly understood solely as an economic factor rather than a tool for social development, and this has detrimental effects on the development of clear policies in the area of social dimension.

ESU contests the current focus on education solely as preparation for the labour market and for maximising personal financial returns upon graduation. This provides no balanced perspective for the needs of society and the social role of higher-education institutions, and it presents a negative and one-sided approach.

It is thus the increasingly commercialised way in which higher education is being addressed that clearly shows the 'commodification' of education (ESIB 2005).

It is this great fear aligned with new ideological and political tendencies that justifies the scepticism in the analysis of the new developments in CBHE.

The Third

Even if internationalisation and commodification are different chapters of ESU's policy papers, the fact is that some of the mechanisms and arguments being used to enforce acts like the Services Directive (or bilateral and transnational diplomatic and economic relations) are decisively impacting the area of higher education.

There are noticeable asymmetric developments in the internationalisation of higher education at the European level, and what was supposed to create the conditions for development may in fact lead to a widening in national and regional gaps and, as mentioned in the editorial of *Education at a Glance* in 2014, it “is also becoming clear that economic growth is not enough to foster social progress, particularly if the growth dividend is not shared equitably” (OECD 2014, p. 13)

We could pursue these related questions with the models of presence of natural persons, consumption abroad and commercial presence, or simply argue about how higher education institutions could be, in fact, an extremely powerful mechanism of soft power.

We can question the lack of transparency in the discussion of bilateral agreements. We can question the democracy, legitimacy and seriousness of agreements on trades and services that may include higher education. We can question how quality assurance mechanisms will work in the future when considering those already-mentioned bilateral agreements. We can ask how the mechanisms of licensing and the recognition of qualifications will function. We can question the impact that we will face on the quality of the education provided.

We can point out all these difficulties and how difficult it will be to find a balanced model of agreement between the European and American models for higher education. Full transparency is essential for a public that will be directly affected by the negotiations.

We are sure that this is a topic that will generate even more attention from the students’ movement in the future. Having the opportunity to be vocal on this topic is, in itself, an important tool of activism and advocacy, something that is quintessential for a democratic society.

Transnational education is indeed a transversal topic that touches on almost every issue in higher education policy and poses totally new challenges for political decision-makers and stakeholders that cannot be easily resolved. We firmly believe in the role of education in developing a democratic, responsible and sustainable society, and that CBHE can contribute to reaching these goals if implemented properly. However, if no constructive attempts are taken to make cross-border education beneficial for students, staff and societies, we can see the danger of negative and harmful developments for the educational sector as a whole.

CONCLUSION

According to the OECD study on GATS from 2002, education still remains one of the sectors where countries seem to be more conservative towards liberalisation approaches and commitments, especially in regards to primary and secondary education (OECD 2002, p. 7). This is the reason why higher education is understandably being confronted with structural challenges. Working in transnational education in the area of higher education is challenging and highly relevant for the future development of our societies. Such a complex and new reality poses significant challenges for higher education policy-making, ones that are not usually discussed in the context of trade policies (OBHE 2003, p. 23).

The impact of TTIP is still difficult to foresee even from a macro-analysis perspective, with notable disparities among EU countries due to their inherent structural economic differences (European Parliament 2014). While the process is not completed, it is essential that these concerns are taken into account and that all stakeholders are heard. This includes the need to find mechanisms to include the student body and the need of the students' movement to develop stronger and more global cooperation to face the challenges of this new reality.

Following these concerns, two resolutions were recently adopted by the 47 National Unions of Students at the 67th Board Meeting of the European Students' Union, held in December 2014. From the students' perspective, the negotiations need a fresh start in order to make them more transparent and inclusive of civil society. ESU would like to follow-up on those words by urging the negotiation teams to open up their talks and take stakeholders' concerns into account. Thus, students want to see significant changes through which the discussion is made more transparent and education is removed from the agreement being discussed under the TTIP.

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PART III

The Services Directive

Cross-Border Higher Education and the Services Directive: Importance, Protection and Success

Luigi Berlinguer

INTRODUCTION

The task I've been given is both difficult and complicated: discussing the meaning and value of the Services Directive (European Union 2006) and its eventual success in protecting higher education.

Let me say at once that the 'Bolkestein' directive¹ was an important measure, laborious, controversial and disputable, with many supporters and many opponents. It has raised hopes, suspicions, and concerns. It was inspired by the famous 'Cassis de Dijon' case² (European Court of Justice 2009), which pushed forward the process of building and promoting mutual confidence on which the real and fundamental philosophy of European integration is based. If a good is produced and marketed legally in a Member State, the other Member States may not restrict its circulation but are expected to comply with the legislation of the exporting country. The EU single market is the starting point: freedom of establishment, freedom of performance, of services in the EU, the rights of recipients; the essential quality of the offer is freedom of access and freedom of use.

L. Berlinguer (✉)
University of Sassari, Sassari, Italy

With universities' expansion and the ambition to build the ERA (Research) and the EHEA (Higher Education), in their slow and difficult journey, they could not overlook the rise of a substantial cultural, educational, and economic demand, thanks to the European integration process and its effects on scientific and university organisation. Actually, national-state fragmentation has been a serious obstacle to the development of *European* science and education in the face of global competition.

Conversely, no one can fail to see the success of university degrees supplied by foreign providers, which are increasingly attractive in all Member States. In this framework it is not possible to stop the attraction towards an integration which is also promoted by the activities of higher education, or the requests of foreign providers to organise educational services abroad, in a different Member State.

Such a development ends up acquiring the character of a 'Tradable Service' to be provided mainly across borders without the imposition of barriers placed by national authorities. This has led to attempts to include higher education in the General Agreement on Trade within the framework of the World Trade Organization. Even if some may not like it, I consider it important for society to perceive not only the great cultural value but also the social value that education has, and its importance to society for equity and citizens' well-being. It is time to go beyond the obsolete and egoistic vision of many intellectuals who consider culture and education their own realm, detached from reality.

Obviously, we must avoid the risk of subjugation, exploitation, and control of culture by private interests, leading to the absence of citizens' rights.

SERVICE QUALITY

Here the need to defend the receivers of services emerges: the basic instrument is to ensure service quality. The problem of quality in fact becomes the main issue, specifically in keeping up the quality of services, as shown in the UNESCO and OECD Guidelines on Quality Provision in Cross-Border Higher Education (OECD 2005), and in the same Services Directive (European Union 2006), and in the European Court of Justice's case law, quoted by the same Directive. Paragraph 40 of the Directive (European Union 2006) maintains the demand for Member States to achieve a high-quality education system ('to ensure a high level of education') and to preserve their national heritage. On the other hand,

delicate social objectives and values such as public health, cultural policy and fundamental rights are being kept away from particular economic provisions regarding services. This was undoubtedly the best protection that the troubled process of elaboration and approval of the Directive has given us. In other words, the crude liberal tendency has not prevailed, nor has support been given to the belief—which is all still to be proven—that only ‘the market rules’, that its declared saving ideology—pure competition—is always able to ensure quality and respect for rights. The European Parliament has demanded and obtained the stipulation that along with the liberal ideology, some barriers, limits, checks, controls and even the exclusion of certain especially controversial subjects were introduced.

THE SERVICES DIRECTIVE AND HIGHER EDUCATION

In this framework, the approval of the Services Directive, its extension to education and, in particular, the focus on Cross-Border Higher Education (CBHE), established an important step in the process of European integration.

Let us start by keeping in mind that European institutions do not have enough competence in education. Personally I consider this a serious shortcoming in the way Europe is structured, because today it is impossible to conceive of any economic development policy or social promotion that does not have an organic relationship with education, as on the other hand it is unimaginable to see the growth of education only in the context of national developments. It is not clear why the learning of science and mathematics, and/or language skills, to give just two examples, should be enclosed within national borders. It is certainly not effective to consider education as the most powerful definer of national identity, and for this reason not allow it to be transferred within the European Union, because today the Italian citizen (or French or German) is not only Italian (or French or German)—he or she does not have a single, national identity—but is also a European citizen. The European identity exists and it should be promoted by EU institutions through shared European instances of education activities. This is not the place, it is obvious, to decide on a change in the treaties that extend the educational competence of Europe. But it is the panel where such needs should be foreseen.

The importance of the theme of this book is nevertheless emphasised by having CBHE as its main focus and giving so much importance to this issue. In addition to being valuable in itself, this theme is relevant

because it has a direct impact on EHEA, the European sphere of Higher Education, as well as an indirect impact on ERA, European research. Nobody dares to consider these two issues as secondary, but we are all aware of the delays and difficulties that a policy in this field may encounter in the Union. Lately ERA has made some progress in research, but in educational matters the EHEA, which has been formally established, proceeds very slowly. Education is still strongly national, with few exceptions, while the creation of a real European common ground means the launch and the extension of real European educational activities.

When discussing CBHE and avoiding the limitation of considering education only within each Member State, the opportunity and the advantage of exploiting the margins offered by the cross-border relationships between countries is clearly foreseen, a useful and effective method that has its beginning in real and already existing activities. There is no doubt that the receiving Member State is enriched by the contribution of educational activities that are set up in its territory by another Member State. This phenomenon has already spread and has a consistency, and I find it very appropriate to have the question put in these terms.

There is another aspect that I consider positive, although the terms used are likely to be misunderstood: I am speaking of higher education as commerce, and the opportunity to use the category of ‘tradable service’ within the Services Directive—that is, to position higher education appropriately within the General Agreement on Trade in the framework of the World Trade Organization. We are not referring here only to economic services, but to those aimed at the ‘real’ higher education, considering obviously the economic profile of these services and their effect on the economy. Today, proper education cannot be distinguished from its functional service activities, some of which are not obedient only to national discipline/rules. As I will discuss later, this is a natural evolution of mass education and in particular of the specific framework induced by the Bologna Process. Let’s think about quality assessment, an element that is embedded in the same Bologna process and also intrinsic to the profile in the Services Directive. To proceed on the ‘Bologna’ track means linking higher education in Europe with the Services Directive. What is crucial to define—and this is the topic of this book—and what is crucial to propose to the European Commission, is who should be responsible for evaluating the quality of CBHE institutions, the higher education structure of the exporting Member State or the structure of the host Member.

There is also another aspect to be carefully considered: the elaboration of the 'Bolkestein' directive highlighted a particularly critical aspect of the structure of the Union, the existing gap, the differences and imbalances in the developing conditions between Member and Member, and even between different geographical areas. These imbalances are a serious risk for the Union and a negative condition for its overall development. All measures to mitigate or overcome them are of primary importance in the policies of the Union. There is no doubt that cross-border activities, those in place and those to come, are now also quantitatively important. They are a potentially positive development of the integration process, and in particular they can help to diminish imbalances, because they facilitate the increasing exchanges, investments and profits, still positive conditions for comparison.

EXPANSION OF HIGHER EDUCATION AND HUMAN CAPITAL

I would now like to draw attention to the importance and the prospects for expansion of service activities in the area of education, to their function and the value they offer. The general situation of education has changed as part of a knowledge society. Human capital has become the main factor, primarily in connection with the basis of contemporary civilization and then in connection with human rights and citizenship. But human capital is not only civilization; it is also a factor in the production of both social and individual wealth. It is an element of cultural empowerment but also of productive development. It encompasses both factors. It develops moral wealth and thus civil growth, covering such a value in itself, an absolute value. But reality shows us that it is also a factor in the production of wealth; indeed it is the main factor. It is wrong to consider it only from this point of view, but it is equally wrong to ignore this potential.

The phenomenon of the centrality of human capital has become particularly relevant in view of the great revolution of the late twentieth century: the expansion of the school. The school is of each of us and for each of us, the now unstoppable access of everyone to pre-university education.

A reflection of this phenomenon is the current EU benchmark, to increase tertiary attainment to 40%, potentially almost half of young Europeans. An explosion of this quantity changes the university, its nature, its mission and its organisational structure. The old elite universities are likely to disappear. At the same time we cannot underestimate the serious

social significance that could result from the exclusion of young people from disadvantaged backgrounds compared to the above-mentioned benchmark, because in this case exclusion would be discrimination, since education and culture are power, strong power. Inclusion, as we have already said, is functional for the new quantitative structure, but also, and above all, it is an ethical goal of social balance. It means not only sharing resources, but also stresses a principle of justice.

At the base of such ambitious goals in supporting the expansion of education in school and universities, etc., there certainly lies—in addition to a criterion of civilization—a progressive social connection of knowledge, a close relationship between knowledge and economy, between knowledge and labour, a social relevance connected to all study activities that inevitably change the nature of knowledge. Knowledge today constantly meets work, innervates it, shapes it, and enhances its cultural depth. There is always culture and knowledge in work. While avoiding a professional instrumentalisation of knowledge, we cannot ignore the great Weberian teaching on the nature of ‘Beruf’ (Weber 1919), and then on the link between knowledge and work.

The benchmark of 40% of tertiary attainment is part of this framework and increases the value and the importance of education, the way the learners take hold of knowledge which should become their own. All this increases the value and importance of services, since an effective exercise of teaching and a widened access to education can be achieved only through a network of efficient services, which support the learners in their journey of learning, and offer them opportunities, tools, chances, and various forms of enrichment, including technical, to be able to learn more and better.

So far teaching is the responsibility of each Member State, partly due to the Union’s already mentioned institutional lack of competence in education (a gap which is no longer bearable), and also due to the Member States, which are very jealous of this function, are not willing to delegate it, and do not work to create a European profile of this activity. Many Member States are also reluctant to provide adequate services; that is why the situation is unbalanced in Europe from country to country. But the need to extend, enhance, and enrich educational services should and can be connected to the European context, to the initiative of the Union, in order to obtain higher quality services and to reduce costs significantly. Educational services have become an inalienable component of a modern and mass university; their function is to improve and equip teaching, and

simultaneously to support access of young people from disadvantaged backgrounds, which is a noble, ethical aspect in the social ascent of these groups.

In this context, the mission of education goes beyond its traditional functions; it is not limited to the pure transfer of knowledge but reaches a wider dimension. It expands to promote equity by avoiding exclusion, while actively ensuring quality. This is the base of the validity of university qualifications throughout Europe: quality assurance as a pre-requisite of mutual recognition.

In this framework the academic experiences of subsidiaries in other states (branch campuses), foreign—especially American—offers, the MOOC experience, and the career guidance of various types of university masters produce an enrichment of the traditional academic horizon within the relative complexity of the issues this may present.

The first issue is what to define as a specific academic function or service because the demarcation or distinction between the two areas is not always clear and simple. Often the method of activity is different between them; also, their institutional competence is often different, because the most exquisitely ‘educational’ belongs to the universities or their equivalent, while services belong to a variety of institutions/entities. That is why UNESCO and OECD were interested in this topic, and concerned to establish criteria and to identify the related responsibilities.

However, the process has stressed the tendency towards ‘a single market in education’, to overcome national barriers, also to encourage savings, quality, and new cultural and educational proposals.

We have many examples of degrees supplied by foreign providers, and they have shown to be very attractive to a large clientele. That is how we have come to use the terms ‘market’ or ‘commerce’ in an area so crucially hostile and refractory to them as education is. That is the reason why ‘commodification’ has been considered a possible result of competition. I personally think it is wrong to use these types of definitions, which are misleading, but I am not at all against the idea of competition, the stimulus where this process originates in favouring quality.

THE EHEA AND BOLOGNA

I consider it a mistake to go back to an old idealist conception of knowledge, closed and jealous of its past. Fortunately the ERA has started to encourage competition in research and knowledge and, even if it is just beginning,

the EHEA has also started dealing with courses and services, and it is in this context that the word ‘commodification’ has been used. The truth is that today, in educational and teaching activities, all those factors that lead inevitably to the link with society, to the overcoming of the ancient intellectual isolation, should be kept in account, but the ideological resistances are still prominent. It is justified by the fact that many service activities are not supported by sufficient expertise, skills, or credibility: in this case the evaluation of quality must be the first goal but not a justification for a closed attitude towards innovation. I am convinced, however, that the new demands and new proposals will be successful.

The EHEA will never be realised if it remains locked in a transmitted, delivered, and therefore imperious academic activity. In the Bologna Process, academy and services are together—they are in touch, converging to build a mutual confidence among various national education systems.

Besides, what is the future? What coming prospects do nation-state systems have? I do not believe that they can be the future in Europe.

I am perfectly aware that what I am saying may be unpopular, but it is the truth. On the contrary, we are called to support and enrich all the trends and push institutional processes towards the future. Surely these include new technologies, and at the same time the emergence of higher education across borders in English, the European language known by all, because this is, beyond any doubt, projected into the future. In addition, they also include the extension of systematic quality control, through reliable agencies such as those included in the European Registry. It would not be justifiable to distrust the pursuit of quality and associated monitoring, nor to react suspiciously when the term ‘market’ is used: we are always in the field of higher education. It seems legitimate to deepen the true meaning of ‘acceptable balance’ and other important terms. It will be up to the European Registry to find the right balance between the two sides, because, as we have already said, both sides build confidence and mutual recognition: it is the same university system which encourages, in this direction, attention to the ‘learning outcomes’, and attention to the subsequent evaluation of the real learning outcomes.

The expansion of higher education, even in its transnational profile, is therefore an important goal. In this context it is important, however, not to run the risk of lowering the level of educational activity. If in a Member State some teaching is of low quality, it is absolutely correct that the European Commission should establish conditions and strictly use quality checks. It is also appropriate that the two Member States, the receiving

host and the exporting State, or the two respective Agencies, should find a basis of agreement for evaluation and quality control. The experience of Quality Assurance foreseen in the Bologna Process is an important highway into this field.

There are two main factors which support this:

- (a) Quality Assurance is not only one of the main factors in educational quality, but it is its real core. It is the permanent monitoring and verification of activities and results that produces quality, especially across borders, where both Member States are aiming to achieve this. It is therefore reasonable that we should continuously work to avoid losing quality, including in all services contributing to learning;
- (b) As we mentioned before, in the European Union the difference in levels of development and quality from State to State is destructive, and dangerous for the economy, for the socio-economic unbalancing that this can cause, and the consequent injustice, and it is also risky for the various social functions. This is because services, in general, and in particular those functional to learning, constitute the relevant context; for these services, quality should be guaranteed. In higher education, enrichment and completeness function not only to encourage/support/expand educational prosperity but also to contribute to the transition from 'transmissive-only' knowledge to learning and cultural self-promotion, and to a new educational framework.

FINAL COMMENTS

The importance of this book is that it helps to look for a remedy for our education policy, for its lack of sensitivity to the process of European integration. The main problem is not the Services Directive but the Bologna Process: the progressive construction of a European University, a European degree, a real mobility of students and university teachers in Europe, a progressive approximation of the educational experiences of the different Member States. This process is proceeding too slowly; it must overcome too much resistance.

The right experience of joint degrees is emerging, but not quickly enough. The different educational experiences from State to State do not interconnect with each other sufficiently. We are just at the beginning. We have made progress in this direction, and the result was a quality improvement but still this is not enough.

The extension of the practice of quality assessment should also lead, especially transnationally, to the convergence of quality evaluation both by the receiving host and the exporting Member State; that is, to the connection of two different entities and methodologies in evaluation, with a general improvement of evaluation itself.

But this is ‘Bologna’—the Bologna Process. The solution of cross-border cooperation cannot be looked at from outside but only from within this process. Also, due to the fact that the Bologna Process is an academic and university phenomenon, not a market phenomenon, it has already negated the conservative idea that competition is distant from the academy. On the contrary, academia, research, and education are naturally emulative; they live by intellectual emulation, and therefore through the substantial competition of ideas and processes.

In Europe, the single market for graduates, for titles, for scholarships, for transferable grants within European borders, the changes in national training criteria, everything that can be called commodification, can bring freedom, can stimulate competition and lead to improvement. We can say that this single market, in the Bologna Process’ mutual effects, has already invaded the Member states and thrives inside them.

For this reason, ‘Bologna’ remains the main way to emphasise a single cultural market of studies, of education. And we can say that if we fully develop ‘Bologna’ and the confidence that should animate it, European academic titles will lead to the substantiation of a common educational base—not unique, but generally uniform in Europe. In this framework the differences in tradition, the ‘uniquenesses’ will have a proper space, because variety is richness. But ‘Bologna’ must proceed and overcome nationalistic resistances to offer young people a common European qualification. And, let us not forget, it must offer a common labour market and professions, which means among other things, many more employment opportunities and a supply of skilled labour.

NOTES

1. The Services Directive was dubbed the Bolkestein Directive, after ex-internal market commissioner Frits Bolkestein, responsible for its first draft. Its opponents called it the Frankenstein directive.
2. This is a very important sentence of the ECJ promoting the freedom of the internal European market. A company established in Cologne wanted to import Cassis de Dijon (the famous French liquor). Although the German

authorities allowed the importation of the product, they did not allow its sale on the allegation that German law only allowed selling of products with a minimum spirit content of at least 25%, which was not the case for the French liquor. The ECJ decided that the requirements relating to the minimum alcohol content of alcoholic beverages do not serve a purpose that is in the general interest and such as to take precedence over the requirements of the free movement of goods, which constitutes one of the fundamental rules of the Community.

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The New Old Debate. Free Movement
of Services and the Freedom
of Establishment Within the Internal
European Market: Does the Directive
2006/123 EC Move Past Education?
Concerning the Border of National
Sovereignty Within the EU

Jan De Groof

THE SETTING OF THE DIRECTIVE

Does education fall under European Directive 2006/123/EC (European Union [2006a](#)) of the European Parliament and of the Council on services in the internal market? Does this count as an umpteenth expression of the dominating economic interpretation of the European Union, at least in the minds of the competent authority? Is the Directive in line with the OECD/UNESCO Directive concerning cross-border higher education (CBHE)?

J. De Groof (✉)

College of Europe, Bruges, Belgium

TiasNimbas Business School, University of Tilburg, Tilburg, The Netherlands

The first considerations of the Directive sound promising in all respects, both for the European and national education policies: the European Community is seeking to ‘forge ever closer links between the States and peoples of Europe and to ensure economic and social progress’ (European Union 2006a, consideration 1). The internal market (as stated in Article 14, al 2. of the Treaty (TFEU 2012)) comprises an area without internal borders in which the free movement of services is the rule. Article 43 of the Treaty (ibid.) guarantees the freedom of establishment. Article 49 (ibid.) secures the right to provide services within the Community. A free market requires Member States to eliminate limitations on freedom of services when there is a cross-border element, and it requires them to contribute to having better transparency and better information, which would benefit consumers (of education). The report from the Commission, *The State of the Internal Market for Services*, shows the huge gap that still exists between the vision of an integrated European Union and the daily reality of the European citizens and service providers (European Union 2006a, Consideration 3).

The last sentence from the third consideration (European Union 2006a, consideration 3) sounds familiar in terms of education control, management and policy: ... ‘[These] impediments are often the consequence of administrative charges, legal insecurity with border-crossing activities and a lack of mutual trust between the Member States’.

There can be no possible hesitation: education fulfils a crucial role in the realisation of the Lisbon strategy to improve social cohesion and employment and to make Europe the most competitive and dynamic economy in the world. The Directive hopes to find the equilibrium between the opening of the market and the preservation of ‘public services and social and consumer rights’.

Hereafter, you will read the conclusion: ‘it is therefore necessary to eliminate the obstacles for the freedom of establishment for workers in the Member States and the free movement of services between Member States’ (European Union 2006a, consideration 3), a statement which is indispensable for any legal certainty about the ability to effectively exercise these two fundamental freedoms (freedom of establishment and free movement of service). Perhaps not as exciting as a well-written novel, but who would reason that the considerations of a European Directive are not interesting to read?

*The Directive Appears to Contain Some Paradoxes Regarding
the Extent of 'Trans-Nationality'*

The free movement of educational services and the freedom of establishment of educational offers in higher education have everything in common with 'academic mobility'. This includes the free movement of people. They sustain the European dimension of education and create a common education area. That's how the proposition may sound.

The eventual implementation of European Directive 2006/123/EC on CBHE shows an intriguing theme focused on all modern contradictions in the educational landscape: (1) the national versus the international character of education; (2) education *appears* to be public and private, a service and a good (as is apparent in the ministerial discussion of the Bologna group in Prague 2001); (3) education is applied as a responsibility of the state, but it also belongs to the market and *interpolates* the 'Third Sector'—in particular civil society (neither the state nor the market); (4) education indisputably remains a cultural good but it also possess some economic significance.

Furthermore, education *raises* itself as a cross-border field 'by excellence'. The European Commission often uses the term 'cross-border education'. This notion hardly veils what it is all about, namely the envisaged transnational nature of education (European Union 2006a). The idea of 'transnational' extends—irrespective of its scale—beyond the internal. In a sense, it abandons the concept of the nation and of relationships amongst nations (De Groof 2013). It gives up the assumption that a public good can only be defined on a national basis. Transnational education assumes, for example, that higher education in one Member State has the potential to answer the needs or opportunities of another Member State (Righter et al. 2006). National education systems can benefit from the facilitation of *cross-border* mobility and recognition.

THE INTERNATIONAL AND EUROPEAN DIMENSION OF EDUCATION

The international dimension of education and the European context of (European) education rights, both legal and juridical, have been explicitly discussed by Flemish and European education lawyers, especially in the scientific yearbooks and magazines cherished by the European Association

for Education Law and Policy (see website <http://www.lawandeducation.com/> and annual reports) and the *International Journal for Education and Policy* (editor Wolf Legal Publishers).

The embedding of the international norm of education is a given; however, the articulation thereof often remains a challenge (De Groof 2012).

The European Community is rapidly evolving. The European Court of Justice (ECJ) repeatedly has to shift the boundaries of where national governments collide with each other in order to preserve the national character of their education systems, their ‘traditional values’ and ‘national identity’. Or they may invoke arguments of a ‘specific demographic situation’ or a ‘specific linguistic context’ in order to take protectionist measures which hardly promote the mobility of ‘teaching’ and the scientific corps, or of students throughout Europe. The jurisprudence of the ECJ in education comprises the principles of non-discrimination and equality, and recognises them as the cornerstones of the Union.

Par excellence in the field of education, the general legal principles of Community law established the following concepts as relevant: non-discrimination, mobility, free movement and freedom of establishment, convergence, community loyalty, subsidiarity, transnational cooperation, recognition, equality and trust (De Groof 2009). There is a lack especially of the last one: ‘trust’, not blind trust but trust based on clear, European established ideals¹ (De Groof 2013). Related to that, in essence, is the extent of the application of the aforementioned Directive 2006/123/EC.

Practice and Experience with Transnational Education Links

National education law/policy has repeatedly been inspired by and inspired others when transnational cooperation really was appropriate for the situation. The cooperation between Flanders (Belgium) and the Netherlands, for example, allows for original constructions, in particular the transnational University Limburg (tUL) in accordance with the treaty of 18 January 2001 and the founding of the common accreditation system.

These initiatives have already shown their complexity. The national legislation of both the Netherlands and Flanders caused tensions concerning the relevant norms of finance, admission and diplomas and—how could we miss it—language regulation. The evaluation of the first period of the tUL resulted in a new, more realistic one school, two-campus approach. The research regarding the execution of regulation 1082/2006 regarding the European Grouping of Territorial Cooperation (EGTC) did not offer much solace.

The troublesome differences regarding Dutch and Flemish quality assurance and accreditation have been explicitly mentioned (De Groof and Hendriks 2006; De Groof 2003). It may be hoped that when they make a new draft of the newly made system they will aim to achieve *harmonisation*, which is a well-known term in European education law.

Could such initiatives possibly lead to a common space for higher education and scientific research (De Groof 2004)? In an earlier position (De Groof 2005) I already refined the idea of a far-reaching Flemish-Dutch space.

I later called a fourth perspective the creation of a ‘common research space’: cooperation possibilities are currently being underused and the scarcity of resources calls for a more rational organisation of impulse programs, research funds (the merger of FWO and NWO, the national public research agencies in Belgium and the Netherlands) and the strengthening of geographic networks (Algemeen Nederlands Verbond 2011).

Such transnational models could inspire other European ‘regions’, like the Baltic or Nordic states, or the Balkan countries.

THE GUIDELINES ACCORDING TO A MARKET FOR SERVICES

Directive 2006/123/EG d.d. 12 December 2006 has been called an important step towards the realisation of a common market for services (European Commission 2012). As mentioned above, this Directive aims to abolish the existing restraints on the freedom of establishment for workers in Member States and the freedom of services between the Member States, ‘with the guarantee of a higher quality of services’ (Article 1.1. of the Directive). This Directive provides for a general legal framework for a large array of services and aims to keep in mind the different features of all the different activities and jobs and their regulations. A juridical integration with a high protection for the objectives of the common good becomes possible through the coordination of national regulations.

The research concerning the *Travaux Préparatoires* shows the continuing nuancing and weakening of the so-called radical application of the Directive. Other objectives of the ‘common good’ need to be kept in mind, such as the protection of the environment, public security, public health and the necessary legality regarding labour law. The eventual compromise consists of a long list of subjects which fall outside the scope of this Directive (Cfr. Article 1 ‘subject matter’ and Article 2 ‘scope’ of the Directive). The Member States are especially encouraged not to liberalise

certain ‘services for the common good’ or to privatise public ‘institutions’ that offer such services (European Union 2006a, consideration 8). Certain fields are avoided in this Directive, especially because of the care for cultural and linguistic diversity.

Indeed this Directive applies to a wide diversity of services. A reading of the full Directive deserves recommendation, in particular the troublesome parts related to education:

Certain activities, in particular those funded by public funds or that are executed by public institutions or that form a ‘service’, need to be judged in the light of all characteristics of those activities, especially in the way that they are being practiced, organised and funded in the relevant member state. The Court of Justice has judged that the actual characteristic of the compensation consists of an economic return for the offered services and has thus acknowledged the fact that there is no compensation with activities that are being executed by the government or in its name, without an economic return in the framework of its social, cultural, parental and juridical responsibilities, such as training that is being given in the frame of a national education system or the management of a social security system that does not incorporate economic activity. The payment of a contribution by the customer, such as tuition fees or registration fees contribute, to a certain extent, to the costs of the system, but they do not constitute a compensation because the service is primarily financed by public resources. These activities thus do not fall under the definition of service in article 50 of the Treaty and do not fall within the scope of this Directive. (European Union 2006a, consideration 34)

Plea for the Exclusion of Education Under the Scope of This Directive

There is without doubt extensive legislation concerning the free movement of services and freedom of establishment. This Directive is located at their extension: ‘build forth and add’. One shall remember the commotion that went with the preparation of the Bolkestein Directive. It has been called ‘the most controversial piece of EU legislation in recent years’ (Rentrop 2007).

Even during its deliberations, the European Trade Union Committee for Education, or ETUCE, was explicitly in favour of the full exclusion of education from the scope of the Directive and concluded with the following negative commentary:

EU Member States evidently have great interests in a highly educated population, particularly raising the educational attainment levels of the less educated groups of the population. But genuine equal access and high quality in education are not brought about by increased commercialisation of the education sector and increased trade in education services. The draft Services Directive and its implication for the education sector give rise to a crucial political question: What should be granted higher value, the right to free trade in an open education market or member states' right to fully regulate their education sector with a view to securing high quality and equal access throughout life to its population? (ETUCE 2006)

Preceding this was the combined declaration of the 'National Unions of Students in Europe' (ESIB), the 'Organising Bureau of European School Students' (OSEBU) and the ETUCE, all of whom pleaded for the following review:

The ETUCE, ESIB and OBESSU therefore welcome the commission's recent commitment to revise the proposed Directive. In re-drafting the Directive, the Commission must secure that the Directive:

- Does not interfere with Member States' responsibility to provide education as part of their duty to provide services of general interest;
- Is in line with the educational objectives of the Lisbon Strategy, notably ensuring equal access and high quality public schools and universities in the EU;
- Will not impede Member States' efforts to work towards high quality public education accessible to all at all levels of education system;
- Will not lead to a larger share of the education system being subjected to market forces;
- Will not disturb the division of competences between the EU and Member States on politics as set out in the EC Treaty. According to article 149-150 in the Treaty, education is a national matter and member States have full responsibility for the content of teaching and the organisation of its education systems. (OSEBU and ETUCE 2005)

Is this convulsive behaviour really necessary? Does free movement hinder the high quality of education, or can it improve it? Does the Directive hinder the fulfilment of the responsibility of the Member States regarding education? Does 'the market' control the sector of higher education?

On multiple occasions the unilateral economical lecture of strategic documents regarding higher education was castigated by the EU commission. But does protectionism count as a warranty for the solid social security

and for the academic mobility inside the EU? Does national responsibility hinder the realisation of a common market regarding (education) services?

I would eagerly cite the work of Hilde Simoens (1992, 1996): from historical research it appears how conservative universities are, but does the same diagnosis count for the beneficiaries and the stakeholders of the universities and scientific businesses? Recent jurisprudence regarding the violation of Community law makes this apparent.

THE INFRINGEMENT CASE 2011/4027: 'COMMISSION V SLOVENIA'

In 2011, the Directorate General Internal Market (DG MARKT) requested that Slovenian authorities bring their *Higher Education Act* in line with the Directive to ensure that the barriers for the free movement of services in the higher education sector would disappear. The fact that all the documents were only available in the Slovenian language led to little to no attention being given to the procedure²... (Miklavik and Bucik 2014).

In the *Formal Notice* of the competent DG, dated 20 May 2011 (European Commission 2011), the Commission stated that the higher education law was not in accordance with Articles 49 and 56, in conjunction with Article 54 of the Treaty on the Functioning of the European Union (TFEU), and with Articles 10, 13 and 16 of the Directive, and that it ignored the *acquis communautaire* since it required higher education facilities of another Member State to acquire the permission of the Slovenian government, preceding any founding of the education (of the other Member State) in Slovenia. The Commission added that those procedures were not very transparent; in particular, it lacked a statement of its reasons and criteria, there was no 'common good' requirement, nor any proportionality, clear description or objective, and it was not made known and available in advance.

Subsequently Slovenian law required an accreditation of branch campuses (of higher education institutions of other Member States) in accordance with Slovenian standards and finally registration in the national registry of higher education institutions.

As a consequence of the notifications made by the EU Commission, amendments were made to the law, which consisted of fewer restrictions for higher education institutions of other Member States, but these changes were considered inadequate by the Commission to prevent a further infringement procedure.

The ‘Reasoned Opinion’ of the same DG was introduced on 20 June 2013 and again requested that the Slovenian government make its law in accordance with the Community laws regarding the freedom of establishment and the freedom of services (European Commission 2013). The Commission was offended by the special administrative procedure that the Member State had wanted to develop towards the EU—allowing providers to offer education—a procedure that was not even issued, through which the organisation of the branch campuses or the franchising was made legally possible. Such hindering and the juridical vacuum are not in accordance with the Community law.

The Commission assumed the position that Slovenian institutions had to limit themselves to ensure that the provider (out of a different EU Member State) was legally recognised in its original country, had acquired the admission to grant valid diplomas, and had received an accreditation.

The Slovenian response rested on the exclusive competence of the Member States regarding (higher) education and denounced the interference of the Commission in such matters; such initiatives are not in accordance with Slovenian ‘norms and values’, as described in the national quality standards. Finally, the relevant international guidelines (in particular the *Standards and Guidelines for Quality Assurance in the European Higher Education Area* (ENQA 2015a) and the OECD/UNESCO Guidelines for quality provision in CBHE (OECD 2005)) have no enforceable legal power.

Slovenian student movements had made critical remarks before concerning the ‘too indulgent position of their government’ towards the European claims:

We see the infringement procedure as continued pressure from European and international institutions on Slovenia to commercialize and deregulate higher education. These changes are being introduced around the world in the name of competitiveness and free trade principles. (...) We wholeheartedly oppose the changes demanded by the commission, he added, not only because they can create dangerous possibilities for the existence of educational institutions of questionable quality, but also because of the ideological basis for such changes. (...) Our (former) government doesn’t see itself in a position to decline anything from the EU institutions and [...] they are not capable of understanding neither the implication of such deregulation, nor the legal tricks the commission is using to apply pressure. (EurActiv 2014)

*Aptitude of Reasoning: Can We Consolidate the Directive,
and in Extension the Relevant Community Law,
with the National Education Policy?*

It is to be assumed that in the future, boosting litigation will, particularly in the field of health care and education, more frequently appeal to Community law to question the boundaries of national legislation. Both fields mirror the complexity of modern society in which hardly one particular national law can be executed in isolation from other laws. Even though the fields of both health care and education are ‘safeguarded’ from the Directive, the claim of the common market does acknowledge an obligation toward results to safeguard the free movement of services and the freedom of establishment from the limitations in national law.

What arguments can be developed to establish the balance between national responsibility and European principles from the one ‘market’?

- (a) Article 16.3 of the Directive describes the conditions under which Member States can limit the ‘provision of a service’ should they interfere with grounds of (public) interest. These restrictions are, however, subject to the principles of ‘necessity’ and ‘proportionality’—as stated in the article, in addition to the overall principle of non-discrimination.

The perilous mission, on account of the national authorities, is to prove that the limitations made are ‘necessary’ and ‘proportional’. An abundance of case law is available that suggests that the restrictive measures are mere protectionism. Despite the relevant national competence, the Member State remains responsible for proving that the restrictions will not violate the necessity of the national legislation to accomplish the specific goals (such as quality) in comparison with the legislation of the country of origin’s concerned educational establishment (European Court of Justice 2003a).

- (b) The general principles of law, as developed by the ECJ, remain fully applicable. These principles refer to the necessity to justify the restrictive effects of the limitations made by national law, ‘*so far as that (public) interest is not safeguarded by the rules to which the provider of such a service is subject in the Member State in which he is established and in so far as it is appropriate for securing the attainment of the objective which it pursues and does not go beyond what is necessary in order to attain it.*’ (European Court of Justice 1996a, b, 1999, 2003b)³

European case law casts up a critical threshold for Member States before they can consider creating national restrictions towards education providers of another Member State; in particular: *‘that (public) interest is not safeguarded by the rules to which the provider of such a service is subject in the Member State in which he is established.’*

- (c) In the case of *‘Commission vs. Slovenia’* the European Commission specifically states that every restriction on the transnational organisation of educational service must be based on a explicitly formulated (public) interest, which is transparently described, in proportion with the intended goal, clear and unambiguously articulated, objective and published in advance, admissible for all parties, ... In the Flemish context these conditions sound familiar, given the current interpretations of legislative techniques and good administration.
- (d) Lastly, European case law stipulates that Member States should not be obsessed by the burden of proof imposed by the national norms but rather appeal on the information provided by authorities within other European Member States. National governments are obliged to take recognition, proxies, qualification into consideration, and *‘... must take into consideration all the diplomas, certificates and other evidence of formal qualifications (...) by comparing the specialised knowledge and abilities so certified and that experience with the knowledge and qualifications required by national rule’*.⁴

The Slovenian authorities will find themselves facing a thorough job proving that the quality assurance and/or the accreditation process of the country of origin of any concerned university or college is not adequate to meet Slovenian standards. There is, however, a certain trust in Slovenia, for Slovenia is a governmental member of EQAR and SQAA. The Slovenian Quality Assurance Agency for Higher Education, not a member of ENQA, is registered in EQAR.

THE AMBIGUITY OF THE ‘ENTREPRENEURIAL UNIVERSITY’: PUBLIC VERSUS PRIVATE?

The arguments used do not end the debate about the scope of Community law on service providers—including the debate between the DGs responsible for the internal market and those responsible for education.

On the one hand, one cannot ignore the ambiguity present within higher education institutions, one created by the commercialisation of certain services within the university and the economic context in which it operates. Once tuition fees with ‘remunerative’ value, contract research with the private sector, business-inspired management, spin-offs with R&D, the exploitation of copyright and other issues come up, the image of a ‘hybrid-university’ arises (Van Bijsterveld and Mouwen 2000). Research funds of public origin are competitively distributed as well. The search for alternative finance is not one with a recent date. The economically relevant competition in the context of education became a constant of the greatest importance (De Groof et al. 2003).

Education jurists have for an extensive period already pointed to the fact that the classic demarcation lines between public and private law are fading, especially in matters relating to education. The question is not limited to practicing trade activities for education institutions (Ballon 2002–2003), as it extends to the characterisation of its mandate and its mission. The more universities open themselves as entrepreneurial entities, the more they have to deal with mostly European constraints. The *Europe 2020 Strategy* hopes for an intertwining of education, business, research and innovation and wants to contribute to entrepreneurship within and of the university (European Commission 2010).

There was already a plea that competition law be applied also to universities and colleges (TFEU 2012, Articles 101–109). Competition does not limit itself to companies but also entails ‘businesses’, entities that pursue an economic activity. The wide description of ‘economic activities’ does not leave universities indifferent (Gideon 2012; Steyger 2003; Swennen 2008–2009). The potential consequences of the application of European competition law appear drastic for price agreements, misuse of power and over-subsidising (Gideon 2014).

THE PRINCIPLE OF THE FREE MOVEMENT OF SERVICES AND ESTABLISHMENT REQUIRES UNIFORMITY IN QUALITY CARE AND ACCREDITATION PROCEDURE

The free movement principle requires that a Member State may rely on the credibility of applicable procedures of quality assurance and accreditation in another Member State. The *Guidelines* mentioned above apply a different concept.

Ideally, a common and shared responsibility—a cooperative approach among universities and colleges of higher education, in particular through joint degrees—is assumed. Each service provider from another Member State should take into consideration the cultural setting, for academic reasons also. It is however questionable whether the rules of both states are—at the same time—in order, and whether a joint framework proves to be effective. Besides, experience shows that such an arrangement is appropriate and has little preventive or prohibitive effects.

The recommendation of the *Guidelines for Quality Provision in CBHE* states that co-operation “between the bodies of the sending country and the receiving country” should be extended, as well as the emphasis on the “mutual understanding of different systems of quality assurance and accreditation” (UNESCO 2005, p. 19).⁵

Additionally, the *UNESCO-APQN Toolkit* rightly and unequivocally stipulates that the primary onus for ensuring quality lies with the providers of the services, but it directly adds that governments and quality assurance agencies in both the providing and receiving countries can play a role in ensuring quality programmes and qualifications (UNESCO/APQN 2007, p. 12).

The document echoes the *Guidelines for Quality provision in CBHE*, a text adopted by the OECD Council on 2 December 2005 and designed in collaboration with UNESCO (UNESCO/Council of Europe 2002; Council of Europe/UNESCO 2010): the sovereignty of each country regarding higher education needs are recognised (*ibid.*, p. 5). The settings are—indeed—responsible for quality (and care) (*ibid.*, p. 14), but the mutual ‘co-ordination’ and ‘cooperative’ predominates (*ibid.*, pp. 16–17).

The 2012 OECD report *Guidelines for quality provision in CBHE: where do we stand?* (Vincent-Lancrin and Pfothenauer 2012) suggests again that the countries ‘... make it clear under which conditions, if any, foreign educational providers and programmes can operate in the country’ (*ibid.*, p. 21).⁶

However, it repeatedly appears that the ‘joint approach’ constitutes the problem rather than the solution. The application of parallel standardisation offers too many gaps, contradictions, administrations and other inconsistencies. The compliance with ‘legitimate expectations’ on the other hand puts the burden of proof on the service provider of the sending country. The ‘marginal button’ on the part of the receiving country is limited to monitoring the existence of the capacity of the national legislation of the country of origin of the service provider.

May an international regulatory remedy be brought?

As I have already indicated, it has been a significant amount of time since the educational system of the kind in *Post-Article 165 TEC* has arrived (TFEU 2012, Article 165). This may refer to the explicit dimension of quality already contained in the first part of Article 165. The recommendation of the European Parliament and the Council of 15 February 2006 (European Union 2006b) further refined recommendation 98/561/EC (European Union 1998) and suggests the creation of the European Register of Quality Assurance Agencies.⁷

Fully in line with the principles of subsidiarity which are unfortunately often misunderstood, particularly in the area of education (De Groof 1994b; Lenaerts 1994), the concept is based on existing national agencies but imposes substantive quality standards before registration qualifies.

There is thus already a fine instrumentation: *The European Standards and Guidelines for Quality Assurance* (ENQA 2015a), in which the independence and accuracy of the external and internal quality assurance are seen as core provisions, the *European Quality Framework for Higher Education* (European Commission 2015), of which any proper implementation would have to be screened by international rather than national experts, the aforementioned *Register*, and finally the *European Association for Quality Assurance in Higher Education* (ENQA 2015b). The latter uses a set of clear and consistent criteria for ‘full’ and ‘associate members’ based on the same standards and guidelines (ENQA 2014).

This opportunity should be used in order to test the relationships between these—and other—tools and procedures on their mutual coherence; however that is not possible in this short contribution. The relationship, with the technique of professional academic recognition, would immediately be established, including the EU quality label (EQANIE 2015).

Meanwhile, several new initiatives have developed, including the ‘European Consortium for Accreditation in Higher Education’ (ECA), whose mutual convergence of quality assurance systems is praised (Dittrich 2010) and the ‘European Quality Assurance Forum’ (EQAF), where the agenda for quality assurance is actualised (Bollaert 2014a, b).

Meanwhile, there exists no consensus, on an EU scale, amongst national governments, and the opinions of DG MARKT remain the same. From the last report of the EC on the progress in quality assurance of higher education, it was already shown that the underlying consensus within the commission is indicated: should the preference be given to

bilateral agreement? (European Commission 2014). The preference can go to the reconciliation of two essential principles: (1) the single market is not a supranational affair, far removed from Member States, but it is rather an integral part of states and an integral part of the national regulations (domestic law); (2) international quality standards and common concepts, which will underpin the credibility of national procedures, should be clearly defined. The agenda outline of such an international framework has already been defined (Van Damme 2003).

The policy and legal implications of the complementarity of both principles would certainly have to be further investigated. The weakness of the infringement procedure *EC vs Slovenia* lies on the one hand in specifically defined levels of national systems, so that one can automatically fall back on the national quality and accrediting systems—in too many countries the accreditation system is still ‘ministry driven’—and on the other hand in the lack of supervision by the competent authorities from the sending member states on ‘cross-border higher education’, such as it actually develops in the receiving country.

With regards to the last point: national legislation does not immediately (facilitate/promote) such control—the Dutch standard, for example, is prohibitive and requires the intervention of the government.

The Flemish regulations applying to ‘joint training organised by a Flemish higher education institution together with one or more foreign institutions of higher education that will lead them to successful completion to a joint diploma within the meaning of Article II.172, §3,’ seem to be interpreted like the EC.

The external assessment mentioned in § 2 may, for the entire course or a part of the training programme that is taken by the partner institution(s), be replaced by one of the following assessments: (1) an evaluation carried out by an external rating agency which meets the European Standards for the External Quality Assurance of Higher Education; (2) an accreditation given by another accreditation organization, which applies to the complete program or the part that is exercised by a partner institution and is in accordance with article II.149, first paragraph; (3) other relevant pieces in which the institution’s council provides the insight that the part of the curriculum that is provided by the partner institution offers the generic quality assurances in the meaning of article II.140 and II.141, so that the students have achieved the results indicated in article II.141 by the completion of their education.

CONCLUDING OBSERVATIONS

When investigating legislation of higher education throughout the European Member states, and *a fortiori* throughout the countries of the European Higher Education Area, we see that a ‘protectionist’ reflex remains, as if such an attitude offers some security to the maintenance of (national) culture. In itself the procedure of ‘attestation, accreditation, assessment, evaluation, registration, recognition, license...’ may become justified; apparently this is not the case for their cumulative effect (De Groof 1993, 1994a; De Groof et al. 1997, 2001; De Groof and Lauwers 2000).

The second consideration refers to the order to move away from the longing for ‘standardisation’: as repeatedly argued, higher education needs diversification and profiling rather than neutralization of differences. They not only enhance the generation of cost; they also prevent the formation of autonomous space, which each provider of education must have so as to enable them to fulfil their mission. But the good principles of legislation dealing with education have already been previously elaborated.

An interesting research question would consist of comparing the underlying interdependence of space (or the limitation of space) for the commitment and initiative of civic society in the national education system (Glenn and De Groof 2012), on the one hand, with the degree of protectionism in very highly regulated higher education systems on the other.

Another conflict in the liberalisation of the education market is the negotiation for ‘transatlantic trade and investment partnership’ in the wake of the failure of the WTO to free world trade on a multilateral basis. The newly appointed European Commission finds itself in charge of the debate dealing with such agreements with regards to healthcare, social policy, cultural diversity and education.

In a reference document of the *European University Association*, it was assumed that no services are in principle excluded from the TTIP: ‘While for-profit education services are necessarily eligible for inclusion, the fact that public services are exempted in GATS offers no comfort to the European higher education sector, much of which is hybrid in terms of its funding and governance’ (EUA 2014, p. 7). The new forms of transnational higher education reveal interesting questions on their impact on the emergent debate.

Numerous concepts need to be clarified, but the fact that universities with a complex portfolio of research, teaching and consulting can perform entrepreneurial activities makes their impact intriguing.

The hybrid character of higher education institutions also leads to self-reflection: how entrepreneurial can a university be without becoming a purely economic entity?

NOTES

1. Maastricht University/Transnational University of Limburg, Crossing Borders—Frontier Knowledge, Rapport Project: Wetgevingsonderzoek grensoverschrijdende samenwerking, offered by: Ministry of Education, Culture and Science, Higher Education and Study Finance.
2. The Slovenian members of the European Education Law and Policy Association (ELA) strengthen their cooperation.
3. Commission vs. Luxemburg, Case C-445/03, §21, citing Joined Cases C-369/96 and C-376/96 *Arblade and Others* (1999) ECR I-8453, paragraphs 34 and 35, and *Portugaia Construções*, paragraph 19.
4. Hugo Fernando Hocsman vs. Ministre de l'Emploi et de la solidarité, Case C-238/98, European Court Reports 2000, p. I-6652, §23 (and 40), citing, Case C234/97 *Fernandez de Bobadilla vs Museo Nacional del Prado* (1999) ECR I-4773, paragraphs 29–31: The authorities of a Member State to whom an application has been made by a Community national for authorization to practice a profession, the access to which depends, under national law, on the possession of a diploma or professional qualification, or on periods of practical experience, must take into consideration all the diplomas, certificates and other evidence of formal qualifications of the person concerned and his relevant experience, by comparing the specialized knowledge and abilities so certified, as well as the experience with the knowledge and qualifications required by national rules.
5. Footnote 1 of the document warns that the Guidelines are not legally binding: 'Member States are expected to implement the Guidelines as appropriate in their national context'.
6. Afterwards the document states that the 'compliance index for regulatory framework measures' does have to take into account the quality and accreditation procedures, but it does not confirm whether this concerns the receiving or the sending state.
7. Afterwards, (*European Quality Assurance Register* EQAR).

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Delivering Education Across Borders in the European Union National Responses to the Services Directive

Lukas Bischof

The European Higher Education Area (EHEA) aims at ensuring more comparable, compatible and coherent systems of higher education in Europe, to facilitate mobility and to improve recognition of degrees. It is, however, not only students, staff and research projects that cross borders. In recent years, higher education providers themselves are mobile—for example, by opening branch campuses in other countries or granting other institutions the right to award their qualifications by way of franchising or validation agreements. Such agreements are concluded between higher education institutions (HEI) and (educational) institutions and entail the right of the latter (the ‘receiving’) institution to conduct a study program that leads to the awarding of the qualification of the first, the ‘exporting’ institution. These forms of *program* and *provider mobility* (Knight 2006) have been proliferating at a quick pace, facilitated by a peculiar consequence of the Single Market of the European Union (EU).

L. Bischof (✉)
CHE Consult, Berlin, Germany

THE SERVICES DIRECTIVE: A LOOPHOLE FOR THE COMMODIFICATION OF HIGHER EDUCATION?

The European common market guarantees that European citizens can have their qualifications recognised in any EU Member State in the same way that they would be recognised in their home country (European Union 2006, Art. 53, Art. 165). At the same time, it allows any European business to establish a business and offer their services in any other EU Member State (European Union 2006, Art. 49, Art. 54, Art. 56, Art. 62). Holders of Spanish diplomas are therefore allowed to work in their profession in Germany or any other EU country, and a company from Poland is allowed to offer its services in Ireland. No EU Member State is allowed to infringe on these rights. Education itself on the other hand has always been the exclusive domain of each EU Member State.

In 2008, however, in a series of landmark rulings on the Services Directive (European Union 2006) the Court of Justice of the European Union established that franchised or validated study programs conducted as a primarily revenue-generating activity cannot be considered as ‘*services of general economic interest*’ (SGEI), which are exempt from certain provisions of the Services Directive, even though they concern education, which is usually considered an SGEI. As a consequence of these rulings, the governments of receiving countries may not put restrictions on franchised or validated degrees offered in their country, and instead, their regulation falls within the exclusive responsibility of the Member State in which the qualification-granting, ‘exporting’ institution is established (European Court of Justice, of 13.11.2003; European Court of Justice, of 24.10.2008; European Court of Justice, of 04.12.2008). The case law of the European Court of Justice thus effectively permits, for example, a British university to allow a non-accredited institution (or company) based in, say, Greece, the right to issue British degrees, in spite of Greece’s formal exclusive responsibility for education. Quality assurance of such degrees is the sole responsibility of the exporting country, although it is not clear how or whether franchised or validated degrees are quality-assured by their degree-granting institutions. It has been pointed out that this ruling is in stark contradiction to the UNESCO/OECD Guidelines for Quality Provision in Cross-Border Higher Education (UNESCO und OECD 2005).

MAPPING THE REAL PICTURE: THE STUDY ON CBHE IN EU MEMBER STATES

There is very little empirical data on the actual scope of cross-border provision of higher education services (henceforth: CBHE), however. The data that does exist is incomplete and scattered across various stakeholder organisations such as national ministries, quality assurance agencies and other umbrella organisations. In addition, while EU case law and legislation apply to the establishment of franchising and validation agreements and the opening of branch campuses in the EU, it is unclear which types of national legislation are in place in individual EU Member States to regulate them at the national level. Nor is it clear to which degree national authorities are even aware of the existence or the extent of cross-border provision of higher education actually taking place in their countries. It was in this context that in 2012 the European Commission decided to fund a research project aiming to:

- I. Provide a mapping of the cross-border delivery of higher education services within the then-27 EU Member States (being offered by both EU and non-EU based institutions);
- II. Provide a mapping, an analysis and an assessment of the regulatory frameworks regarding cross-border higher education activities at the Member State level.

The results of this project and the resulting report (Brandenburg et al. 2013) are summarised in this article.

METHODOLOGY, SCOPE AND FOCUS OF THE STUDY

Due to the above-mentioned difficulties related to data availability, the study set out with extensive desk research, reviewing data collected by the Observatory on Borderless Higher Education, scholarly articles, newspaper mentions and Google search results. In addition, the extended network of CHE contacts in higher education and the study's high level expert advisory board (its members were Stamenka Uvalič-Trumbič, Peter Scott and Hans de Witt) contributed with their knowledge and contacts. Following the desk-research phase, a web-based survey of stakeholder organisations was conducted. The surveyed stakeholders included ministries of higher

education, rectors' conferences, quality assurance agencies, ENIC/NARIC bodies, providers of CBHE, and other relevant organisations who were asked to supply information on institutions exporting as well as receiving CBHE activities in their respective countries. Those stakeholder organisations that expressed a deeper interest were invited to participate in a CHE Experts Delphi to jointly develop a web-based survey questionnaire on the regulation of such CBHE activities, which was subsequently sent to be filled in by stakeholder organisations in all EU Member States. The collected data was verified by CHE Consult and, together with the description of the regulation in effect, sent back to the respective Ministries of Education for confirmation of accuracy. Finally, in-depth interviews in Austria, Cyprus, France, and the UK rounded out the study. The data collection took place from March to September 2012.

PATTERNS OF PROVISION: CBHE ACTIVITIES IN THE EUROPEAN UNION

Some Words on the Units of Measurement

This chapter presents the results of the mapping of the CBHE activities which were carried out in the 27 EU Member States as of 2012. The basic unit of measurement is '*instances of CBHE activity between two unique institutions*'. Thus, for the purposes of the mapping exercise, a franchising agreement affecting one bachelor's program is, for example, treated the same way as a branch campus offering bachelor's, Master's and doctoral degrees across five academic disciplines, both being counted as one instance of CBHE activity. Conversely, there are branch campuses that offer only a few programs, as well as franchising or validation agreements between two unique higher education institutions that affect several degree programs. The following data do not account for these differences in scale, unless indicated otherwise.

Anglophone Countries Dominate the Export of CBHE Arrangements

Which countries' HEIs are most prominent in offering their degree programs in the European Union? As referred by Brandenburg et al. (2013, p. 37), the major 'exporters' on a world-wide scale are by far the United Kingdom (142 instances of CBHE activities) and the United States of America (44 instances

of CBHE activities). HEIs from both countries export CBHE to countries all over Europe, with the UK being most active in Spain and Greece, and the USA in Spain and the UK. The two countries following the UK and the USA in terms of number of CBHE activities are France (17) and Poland (9). As the focus of this study is on CBHE activities offered in EU Member States, the following visualisations are limited to the EU.

Looking at European exporters from a regional perspective, it becomes clear that exporters are not only found in the capital cities. In particular, Europe's major exporting country, the UK, has institutions from all its regions involved in CBHE. This possibly reflects the specific circumstances encouraging UK institutions to take part in CBHE as exporters, and which include a tradition of international activity and government encouragement to be entrepreneurial in their search for new sources of income. The primary exporter is the University of Wales, which validates 43 programmes in 14 countries, but other UK institutions also export several programmes to different receiving institutions abroad (although it should be noted that the University of Wales has recently scaled back its activities following problems with its quality assurance arrangements in some cases, which has led to the termination of many of its validation agreements).

The distribution of exported CBHE activity by type (franchising/validation vs. branch campuses) shows that franchising/validation agreements constitute the vast majority of UK exports, whereas branch campuses are comparatively less common. Of the major European exporters, only Poland's CBHE activity is dominated by branch campuses. Overall, the United States is the major exporter of branch campuses (28) to the EU. However, smaller countries such as Serbia (3), Japan (2), Malaysia and Iran also operate branch campuses in the EU.

Strong Presence of Received CBHE Activities in Southern and Central European Countries

The study by Brandenburg et al. (2013, p. 32) identified a total of 253 CHBE activities in 24 EU Member States. The highest absolute number of CBHE-activities were found in Spain (49) and Greece (29); followed by Germany (14), Austria (13) and Hungary (14). Low levels of CBHE activity could be observed in Lithuania (1), Bulgaria (2) and Poland (2). No providers have been found to be operating in Estonia, Portugal or Slovenia.

The analysis of the distribution of the different types of received CBHE activity shows an apparent predominance of branch campuses in

the United Kingdom, France, Poland, the Netherlands and the Slovak Republic. Everywhere else, franchising/validation is more common, especially so in the major receiving countries of Greece and Spain.

An alternative for measuring the intensity of received CBHE activity consists in counting the number of students enrolled in CBHE relative to the total number of students enrolled in higher education institutions in the respective country. This type of analysis brings to light that the smallest states in the EU—Malta, Cyprus and Luxembourg, which also have smaller student populations—have the highest incidence of CBHE activity. Apart from the smallest states, Greece, Hungary, Denmark and Austria also appear as major recipients of CBHE activities relative to the overall number of all students enrolled in higher education. High levels of CBHE activity can also be identified in some Southern states (Spain, Greece, Cyprus and Malta), as well as in Latvia, Hungary and the Czech Republic in Eastern Europe. Other Eastern European states (Estonia and Slovenia), however, do not receive any CBHE or exhibit low level activity (Lithuania, Poland and Romania) (Brandenburg et al. 2013, pp. 35–36).

Received CBHE Activities Are Located in Metropolitan Hubs

CBHE activity is found to occur primarily—or in some countries even exclusively—in the capital cities, which indicates that the political, economic and cultural hubs are especially attractive locations for foreign providers, presumably because demand is higher due to higher population density and the reputational bonus of being established in a metropolitan centre. This pattern matches the geographic distribution of domestic higher education institutions, which are more likely to be found in capital cities and other urban centres than in rural areas. The concentration of CBHE activity in heavily industrialised areas with great demand for an academic workforce further suggests that favourable economic and structural conditions may act as significant motivating factors for CBHE providers.

Public HEIs Favour Validation, Private HEIs Favour Branch Campuses

Another noticeable pattern is that the majority of exporting institutions—especially from the UK—are large, public HEIs, while the vast majority of received CBHE activity occurs at small, privately funded institutions. A closer look at the type of CBHE activity pursued by public and pri-

vate institutions shows that private institutions (at least those based in EU Member States) are more likely to operate branch campuses whereas validation agreements tend to be the preserve of public institutions.

*Relationship Between Provider Mobility and Student Mobility
May Explain Patterns of CBHE Activity*

Individual survey respondents claimed that in countries like Greece the need for modernisation in higher education coupled with its extensive regulation produces considerable excess demand for higher education that foreign providers are trying to meet—despite the strict regulatory framework in place. To test this hypothesis, student mobility data taken from Eurostat (2009 for incoming students, 2010 for outgoing students) relative to the total number of each country's students was correlated with the incidence of received/exported instances of CBHE per 10,000 students for each country.

The data suggests that countries with higher incoming student mobility tend to have fewer instances of received CBHE. Although this pattern does not equally apply to all countries (Cyprus, Austria and Denmark exhibit high levels of both CBHE activity and incoming students), most conform to this inverse relationship, most notably the United Kingdom (the major exporter) and Greece and Spain (the major recipients). Overall, there is a strong statistically significant correlation ($r=0.41$, $p<0.05$) between (i) the proportion of students of a certain nationality studying in other EU countries compared to the total number of students of that nationality, on the one hand, and (ii) the number of received CBHE activities in a country per total number of students in that country on the other. This suggests that countries whose nationals emigrate in large numbers for purposes of degree mobility tend to be the same countries that attract the highest relative number of CBHE activities. One of the factors accounting for the pattern of CBHE activities may therefore indeed be the students' perception of the quality and/or quantity of the supply of domestic higher education.

REGULATION OF CBHE ACTIVITIES
IN THE EUROPEAN UNION

After mapping the actual incidence of CBHE arrangements in the European Union, the second objective of the study was to develop an overview of regulatory approaches in place. In principle, Member States can directly regulate CBHE by formulating limits and conditions for a

foreign institution's right to operate within their territory. In addition, by facilitating or obstructing the process of degree recognition they may make such arrangements indirectly more or less appealing to potential students.

Regulation on Receiving CBHE Activities

Countries receiving CBHE can exercise varying degrees of control over HEIs seeking to establish branch campuses or validation/franchising agreements. This ranges from a simple registration to keep track of incoming provision or institutions to completely banning certain forms of provision. In between these two extremes, countries use a number of mechanisms: Some countries require proof that institutions are accredited in their exporting country. Others require institutions to be authorised or to receive the consent of domestic authorities. Yet others require foreign providers to receive institutional accreditation, that is, in effect, to become part of the national higher education system of the receiving country. Based on this variety, countries were classified according to the following system, inspired by the typology proposed by Verbik and Jokivirta (2005), in Table 8.1

There are also differences in the recognition of CBHE degrees. In a few countries (Luxemburg, Romania, Lithuania and Latvia) there is automatic recognition; in some other countries only European degrees are automatically recognised (Greece, Bulgaria and Cyprus). In the other countries recognition is not automatic.

Table 8.1 Classification of receiving countries using Verbik and Jokivirta's terminology

<i>Type</i>	<i>Classifiers</i>	<i>Countries in this category</i>
Countries with no regulation		CZ, BE, IE, FI, FR, NL, SE, UK, some German länder
Countries with little regulation	Need to register, Need to prove recognition/ accreditation in exporting country	AT, DK, EE, HU, SI, BG, CY, EL
Countries with some regulation	Need for authorization by receiving country	IT, MT, ES
Countries with considerable regulation	Need for accreditation of receiving country Prohibit franchising and validation	LU, PL, RO, LV, LT

Regulation regarding receiving CBHE is quite diverse. What is notable is that Southern and Eastern European countries—the same ones receiving more CBHE activities—tend to be more restrictive in their regulative framework.

*Regulation on Exporting BHE Activities Is Less Developed
than Regulation of Received CBHE*

In contrast to the regulation of received CBHE activity, it is surprising that countries rarely seem to impose heavy restrictions on the exporting activities of their higher education institutions. The vast majority of countries either impose no regulation at all on their institutions or rather minimal constraints. Countries with no regulation on exporting include: Finland, Estonia, Slovenia, Cyprus, Luxembourg and Lithuania. However, CBHE export from these countries is nevertheless low or non-existent. At the time of writing, explicit regulation for exporting programmes existed only in Romania, France, Germany, Denmark, Netherlands, Latvia and Poland and in some cases only regarding certain types of HEIs (in Austria, Cyprus and, Ireland).

Whilst two thirds of Member States have some form of regulation in respect to receiving CBHE, most of them rely substantially upon the accreditation processes of exporting countries. This expresses a significant level of trust of the receiving countries. A certain ‘regulation gap’ or ‘accountability gap’ may be said to exist, however, where no regulation or minimum registration requirements on the receiving side coincide with no regulation of CBHE export in the exporting country. The exception to this is the UK and its peer-review based approach led by the QAA (Quality Assurance Agency) which stems from UK universities’ independent status, and Austria, which requests additional accreditation of each branch or programme delivered through CBHE arrangements.

Even where countries regulate the receipt of CBHE, there can be a lack of regulation of exports. This is notable in itself, but especially interesting in light of the case law of the European Court of Justice, which has ruled that the exporting Member States are responsible for the organisation and evaluation of the courses and degrees granted by their higher education institutions, including those delivered in another Member State. With current low levels of CBHE there is clearly an opportunity to take steps on the exporting as well as the receiving sides to deal with issues of quality etc. before levels of CBHE increase. Efforts by receiving and exporting

local governments as well as EU-wide coordinating bodies or networks (such as possibly EQAR or the ENIC-NARIC bodies) to monitor the export and establishment of CBHE activities could have positive impacts on quality.

Equal Treatment for EU and Non-EU Providers

Outside of Bulgaria, Cyprus, and Greece, which ban programmes from outside the EU, very few countries differentiate between CBHE from EU-based and non-EU-based institutions. Where such differences do exist, they tend to be quite minor.

WHAT DO THE PATTERNS OF CBHE PROVISION TELL US?

The Decisive Factor for Scope of CBHE Activities Seems to Be Demand, Not Regulation

Member States cover a broad spectrum in terms of the controls they place on the ability of foreign providers to operate on their territory. Perhaps around one third of Member States have in place quite strict requirements, while one quarter does not have any regulation in place whatsoever. It is unclear why such variety in regulation procedures exists. The relationship between the level of regulation and the amount of CBHE activity in receiving countries appears to be rather weak. This suggests that regulation has little effect and that even strict regulatory frameworks cannot deter CBHE providers from operating where there is a good “market” for their educational product. Unfortunately, it is not possible to answer the counterfactual question as to whether levels of CBHE would be (even) higher if stricter regulation did not exist.

It does, however, seem clear that opportunities for CBHE are created where the kind or quantity of supply of domestic higher education does not meet demand. A strong statistical relationship was found between received CBHE levels and outgoing student mobility. This gives some support to this hypothesis. In some countries the driving factors may be a general lack of modernisation, which provides a receptive market for CBHE. In others, it might be more a question of insufficient quantity or quality of provision relative to demand in specific areas (or niches). Whether such opportunities are exploited by entrepreneurial exporting HEIs will depend on their own assessment of the risks and benefits, and (regulatory) obstacles that are associated with such a venture.

*Lack of Systematic Data Collection Makes Evidence-Based
Regulation and Recognition of CBHE Problematic*

Perhaps the most striking finding is the lack of good quality, reliable data collected by Member States. While some States do maintain registers of incoming CBHE providers, as of 2012, the only example of systematic data gathering of overseas provision were the country reviews conducted by the UK's QAA. This leads to two potential problems. Firstly, in the absence of evidence, perceptions and misperceptions of the CBHE phenomenon dominate, which may lead to 'just-in-case' regulation which may stifle needed provision.

On the other hand, the lack of systematic data collection leaves loopholes for rogue providers. When trying to confirm identified CBHE activities, we noticed a near complete lack of information about providers' formal recognition accreditation on their websites. Without a visible indication of the recognition of the study programme, however, it is very difficult for students, employers or other HEIs to correctly assess the legitimacy and value of their qualifications. During our research we identified, among others, an institution which is legally registered as a company with the name 'university' based in one EU Member State, which has offered to 'validate' programmes in other Member States. Such a degree holds no legal value whatsoever. In the absence of a 'whitelist' of recognized higher education, however, it is difficult for universities to ascertain the value of such degrees—and for students or employers this is virtually impossible.

CBHE IS AN AREA FOR MEANINGFUL COOPERATION
WITHIN THE EU

Member States so far seem to have relied upon their own resources to ensure protection for students and their own institutions. However, there appears to be scope to develop cooperative arrangements. Although most countries already rely upon the accreditation procedures of others, it is a moot point as to what extent this is a sign of trust as much as a convenience. Without transparency tools for registration of incoming providers of CBHE and a European register of legitimate HE, loopholes will remain for rogue providers to exploit. On the other hand, the existing European infrastructure—the ENIC/NARICs, The European Register for Quality Assurance (EQAR) or initiatives such as Qrossroads (<http://ecahe.eu/home/qrossroads/>)—hold promising potential upon which further cooperation can be built.

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PART IV

National Cases of Cross-Border
Higher Education

National Cases of Cross-Border Higher Education: Austria

Elsa Hackl

INTRODUCTION

This paper aims to contribute to the knowledge on how Cross-Border Higher Education (CBHE) has evolved and how it is dealt with at the national level through a case study on Austria. It starts by delineating the country's political and demographic context and the main characteristics of its higher education system; then data and developments on CBHE will be presented. Next, relevant political measures and legislation are discussed. Finally, some conclusions will be drawn.

POLITICAL CONTEXT AND SOME CHARACTERISTICS OF AUSTRIAN HIGHER EDUCATION

Austria has an area of approximately 84,000 square kilometers and a population of eight and a half million inhabitants. With a per capita GNP of 36,930 EUR (2013), Austria is one of the wealthiest member states of the European Union, which the country joined in 1995. Public expenditure on higher education amounts to 1.5% of the GNP which is between the average of EU27 (1.4%) and the OECD average (1.6%) (Statistik Austria

E. Hackl (✉)
University of Vienna, Vienna, Austria

2014, p. 86; OECD 2014, p. 230). Austria is a federal state comprising nine province (*Länder*) governments and a federal government. Higher education is a responsibility of the federal government. After the elections of 2013 the government merged economy/business and higher education into one ministry (*Bundesministerium für Wissenschaft, Forschung und Wirtschaft*/Federal Ministry for Science, Research and Economy).

As in most other countries, participation in higher education in Austria has continued to rise; in the academic year 2012/13 about 45% of the relevant age cohort entered higher education (*Bundesministerium für Wissenschaft, Forschung und Wirtschaft* 2013).

Public universities (ISCED 5,6) have by far the largest share in higher education: In 2013 about 298,100 students were enrolled in 22 universities (including six universities for music and fine arts and one for continuing education). Although governed by the same regulations, universities are by no means homogeneous concerning size and the range of courses offered, ranging from approximately 1000 (University for Fine Arts and Industrial Design, Linz) to almost 100,000 students (University of Vienna). In the same year the country's 21 *Fachhochschulen* (universities of applied sciences, only established since 1994, ISCED 5A) received approximately 43,600 students; twelve private universities (established since 1999, ISCED 5,6) around 8100 students and fourteen higher education institutions for the education of compulsory teachers (ISCED 5A) approximately 15,000 students (*Bundesministerium für Wissenschaft, Forschung und Wirtschaft* 2014a, pp. 6, 14).

With the exception of universities for music and the fine arts, and for sport courses, the traditional access requirement to public universities has been a secondary school departure certificate (*Matura*). This still applies to the majority of courses, but starting in 2006 with medicine, around 45 courses at public universities currently or may soon require students to sit entrance examinations. At universities of applied sciences there have been entrance examinations since the very beginning and private universities vary in their requirements (admission test, motivation letters, interviews and so on).

Generally, students from Austria or other member states of the European Union are not charged fees at public universities. Students from third countries pay up to 726.72 EUR per semester. Universities of applied sciences may charge fees and most do so, normally 363.36 EUR, which were the fees generally collected from 2001 to 2009. At private universities fees vary between 363.36 EUR to approximately 10,000 EUR per semester.

This rather confusing situation results from a political compromise of the social democrats (SPÖ) and conservatives (ÖVP) that form presently a coalition government. In 2001 the conservatives that formed a coalition government with the “freedom” party (FPÖ) had introduced tuition fees for all students (363.36 EUR per semester). The social democrats promised to abolish the fees as soon as they were in power and finally made the above-mentioned compromise in 2009 when they were in a coalition government with the conservatives.

DEVELOPMENTS IN AND DATA ON CROSS-BORDER HIGHER EDUCATION

Mobility of Students

Student mobility—that is, according to the General Agreement on Trades in Services (GATS), Mode 2: consumption abroad—has a long tradition in Austria. While data on out-going mobility are not available for earlier periods, data on foreign students in Austria have been gathered by the relevant ministry since the 1960s. We therefore know that until the end of the 1980s, the percentage of foreign students in Austrian universities amounted to 10% or more. Foreign students, however, meant primarily German and Italian students, the latter due to Austria’s policy concerning Southern Tyrol. These two countries still make up 46% of all foreign students at Austrian higher education institutions, although in the last decades the composition of foreign students has become more diverse and their number continues to increase. In 2012—according to the data of the Ministry responsible for higher education—67,710 out of 275,523 students at public universities, that is 26%, were foreign students. Ninety percent of them were from Europe: seventy percent citizens of EU member states, 20% of other European countries; 7% came from Asia, 2% from the Americas and 1% from Africa (Bundesministerium für Wissenschaft, Forschung und Wirtschaft 2013, p. 33). Due to the overwhelming size of the universities, this picture does not change substantially if we take universities of applied sciences (foreign students: 15%) and private universities (foreign students: 39%) into account. Higher education institutions differ with regard to their share of foreign students not only by sector, but also by their profile: the most ‘internationalised’ institutions are universities for music and fine arts with 46% foreign students, followed by medical schools with 29% foreign students, ‘traditional’ universities with 28% and

universities of technology with 25%. Also outstanding is the University of Veterinary Medicine with a share of 34% foreign students. In addition, the percentage of foreign students is higher in institutions situated close to the German border: Mozarteum Salzburg (University for Music and Fine Arts, Salzburg) 58%, Medical School, Innsbruck 44%, the universities of Innsbruck and Salzburg 39% and 34%, respectively (Bundesministerium für Wissenschaft, Forschung und Wirtschaft 2014b).

If instead of ‘foreign students’—that is, students without Austrian citizenship—we use the OECD’s concept of ‘international students’—that is, students who left their country of origin and moved to another country for the purpose of study—the picture is slightly different. According to OECD data of 2011 published in ‘*Education at a Glance 2013*’, the percentage of international students enrolled in Austrian tertiary education institutions amounted to 14.7%. This is much lower than the number of foreign students but still puts Austria second—after the United Kingdom—of EU (15) member states in the share of international students or in the fifth position of OECD (24). OECD data, too, underline the dominant share of students at Austrian higher education institutions from neighbouring countries (58.6%) and of countries with the same official language (52.8%) (OECD 2013, p. 314).

The mobility programmes of the European Union presumably had a stronger impact on the national diversification of foreign students than on their numbers; only about 10% of all foreign students are programme students.

OECD data also provide us with information about Austrian students studying abroad. In 2011, according to data from countries covered by the survey (all OECD countries plus six non-OECD countries), 17,263 Austrian students studied outside their home country (OECD 2013, Table C 4.7, Web only). With 5.3% of its tertiary students enrolled abroad, Austria is also above the average of EU21 (3.6%) and OECD (2.0%) as a sending country (OECD 2013, p. 323), although less pronounced (seventh highest share of OECD countries) than as a receiving country. Austrian students going abroad—as it is the case with international students coming to Austria—study mostly in neighbouring countries with the same official language: 8836 students, or 51.2% of all Austrian students abroad, study in Germany; in comparison, 27,753, or 21.1% of all German students abroad, study in Austria. 1459 Austrians, or 8.5%, study in Switzerland while 808, or 6.7% of Swiss students abroad, study in Austria. Thirteen point two percent of all Austrian students abroad study

in the United Kingdom and 5.8% in the United States; for the remaining countries the share of mobile Austrian students is less than 2% (OECD 2013, p. 322). The European Union's mobility programmes did contribute to raise the number of Austrian students abroad; roughly 25% of them are in programmes.

Mobility of Staff

Mobility of teachers—which corresponds to Mode 4 of GATS: presence of natural persons to supply services—has been a minor topic in literature compared to student mobility, due to insufficient data, among other factors. This also applies for Austria. However, the ministry responsible for higher education for half a century has gathered data on appointments of professors at Austrian universities. From this we know that from the 1970s to the 1990s, every year approximately 25% of the appointments to professorship were foreign citizens, notably German academics. Another 20% on average were Austrian academics from universities abroad. A comparison with recent data on appointments is difficult, as they are no longer collected by citizenship but by the appointees' prior country of employment. However, recent data allow for some assumptions. In 2013, 199 persons were appointed to professorships at Austrian public universities; 34% of the appointees came from Austrian universities and 66% from abroad (56% from EU member states). If one takes into account that, as in prior decades, a number of the latter were Austrians that have worked abroad and some of the appointees from Austrian universities were foreigners, one may estimate that around 40% to 50% of the new appointees were foreigners. This estimated increase is supported by data on the citizenship of professors. In 2013 the share of foreign professors in Austria amounted to 35% as compared to 16% in 2005; their number more than doubled (to 823 in 2013). One may mention in passing the higher share of women among foreign professors compared to Austrian (30% versus 18%). This supports a point sometimes made in discussions on gender parity that the promotion of women in their home country is less likely than abroad. With non-professorial staff the percentage of foreign citizens is lower than with professors, although from 2005 to 2013 it rose from 13% to 27% (Bundesministerium für Wissenschaft, Forschung und Wirtschaft 2014c).

There are indications that institutions which receive more international students tend to do so concerning staff also—for example universities for music and fine arts. But, because data on staff are less sophisticated and

the method of collecting data has changed, one cannot prove with certainty the interrelationship between student and staff mobility.

A further data problem for dealing with academic mobility is that there are practically no data on Austrian academics who leave the country in order to teach and do research abroad.

Data on foreign staff in universities of applied sciences and private universities are also lacking. However, due to their, in most cases, regional orientation one may assume that their share of foreign academics is, apart from a few exceptions, lower than that of public universities.

Mobility of Programmes and Institutions

This type of mobility corresponds to Mode 3 of GATS: commercial presence, as in, for example, a local branch of an education institution, or franchising. With regard to the import of institutions and programmes the most prominent foreign institution that acts in Austria is Webster University, accredited in the US (Higher Learning Commission) and accredited in Austria since 2001. It was presumably one of the most important drivers to legally allow for private universities in Austria and to regulate their accreditation in 1999. In the aftermath, however, it was mostly institutions supported by some provinces (*Länder*) that have been accredited in Austria as private universities. This does not mean that foreign institutions have ceased to be active in Austria. In 2011, the Act on Quality Assurance in Higher Education and an Austrian Accreditation Agency (Bundesgesetz über die externe Qualitätssicherung und die Agentur für Qualitätssicherung und Akkreditierung Austria; BGBl.I Nr. 74/2011) came into force. It provided *inter alia* for the registration of study programmes from foreign institutions but without a formal recognition of their study programmes and degrees. Since then some 20 foreign institutions have registered, some of them in cooperation with Austrian businesses (Bundesministerium für Wissenschaft, Forschung und Wirtschaft 2014d). Half of them are German institutions, four from the United Kingdom, with a few from other European countries and Latin America. In 2014 an Austrian agency that runs preschools and after-school centres (*Kindergarten, Hort*) and offers further education for their staff has started to run a BA study programme of the Hochschule Koblenz in Germany for preschool teachers who are not traditionally educated at university level in Austria but in secondary schools. Recently, the Ministry has prepared a draft in order to amend the Act of 2011 and to change

the relevant paragraph as potential students may misleadingly confuse ‘registration’ and ‘accreditation’.

The oldest case of ‘import’ in higher education goes back to the end of 1970s and concerns distance education, which corresponds to Mode 1 of GATS: cross-border supply. Originally based on a cooperation agreement between the pertinent Ministers of North-Rhine-Westphalia and Austria, the FernUniversität Hagen (University for distance teaching, Germany) offers courses in Austria in cooperation with University of Linz that runs six study centres in Austria. The Open University, UK, too, is active in Austria, although less institutionalised than the first one mentioned.

For Austrian higher education institutions, CBHE means predominantly joint study programmes in cooperation with foreign institutions. The actual export of institutions or programmes is very limited and seems confined to universities of applied sciences and to private universities. The private Sigmund Freud University in Vienna has branches in Paris, Ljubljana, Milano and Berlin. Another example is a study programme in medicine that is offered by the private Paracelsus University Salzburg in Nürnberg in cooperation with the local hospital since 2014. Several years back the University of Applied Sciences in Krems ‘exported’ its programmes in Tourism and Hotel Management to Azerbaijan, Vietnam and Serbia, as well as programmes in Management and Business to Ukraine and Vietnam.

RELEVANT POLICIES AND LEGISLATION

Academic mobility has been an academic, cultural and societal benefit before it became ‘consumption abroad’. After Austria’s non-existence and isolation during the Nazi regime, the governments regarded student mobility as a means to rejoin academic developments abroad and to promote Austria’s regained independence and identity. Beginning with an agreement between the US and Austria in 1950 (the Fulbright Program), bilateral cultural agreements with many European and several other countries and agreements on the mutual recognition of degrees as well as some agreements on scientific-technical cooperation have provided for the exchange of students and academic mobility in general. Within the frame of development, aid grants for students of developing countries were set up. Government programmes of the 1950s and 1970s underlined the contribution of receiving students to what was later called ‘soft power’ (Nye 1990) or ‘cultural diplomacy’. In order to distribute the grants locally

the *Österreichische Auslandsstudentendienst* (OeAD—Austrian agency for international mobility and cooperation) was set up in 1961.

The high number of appointees to professorships from abroad, overwhelmingly from Germany, resulted from the country's far bigger academic labour market and the assumed need of Austria's higher education policy makers to prevent 'inbreeding'. The latter also entailed that normally the law did not allow appointments of persons in their home institutions. This policy has been sustained by rectors when the universities were outsourced, notably the University of Vienna that made of appointments from abroad an explicit policy target (Universität Wien 2013).

Whereas measures of Austrian governments in the years following World War II to attract the return of academics who were driven into exile during the Nazi period remained lax or non-existent, the government of the early 1970s made efforts to win back academics that had left Austria in the post-war period in order to teach in universities abroad and "to establish a positive intellectual mobility balance" (Kreisky 1971, p. 31). Therefore the relevant ministry has collected the aforementioned data on appointments of Austrian professors from abroad.

A new impetus for policy measures to increase academic mobility resulted from the ERASMUS scheme and the transformation in Central and Eastern Europe as well as from the discourse on the need to cooperate with 'emerging markets'. However, the traditional perception and policy of academic mobility continued to prevail in Austria. The low number of programmes in English—compared to other European countries (OECD 2013)—may be seen as a consequence of this attitude.

The ERASMUS scheme implied that universities were able to conclude cooperation contracts and therefore supported those actors that advocated for universities' contractual capacity and their reorganisation as separate legal entities. Normally, higher education institutions with legal capacity again are the prior condition for a 'commercial presence abroad' of higher education institutions or the mobility of programmes and institutions.

In Austria until the 1990s, higher education was synonymous with public universities and these were not contractually competent. The law provided neither for a non-university sector nor for private institutions. 'Public' meant that professors were civil servants appointed by the Minister, universities were run by the government and publicly financed on the basis of a line item budget, academic 'self-governance' was meant to make recommendations, and the individual freedom to teach and do

research was protected by constitutional law. The public character of the universities was underpinned by the fact that they educated predominantly for the public sector. In the mid-1980s, still only one-third of university graduates were employed in the private sector; ten years later, employment in the private and public sector were even, and today, less than one-third of all graduates—with the younger age groups properly less—are public employees (Statistik Austria 2010). This change was supported by governmental initiatives that intended to increase the share of graduates in the economy by personal transfer schemes and so on in order to strengthen firms' R&D capacity.

Growing student numbers and budgetary stringencies, notably the ambition to comply with the Maastricht criteria—when Austria prepared its accession to the European Union—resulted in financial pressures on the government. The idea that New Public Management (NPM) measures entailed higher efficiency gained ground. In addition, at the universities decreasing funds per student strengthened those members who, inspired by systems and trends abroad, called for 'institutional autonomy'. A pertinent change occurred first of all outside the universities. In order to cope with the demand of students and the economy and to bring the vocational education system closer to that of other EU member states, in 1993 the Act on *Fachhochschulen* (Fachhochschul-Studiengesetz-FHStG, BGBl. Nr.340/1993) provided for the establishment of universities of applied sciences. It allowed for privately managed institutions, although they were to be largely publicly financed. In 1999, the Act on the Accreditation of private universities (Universitäts-Akkreditierungsgesetz-UniAkkG, BGBl.I Nr. 168/1999), referred to above, passed Parliament. Reforms of the public universities proved to be more time-consuming. Only in 2002, after long and controversial debates and a first legal revision in 1993 of the Act on University Organisation, which had been in force since 1975, the Universities Act (Universitätsgesetz 2002—UG, BGBl.I Nr.120/2002) passed Parliament. It followed the logic of NPM in that universities became legal entities in their own right and it devolved decision making powers from the Ministry to the universities and empowered their management. Ball and Youdell have called such reforms "endogenous privatisation" (Ball and Youdell 2007, p.8). Performance contracts became the basis for funding. The Act of 2002 probably represented a more radical reform than similar steps in other countries as it was a direct transformation of universities from legally detailed regulated and government managed to business-like institutions. The European University Association's Autonomy

Scorecard of 2010 ranks Austria on average or above in its four dimensions of autonomy (European University Association 2010).

A further governmental measure relevant for CBHE was the aforementioned Act on Quality Assurance in Higher Education and an Austrian Accreditation Agency. It resulted from the quality assurance activities of the Bologna Process and applies to all sectors of higher education. Besides establishing the Agency for Quality Assurance and Accreditation Austria, the Act confers the right for auditing and certifying to foreign agencies registered by the European Quality Assurance Register for Higher Education also, as well as to other internationally recognised agencies.

The Universities Act of 2002 explicitly entitles public universities to form companies, foundations and associations provided that they further the performance of the university's tasks (§ 10). However, as the aforementioned data on institutional and programme mobility show, it is rather universities of applied sciences and private universities that are active in this mode of CBHE. Public universities confine themselves to joint-study/degree programmes and academic mobility. Also, financial pressure on universities does not entail an entrepreneurial attitude in this area and the recruitment of foreign students for revenue generation. One may observe, however, that the initiative for CBHE has shifted from the governmental to the institutional level, and in many cases to individual actors.

In 1995, when the General Agreement on Trade in Services came into force, in Austria as in many other countries, academics and policy makers in higher education were hardly aware of its implication for education and the commitments made in education (Hackl 2002). It was only in 2002 after the collapse of the 'Millenium-Round' and the start of the 'Doha-Round' that student protests drew the attention of education policy makers at the global, European and national levels to the inclusion of education in the list of tradable services. When the 'Doha-Round' failed, protests ebbed away without any precise statement from the Austrian government on its position and future higher education policy.

Similarly, the preparation of the European Union's Service Directive (European Commission 2006), which took place around the same time, occurred unnoticed by the relevant ministry and the academic community (Hackl 2012). When, finally, higher education policy makers took notice, the Directive was already in force. It has so far had no immediate effects on Austrian higher education. Therefore, the government seems to feel no need for any action as no further consideration or discussions can be traced.

CONCLUSIONS

Beginning with the very foundation of universities, changes in higher education have drawn on inspirations from perceived or imagined foreign examples. This increases when international organisations, notably the OECD or the supranational European Community/Union, started to disseminate and to sustain these. As a small country, Austria has been more outwardly oriented than bigger states. In addition, a certain Austrian fear of being or becoming ‘provincial’, basically meaning ‘not complying with mainstream scholarship and research’, enhanced the importance governments attached to internationalisation, notably to academic mobility. This did not change with the transferring of competence from the governmental to the institutional level and with universities’ outsourcing. However, due to the fact that Germany is the big neighbouring country with a shared language, internationalisation has meant predominantly academic mobility from and to Germany.

CBHE in the neoliberal sense of trade in higher education has so far had little influence on Austrian higher education institutions, although reforms at the turn of this century created prerequisites for higher education institutions to become ‘entrepreneurial’. Only a few university managers engage in the export of programmes and institutions. This does not mean that they are not aware of relevant developments in other countries. Some regard foreign universities that attract paying international students or export programmes as cases of good practice. But so far Austrian universities have not made a virtue out of necessity and use cross-border activities in order to handle public budgetary stringencies. The lack of data on the export of programmes and institutions—centrally collected by the government—seems to reflect a decrease of governmental interest in higher education and it may be interpreted as a sign of universities’ disembodiment from national jurisdiction (Marginson and van der Wende 2009, p. 49).

Concerning the modest imports of higher education into Austria, some are due to the non-responsiveness of the Austrian government or higher education institutions to justifiable demands in society, for example the upgrading of kindergarten teachers. Others seem rather to result from general commercialisation. Education like everything becomes venal. It therefore seems not something to engage in but something that can be purchased. Foreign suppliers of higher education appear to be more responsive to students as customers than domestic institutions.

However, the rather modest impact of neoliberal cross-border higher education may change, as the Austrian government cannot act in isolation. OECD labels its table on international student flows with “Students in tertiary education by country of origin and destination and market share in international education” (OECD 2013, Table C 4.7, Web only). When ‘receiving international students’ has become ‘holding a market share’, the days of an academic mobility policy not based predominantly on economic considerations are limited. In addition, the principle of ‘free movement of persons’, a pillar of the European Union and trade agreements that include higher education as a tradable service, will have an impact on how Austria can govern and constitute its higher education. Eventually European and international measures will be incompatible with the country’s free access and tuition fee policy.

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National Cases of Cross-Border Higher Education: The Experience of the UK

Stephen Jackson

INTRODUCTION

The Quality Assurance Agency has a remit to provide public assurance about the standards of UK higher education qualifications and the quality of the learning opportunities provided for students. It also seeks to inform and encourage continuous improvement in the management of the quality of higher education. This remit applies to all forms of UK higher education including programmes offered in partnership with other organisations and those delivered in other countries through transnational provision and distance learning.

The UK higher education sector has a long track record of exporting higher education opportunities to students studying in other countries. Programmes such as the University of London's external degree (now the International Programmes) are well established and well regarded and many universities have developed a presence internationally through partnership agreements and the establishment of branch campuses. The UK government has acknowledged the importance of transnational higher education provision and has identified a number of priority areas for future

S. Jackson (✉)

Quality Assurance Agency (QAA), Gloucester, United Kingdom

growth and development, based on the reputation for standards and quality (DBIS 2013). There is an expectation that this activity will continue to expand significantly as institutions promote strategies for globalization.

Although many institutions have links in Europe and have worked in partnership with European Universities in joint research programmes or projects such as ERASMUS, the focus of much of the cross-border activity has been in other parts of the world, notably the rapidly developing countries of Southeast Asia and the Middle East. UK institutions benefit from the widespread acceptance of English as the language for higher education delivery and the legacy of British higher education systems established in many commonwealth countries.

IN-BOUND CROSS-BORDER HIGHER EDUCATION IN THE UK

UK higher education awards can only be offered by institutions and organizations that are recognised by the UK government as legitimate providers of higher education. The qualifications of Bachelor's Degrees, Master's Degrees and Doctorates (PhDs) are legally protected titles and may not be awarded by non-recognised institutions. Universities are autonomous and self-accrediting. Their degree-awarding powers derive from established Royal Charters, or from Acts of Parliament, or from the Privy Council following a rigorous process of institutional assessment. A number of private institutions have successfully achieved degree-awarding powers in recent years by approval from the Privy Council. The Department for Business, Innovation and Skills maintains a list of legitimate awarding institutions referred to as 'Recognised Bodies'.

Degree-awarding institutions may allow their programmes to be delivered by other institutions through franchise agreements or may validate programmes offered by other institutions as meeting the requirements for an award. Institutions that have agreements for such awards are referred to as 'Listed Bodies'. The Department also keeps a list of all these institutions. In order to recruit international students to study for higher education awards from outside the European Union or to gain access to student finance, institutions need to be recorded as a Recognised or Listed Body.

There are no legal constraints for in-bound Cross-border Higher Education (CBHE) providers seeking to operate within the United Kingdom and offering awards from their own jurisdiction. They are required to notify the Department for Business, Innovation and Skills and to comply with all relevant regulations. For many years QAA had no role

Table 10.1 Foreign providers in the UK reviewed by QAA

	<i>Country</i>
Foreign institutions	
Hult International Business School	USA
New York University in London	USA
Aga Khan University	Pakistan
Limkokwing Academy of Creative Technology	Malaysia
Glion Institute of Higher Education UK	Switzerland
Study abroad	
EUSA (Boston University)	USA
Institute for the International Education of Students	USA
Anglo American Educational Services	USA
CAPA International Education Foundation	USA
ACCENT International	USA
Educational Programmes Abroad	USA
Trinity College Dublin	Ireland
Bader International Study Centre	Canada
Washington International Studies Council	USA
American Institute for Foreign Study	USA
The Centre for Medieval and Renaissance Studies Oxford—Middlebury College	USA
London Executive Business School	UK/USA

Source: QAA Review Scheme for Educational Oversight

in overseeing the standards and quality of provision as these institutions did not offer UK higher education awards. International providers are subject to their own country's quality assurance or accreditation procedures. However, the Home Office visa requirements now include assurances about the status of international providers operating in the UK and confirmation that the quality of the learning experience of students is comparable with UK institutions. This assessment is carried out by QAA.

In-bound CBHE is on a small scale. Only 17 institutions have been assessed through the QAA's recognition scheme, most of which are 'Study Abroad' providers linked to institutions in the USA (Table 10.1).

UK TRANSNATIONAL EDUCATION

Transnational higher education, on the other hand, is on a large scale and is expanding. The most recent detailed information (British Council 2013) from the Higher Education Statistics Agency (HESA) listed 598,925 TNE students studying with UK providers in 2012–13. Eighty-

Table 10.2 Top 10 countries for UK TNE 2012–13

	<i>Student numbers</i>
Malaysia	68,020
Singapore	50,025
China PR	42,475
Pakistan	41,805
Hong Kong SAR	29,905
Nigeria	26,395
Ghana	16,900
United Arab Emirates	15,125
Ireland	14,725
Trinidad and Tobago	13,135

Source: HESA 2012–13

seven percent of these were in countries outside of the European Union. Seventy-eight percent of UK higher education institutions now have some form of TNE with involvement in over 200 countries. Together with the large number of international students studying in the UK (425,260), approximately 44% of all students studying for a UK higher education award (2,340,275) are non-UK citizens. (HESA 2014)

In terms of student numbers, the principal receiving countries for UK TNE include Malaysia, Singapore, China, Pakistan and Hong Kong, all of which have a variety of different types of TNE provision. In some cases, institutions have established campuses with several thousand registered students, representing significant scale of operation. The figures for TNE students include those following vocational qualifications that may lead on to higher education awards in areas such as finance and accountancy. Provision of these types of courses is global, with students in many different countries supported by distance learning (Table 10.2).

QAA has been conducting reviews of TNE provision since the mid-1990s. Initially these reviews (referred to as overseas audits) were conducted on a country-by-country basis, usually one country per year, or more if they were in a defined region. A representative sample of institutions operating in a selected country would be invited to participate in the review. The focus of the reviews was on the UK institutions and the ways in which their responsibilities for standards and quality were overseen and administered through their agreements with partner institutions. Teams visited the UK institutions for meetings with relevant academic and

administrative staff and to review documentation. They then conducted visits to the in-country partners to meet with students and staff, and to confirm that the quality systems operated effectively and that academic standards were secured and maintained. The outcome of these reviews was a collection of reports on each of the partnerships.

More recently the focus of these reviews has shifted towards the provision of a comprehensive overview of UK provision within a particular country. TNE Reviews are now based on the collection of evidence from all UK institutions with involvement in a particular country, a selected number of individual institutional visits and a number of case studies of particular aspects of TNE provision. The main output is a Country report detailing the range of UK provision and identifying good practice and recommendations for enhancement. Country reports are made widely available and provided in local languages as well as English.

Recent TNE reviews include places such as Singapore, Hong Kong and the United Arab Emirates, which have developed as higher education hubs, drawing in students from a wider geographical region. Each review has reflected the particular circumstances of TNE provision in the countries concerned, but collectively the reports provide a useful reference for good practice in the management of international provision, as well as identifying some of the areas where institutions could improve the management of partnerships and enhance the students' learning experience.

Some of the lessons learnt include:

- The need to underpin partnership arrangements with formal agreements which clearly identify the division of responsibilities and safeguard the interests of students
- The importance of regular communication and sharing of information
- The need for close oversight of assessment arrangements—including the management of exams and the involvement of external examiners
- The potential for the further development of ITC-based learning methods, including the use of Virtual Learning Environments

In conducting TNE reviews QAA review teams assess the extent to which higher education institutions meet the expectations for sound academic practice identified in the UK Quality Code.

The UK Quality Code for Higher Education sets out the expectations that all UK higher education providers are required to meet. It is the nationally

agreed, definitive point of reference for all those involved in delivering higher education programmes which lead to a qualification or the award of academic credit from a UK degree-awarding body, or are otherwise reviewed by QAA. All higher education providers are required to meet the expectations of the Quality Code. (QAA 2014c)

Transnational Education is specifically covered by Chapter B10 of the Code:

Managing higher education provision with others. The chapter outlines established good practice in setting-up and managing partnership arrangements for the delivery of UK higher education programmes. The key issues covered include governance arrangements, formal agreements, teaching provision, security of academic standards, information for students and other stakeholders and certificates and records of study. (QAA 2012)

These topics are covered by review teams in the conduct of TNE Reviews and are reflected in the structure of the reports. The approach ensures that institutions are reviewed against a common frame of reference based on agreed principles and threshold academic standards.

QAA conducted two TNE Reviews during 2014 in the United Arab Emirates and in Trinidad and Tobago. Both of these reviews were structured around particular themes and combined the need for public assurance about UK HE in general with a more in-depth investigation into particular models of TNE provision.

In the United Arab Emirates the focus was on branch campuses of UK institutions. Specifically the review looked at branch campuses that had been established in the Higher Education Free Zones in Dubai (the Knowledge Village and the International Academic City). The review also looked in particular at the delivery of business administration programmes, including MBA qualifications.

The planning and delivery of the review programme was carried out in partnership with Dubai's Knowledge and Human Development Authority (KHDA), the organisation that has responsibility for overseeing the quality and standards of provision within the free zones. QAA and KHDA have signed a formal Memorandum of Understanding which provided a basis for cooperation and identified protocols for the management of the review programme. KHDA provided background information about the higher education system in the UAE and made available detailed statistical information about the branch campuses. Representatives also participated in

the review visits as observers and provided assistance in the drafting of the final overview report. The exercise was a genuine joint venture, although the critical conclusions about the quality and standards of UK higher education provision remained the responsibility of the UK peer reviewers.

The overview report was published in June 2014 in both English and Arabic (QAA 2014). It provided assurances about the security of standards and the management of learning of UK HE provision and also commented on a number of areas of current practice as well as identifying issues with scope for further development. The report explained the significance of UK TNE in the context of developments in Dubai:

Imported TNE has played a key role in the development of the UAE higher education landscape over the past ten years. Education provision from foreign institutions is seen by federal government and individual emirates, in particular the emirate of Dubai, as key to diversifying their economy from oil production and develop the skilled workforce required for developing a service and knowledge-based economy. The focus is on importing quality, non-mediated foreign programmes which are as close as possible to the original programmes delivered at the institutions' home campus. This also explains why the dominant model of TNE provision in the UAE is the branch campus. (QAA 2014a)

The TNE Review in the Caribbean was focused on distance and blended learning provision and the support provided locally for students. It was based on Trinidad and Tobago which is home to more than 13,000 students studying for a UK higher education award. The review included ten UK universities and their local partners in Trinidad. Distance and blended learning is identified as making a significant contribution to economic and social development and widening access to higher education opportunities. It represents a major component of TNE provision in Trinidad and Tobago.

The overview report is due to be published in May 2015. It will provide a statistical analysis of UK TNE provision in the Caribbean as well as summarizing the key themes from the review. Of particular significance in this review has been the prevalence of vocational higher education programmes. Much of the distance learning on offer is for higher level professional qualifications on the UK National Qualifications Framework (NQF), managed by non-HE Awarding Organisations. These qualifications are outside of the remit of QAA.

As in Dubai QAA worked closely with the local quality agency, the Accreditation Council of Trinidad and Tobago (ACTT), and ACTT

representatives attended meetings with UK institutions during the review visit in the capacity of observers. They also provided assistance with the planning and organization of the review and with the drafting of the final report.

INTERNATIONAL PARTNERSHIPS

The TNE Reviews in Dubai and Trinidad have both illustrated the benefits of working in partnership with other quality agencies. It is becoming increasingly clear that the future of quality assurance for CBHE will depend on cooperation between agencies and the mutual recognition of academic standards and quality. In Europe, the position taken by the European Commission is that the quality and standards of cross-border qualifications rests with the awarding institution and the quality assurance and accreditation arrangements within their home jurisdiction (European Commission 2006). It follows that agencies need clear and robust mechanisms for demonstrating the security of standards and the comparability of cross-border provision.

These developments are reflected globally with an increasing coalescence of practice between international agencies and a focus on international benchmarking and world rankings. International engagement and partnership underpin QAA's approach to the quality assurance of TNE and will be critical for providing comprehensive coverage in the future.

QAA has sought to develop its relations in Europe through active membership of the European Association for Quality Assurance in Higher Education (ENQA) and membership of the European Quality Assurance Register for Higher Education. The agency accepts and complies with the underlying principles of both organisations, as detailed in the European Standards and Guidelines for Quality Assurance (ESG) (ENQA 2009). Cooperation between ENQA members is already well established and QAA will look, in future, for ways in which reciprocal arrangements between agencies can further help to support developments in the quality assurance of CBHE. QAA already has a separate agreement with the agency in Ireland (Quality and Qualifications Ireland) and has been involved with many colleagues in other European agencies through a variety of ENQA initiatives. QAA is also represented on the ENQA Board.

Internationally, QAA is also an active member of the International Network for Quality Assurance Agencies in Higher Education (INQAAHE)

Table 10.3 QAA international partners

	<i>Quality agency</i>
Australia	Tertiary Education Quality and Standards Agency (TEQSA)
China	China Academic Degrees and Graduate Education Development Centre (CDGDC)
Hong Kong	Hong Kong Council for Accreditation of Academic and Vocational Qualification (HKCAAVQ)
Indonesia	The National Accreditation Agency for Higher Education (BAN-PT)
Ireland	Quality and Qualifications Ireland (QQI)
Japan	National Institution for Academic Degrees and University Evaluation (NIAD-UE)
Malaysia	The Malaysian Qualifications Agency (MQA)
Singapore	The Council for Private Education (CPE)
South Africa	The Council for Higher Education and the Higher Education Quality Committee (CHE)
United Arab Emirates	The Knowledge and Human Development Authority (KHDA)
United Kingdom	British Council (BC)

Source: www.qaa.ac.uk

and supports its commitment to promote improvement in quality assurance practice and to encourage mutual support and development. In 2014, QAA was assessed and confirmed to be aligned and fully compliant with INQAAHE's Guidelines of Good Practice. Additionally QAA is a member of the Council for Higher Education (USA) International Quality Group and an observer of the Asian-Pacific Quality Network.

As well as working with the established international organisations QAA has entered into formal partnership agreements and Memoranda of Understanding with a number of other quality agencies (Table 10.3).

QAA has also been working more directly with a number of international quality agencies to address the challenges and opportunities associated with the growing internationalisation of CBHE and the benefits of international cooperation in quality assurance. KHDA in the United Arab Emirates has initiated a discussion between the agencies in the principal exporting countries for TNE (UK, USA and Australia) with the main recipient countries (Hong Kong, Malaysia, Singapore and the UAE). The 'Quality Beyond Boundaries' initiative aims to explore practical ways to develop strong relationships between quality assurance agencies, with a view to facilitating the quality assurance of transnational education

provision and reducing the regulatory burden on higher education providers operating overseas. It is looking at ways of developing the role of local agencies in the evaluation of transnational education and establishing a common understanding of expectations with regard to quality and academic standards.

In parallel with these developments QAA is involved in an ENQA led European Project entitled '*Quality Assurance of Cross-border Higher Education*' (QACHE). The project is "looking closely into different ways in which European quality assurance agencies and higher education institutions address the accreditation and quality assurance of programmes delivered outside their countries". The project members include agencies from the UK, France, Spain and Germany as well as TEQSA from Australia and the Arab Network for Quality Assurance in Higher Education (ANQAHE) and the Asia-Pacific Quality Network.

The main objectives of the project are:

- To enhance policy dialogue within European countries and between Europe and other world regions on quality assurance of CBHE, and thus enhance mutual understanding of different approaches to CBHE and different methods in quality assurance
- To further develop the European dimension in quality assurance
- To facilitate and enhance the engagement of European HEIs in CBHE provision
- To protect students against low standard provision and issues related to recognition of CBHE

More specifically, the project will provide quality assurance agencies and HEIs with guidance for activities of internal and external quality assurance processes of CBHE, with support in establishing procedures for CBHE, as well as with comprehensive information on common approaches on quality assurance of CBHE. Based on good practices from Europe, Australia, Asia-Pacific and the Gulf Region, the project will elaborate basic principles for a common approach to the quality assurance of European CBHE, enabling higher education to be of comparable quality and meet the same standards within or outside Europe and be recognised in the host country without facing double procedures (QACHE 2014). The project is supported by the Erasmus Mundus programme and is due to be completed by December 2015.

FUTURE QUALITY ASSURANCE OF TNE

In addition to developments in international collaboration and shared approaches to the quality assurance of CBHE there is a specific expectation that QAA looks at ways in which the current oversight of UK TNE can be strengthened and enhanced. The UK government's International Education Strategy included reference to this issue and initiated a process of consultation with institutions and other higher-education stakeholders. This work has been taken forward in conjunction with the International Unit of Universities UK:

To ensure that the UK continues to be able to demonstrate the quality of its overseas provision, BIS has asked higher education sector representative bodies to give serious consideration to the assurance of the quality of TNE. Whilst this is the responsibility of each individual institution, failure to do so has the potential to impact negatively on every institution.

As a first step, QAA and the Higher Education International Unit will consult the sector in the autumn of 2013 on what is needed to strengthen the quality assurance of TNE. The consultation will propose a significantly strengthened risk-based element to focus resource and attention where they are most needed. It will propose possible models and mechanisms to demonstrate the commitment of individual UK TNE providers to high quality provision and the protection of the UK sector's high reputation. (DBIS 2013)

A high-level policy group was set-up by QAA and the International Unit to discuss the BIS expectations and the ways in which these could be realised working with higher education institutions, which retained the primary responsibility for assuring quality and standards. The group also oversaw the implementation and management of the consultation which took place between December 2013 and March 2014.

The consultation was wide-ranging and attracted detailed feedback from higher education institutions and other organisations. As well as inviting comment in response to questions in the consultation paper, QAA and the International Unit organised consultation seminars in England, Wales and Scotland. There were a number of key themes that emerged from the responses including:

- A strong recommendation that the review of TNE should be fully incorporated within routine QAA institutional reviews. Previously TNE review had operated on a separate annual schedule, with country

reviews selected on the basis of scale of UK TNE activity and in-country interests. Integrating TNE with other reviews would achieve a reduction in the demands of institutions and avoid the situation whereby institutions with extensive TNE provision were reviewed on repeated occasions. The difficulty with this approach is the scale of UK TNE and the challenge of linking the schedule for Institutional Reviews with a planned programme of overseas visits.

- An expectation that QAA would adopt the same principles of proportionality that had been applied to the revised risk-based methodology for institutional review in England, Wales and Northern Ireland. Flexibility was seen as an essential characteristic of TNE review, with QAA focussing its attention on those areas where there is perceived to be greater risk to standards and quality.
- Recognition of the need for a more comprehensive database of information about UK TNE. The current HESA Offshore Record contains limited detail and is dependent on the interpretation of information requirements by individual institutions. There is a need for greater consistency in the definition of types of TNE provision and the status of students.
- Support for QAA carrying out more desk-based analysis and research to ensure that the designed approach to review is intelligence led and informative.
- A recommendation that TNE review should continue to include international visits to investigate potential risks to the reputation of UK higher education and to highlight existing excellent provision and good practice.
- General support for the proposal that QAA should endeavour to extend its approach to student engagement to TNE reviews, although recognising the need to be sensitive to the cultural context of other countries.

These proposals have been taken forward by an implementation group with representation from QAA, HESA and the International Unit as well as staff from institutions with experience of managing TNE activities and a representative from a Professional Body with experience of managing the accreditation of UK higher education programmes offered in other countries. The main developments are likely to include a closer alignment of Institutional Review activity with international visits and greater reliance of in-country information provision, an enhanced HESA Offshore Record

and greater involvement of HE sector representatives in the planning of TNE review activity and QAA's TNE policy.

Future arrangements for the quality assurance of English higher education are currently the subject of discussion initiated by the Higher Education Funding Council for England. The outcomes of these discussions, and the subsequent consultation with the sector, may lead to some variations in this proposed approach to strengthening the quality assurance of UK TNE.

CONCLUSIONS

In its UK Country Report for the QACHE project (QAA 2014b) QAA identified a number of obstacles and challenges for CBHE and its quality assurance. Foremost amongst these is the challenge of dealing with the expansion of TNE, with more UK higher education institutions involved, more student numbers and a greater diversity of types and models of provision. Some branch campuses and partnership arrangements have now been established for a long time and have developed a presence and identity within the host country as part of an integrated higher education sector. At the same time, more recent developments in distance and blended learning are extending the reach of UK higher education to places that previously only had limited engagement with UK institutions. QAA recognises that it needs to respond to this situation by looking for new ways of providing public assurance about the standards and quality of UK programmes, offered in other countries, and by protecting the reputation of the 'brand' of UK higher education.

This needs to be achieved within existing constraints on the cost of conducting overseas reviews and the need to demonstrate efficiencies in the conduct of reviews, particularly for those institutions that have a well-established track record in the sound management of TNE activities. A balance needs to be struck between the routine monitoring of effective arrangements for the management of UK programmes and the ability to intervene if problems arise, particularly where these may reflect systemic problems in institutional oversight.

There are many examples of good practice in TNE provision and very many students who have benefitted from the opportunity to study for UK awards in their own countries. Another challenge for the Agency is to ensure that existing good practice becomes the normal expectation for institutional management of TNE.

Longer-term there are questions about the direction of travel for TNE and likely future trends. Competition for world rankings and the status of ‘world-class’ institutions may lead to the need for a single agreed set of international academic standards to allow for effective comparisons of institutions in different countries and the security of academic awards. Such international standards will also be valuable for the recognition of excellence in higher education provision.

It is also likely that there will be a move towards greater cooperation and mutual recognition between international agencies. Agencies have developed their methodologies and approaches to quality assurance within the context of national expectations or legislation. With the development of a genuine global market for quality assurance services there is likely to be a greater degree of commonality of method and for the use of widely accepted reference points such as the European Standards and Guidelines.

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PART V

Quality Problems in Alternative Cases

The OECD/UNESCO Guidelines for Quality Provision in Cross-Border Higher Education: Its Relevance for Quality Assurance in the Past and the Future

Achim Hopbach

INTRODUCTION

During the last 20 years, cross-border higher education (CBHE) turned from a niche-phenomenon of few countries such as Australia, the UK or Hong Kong into a broad phenomenon. In particular the increased number of national higher education systems that are affected, be it by individual engagement of higher education institutions or by (national) authorities introducing certain policies at a larger scale or setting up ‘education hubs’, has put CBHE on the political agenda.¹

Whatever foci discussions about CBHE had in the past years, the issue of the quality of the provision was always on the agenda. Going through various scientific and political papers shows that from the beginnings of CBHE there seemed to be a broad consensus that the quality of such

A. Hopbach (✉)

Agency for Quality Assurance and Accreditation Austria (AQ Austria),
Vienna, Austria

programmes was at risk and thus deserved higher attention than ‘regular’ provision within national borders. This (presumed) quality risk covers two dimensions: On the one hand the greatest risk was or is still seen on the part of the students who study in programmes of low quality. On the other hand higher education providers were also assumed to bear a risk for their international reputation when delivering programmes of poor quality. The concern that CBHE may be of poor quality usually remains rather vague, though, without empirical basis.² It seems that very often this concern is based on the equation, ‘missing regulatory framework equals poor quality’.

Another interesting view on the particular relevance of quality in CBHE comes from a different perspective. For Australia, as one of the biggest exporters of education programmes, the issue of quality assurance for CBHE per se has always received much broader attention because of the economic importance of CBHE. Education is the third or fourth largest export sector of the Australian economy; in 2005 one out of four students was enrolled in CBHE programmes (Clayton 2011). If one accepts the thesis that the quality of a programme directly and significantly affects the economic success in ‘selling’ it to students abroad, it is understandable that the topic of quality in CBHE was deemed to be of high relevance even beyond the higher education sector. This is also true in the reverse perspective. In 1997 Hong Kong declared import of higher education opportunities to be a priority of educational policy because of a significant shortage of skilled labour force in the local economy. In 2013 already, 1144 CBHE programmes were offered in Hong Kong (British Council 2013).

However, in the nineties, generally, policy makers and practitioners from higher education hardly drew attention to CBHE. Outside of a very few countries that engaged in CBHE early on, it was hardly echoed in the relevant political and scientific discussions, nor in the literature.

This changed significantly after the turn of the millennium when quality of CBHE quickly reached the top of the political agenda at national and international levels. First, UNESCO and the Council of Europe moved the subject into focus in 2001 when both organizations jointly issued the ‘*UNESCO/Council of Europe Code of Good Practice in the Provision of Transnational Education*’. Only a few years later, during the negotiations for the General Agreement on Trades in Services (GATS), particularly during the years 2004–2007, the framework conditions of CBHE and in particular legal aspects and aspects of regulation and quality assurance finally moved to the core of political debates. The main question was

whether higher education, if offered across borders, would be considered a service like any other under the GATS. If so, the usually existing national regulations and policies for approval and quality of higher education would presumably not be applicable and CBHE would escape sovereign powers (Knight 2006). The high relevance of the topic is illustrated by the remarkable joint effort of UNESCO and OECD, which issued the ‘*OECD/UNESCO Guidelines for Quality Provision in Cross-Border Higher Education*’ in the year 2005 (further referred to as the GUIDELINES), which have proven to be the most influential international recommendation on policies, regulations and quality assurance in the area of CBHE.

Political interest in the subject declined after the failure of the GATS negotiations in 2005 and the subsequent unsuccessful efforts to resume. The question of whether or not CBHE needs specific regulation, however, has never gone away. The reason lies not least with the continuous and recently enormous growth of the volume of CBHE.

This article discusses the role of the GUIDELINES in developing quality assurance in CBHE, taking into account their historical context and the changing framework conditions of higher education. A particular focus will be put on the question of whether the GUIDELINES fulfil their purpose ten years after their adoption or whether a revision is due.

This article concentrates on questions regarding quality assurance and regulation. It is written from the perspective of a participating observer coming from the European Higher Education Area (EHEA) and does not claim to be a comprehensive analysis of the implementation of the GUIDELINES.

THE GUIDELINES IN A NUTSHELL

The purpose of the GUIDELINES is stated clearly at the beginning:

The Guidelines aim to support and encourage international cooperation and enhance the understanding of the importance of quality provision in cross-border higher education. The purposes of the Guidelines are to protect students and other stakeholders from low-quality provision and disreputable providers as well as to encourage the development of quality cross-border higher education that meets human, social, economic and cultural needs. (UNESCO 2005, p. 7)

The scope of the GUIDELINES follows its broadly defined aim “to provide an international framework for quality provision in cross-border

higher education...” (UNESCO 2005, p. 10). A close look at the structure and the content of the GUIDELINES reveals that they are not just a set of guidelines for quality assurance, although they are often mistakenly described as such. The term ‘framework’ has to be understood in a broad sense, covering design and provision of CBHE programmes, issues of regulation and recognition, and capacity building and international collaboration in that area. The GUIDELINES aim for a comprehensive regulatory framework, involving all relevant actors and stakeholders; these are governments, universities, student organisations, quality assurance agencies and national institutions for the recognition of higher education qualifications, and national institutions that regulate access to professions. In doing so, they try to respond to an important issue of internationalization: in many ways, today’s economic, political and legal frameworks no longer coincide; hence ‘traditional’ procedures and responsibilities in regulation no longer meet the international space of higher education (Bergan 2010). The EHEA is a very good example for that phenomenon. In the following sections, only the recommendations for governments, higher education institutions and quality assurance/accreditation bodies shall be briefly presented.

Recommendations for Governments

- (a) Establish, or encourage the establishment of a comprehensive, fair and transparent system of registration or licensing for cross-border higher education providers wishing to operate in their territory.
- (b) Establish, or encourage the establishment of a comprehensive capacity for reliable quality assurance and accreditation of cross-border higher education provision, recognising that quality assurance and accreditation of cross-border higher education provision involves both sending and receiving countries.
- (c) Consult and coordinate amongst the various competent bodies for quality assurance and accreditation both nationally and internationally.
- ...
- (e) Consider becoming party to and contribute to the development and/or updating of the appropriate UNESCO regional conventions on recognition of qualifications and establish national information centres as stipulated by the conventions.

- (f) Where appropriate develop or encourage bilateral or multilateral recognition agreements, facilitating the recognition or equivalence of each country's qualifications based on the procedures and criteria included in mutual agreements.

...

Two guiding principles structure these recommendations as well as the whole GUIDELINES: national responsibility on one side and international collaboration on the other side. A closer look at the guidelines for governments reveals the important role the GUIDELINES assign to national authorities. In line with the principle of national responsibility, it is the authorities who shall establish capacity for quality assurance of CBHE. The principle of international collaboration forms the basis for maybe the most interesting and, as it will be shown later, not entirely realistic request "that quality assurance and accreditation of cross-border higher education provision involves both sending and receiving countries". The primarily national responsibility stands also behind the task for governments to encourage mutual recognition of qualifications through bi/multilateral agreements, which had been a widely applied approach for a long time in many European countries.³

A core means of regulation for national authorities is the 'system of registration/licensing of incoming CBHE', which UNESCO and OECD request national authorities to introduce.

Recommendations for Higher Education Institutions

- (a) Ensure that the programmes they deliver across borders and in their home country are of comparable quality and that they also take into account the cultural and linguistic sensitivities of the receiving country...

...

- (c) Develop, maintain or review current internal quality management systems so that they make full use of the competencies of stakeholders such as academic staff, administrators, students and graduates and take full responsibility for delivering higher education qualifications comparable in standard in their home country and across borders. Furthermore, when promoting their programmes to potential students through agents, they should take full responsibility to ensure that the

information and guidance provided by their agents are accurate, reliable and easily accessible.

- (d) Consult competent quality assurance and accreditation bodies, and respect the quality assurance and accreditation systems of the receiving country...
- (e) Share good practices by participating in sector organisations and inter-institutional networks at national and international levels.
- (f) Develop and maintain networks and partnerships to facilitate the process of recognition by acknowledging each other's qualifications as equivalent or comparable.
- (g) Where relevant, use codes of good practice such as the UNESCO/Council of Europe *Code of Good Practice in the Provision of Transnational Education* and other relevant codes such as the Council of Europe/UNESCO *Recommendation on Criteria and Procedures for the Assessment of Foreign Qualifications*.

...

The recommendations for higher education institutions cover two main aspects in terms of quality and quality assurance. The principle that the quality of provision abroad shall be comparable to the quality 'at home' seems to be self-understanding. The fact that this is emphasised in many articles and political papers finds its reason in the above mentioned presumed risk of poor quality in CBHE. Secondly, to respect the quality assurance regime of the receiving country also seems to go without saying. As we will show later, implementing this request is not easy at all and describes rather the problem than the solution of guaranteeing quality in CBHE.

Recommendations for Assurance/Accreditation Bodies

- (a) Ensure that their quality assurance and accreditation arrangements include cross-border education provision in its various modes...
- (b) Sustain and strengthen the existing regional and international networks or establish regional networks in regions that do not already have one. ...
- (c) Establish links to strengthen the collaboration between the bodies of the sending country and the receiving country and enhance the mutual understanding of different systems of quality assurance and accreditation. ...

...

- (e) Apply the principles reflected in current international documents on cross-border higher education such as the UNESCO/Council of Europe *Code of Good Practice in the Provision of Transnational Education*.
- (f) Reach mutual recognition agreements with other bodies on the basis of trust in and understanding of each other's professional practice, develop systems of internal quality assurance and regularly undergo external evaluations, making full use of the competencies of stakeholders.

...

The recommendations for quality assurance and accreditation bodies are straightforward, and the request to include CBHE in the procedures is self-explanatory. In particular, these recommendations refer to the principle of international collaboration by calling for consultation of quality assurance and accreditation bodies in the receiving country and by reaching mutual recognition agreements between agencies from the receiving and sending countries. The same applies as with the guidelines for the institutions: that kind of collaboration or even the mutual recognition agreements seem to be logical, but this disregards relevant national differences regarding the legal framework, as will be shown later.

DISCUSSION

- (a) What is surprising is the fact that the GUIDELINES address more or less all relevant questions that occur in the field of CBHE but one: What is the specific nature of CBHE? What makes the provision of education cross borders different from the provision 'at home'? Such an explanation, if not a definition, of the specific nature of CBHE would however be necessary in order to be able to answer the question of whether quality assurance agencies need to apply specific methodologies or specific standards in this field of operation.

It is important to emphasise that CBHE is more than just an organisational issue of dislocated provision of a programme (Hopbach 2014). The assumption that CBHE is 'doing the same but elsewhere' would mean disregarding what makes CBHE different. Cultural traditions in education and science matter! Asking German, French and English students to write an essay on the same subject would reveal how different cultural traditions in science affect even everyday scientific activities like

writing. Such different traditions can affect learning and teaching, but also the relationship between students and teachers:

- What learning and teaching traditions exist in the receiving country? Learning by attending classes with a high number of contact-hours or problem-based learning with case studies and a high proportion of independent learning?
- Do research and involvement in research activities play a role?
- What's the traditional method of student examination? Are students accustomed to sitting oral exams or writing papers? Are exams formative or summative? How are standards assured if student examination is conducted in different languages? Does that matter?
- What's the involvement of students in the governance of institutions?

Even broader cultural conditions play a role, for example regarding the question of co-educating male and female students. More issues could be added. Obviously, the significance of these topics may vary and some might not apply at all. But questions like the above point to the specific features of a programme offered in another country. Not taking these features into account makes every 'specific' approach to quality assurance and regulation meaningless by reducing it to a formalistic or legal approach.

The former Australian quality assurance agency AUQA summarised this as follows:

AUQA audits have a special emphasis on the transnational education (TNE) arrangements. The primary reason for this emphasis is that these operations are inherently more difficult to control, being at a great distance from the base of the university's operations, embedded in a different culture, and under the charge of another organisation. Therefore, it is hard to get them right. (AUQA 2008, p. 1)

- (b) The GUIDELINES' purpose of protecting students and other stakeholders from low-quality provision and disreputable providers also refers to the inherent risk for CBHE-students, which resembles the mainstream discussion about CBHE. However the GUIDELINES don't stay vague but provide an explanation: CBHE is not covered by national quality assurance regimes, nor is there any comprehensive international framework for co-ordination of international initiatives.

As a consequence CBHE programmes are left outside of any framework of quality assurance and accreditation. “This makes students and other stakeholders more vulnerable to low-quality provision and disreputable providers of cross-border higher education” (UNESCO 2005, p. 10).

One might consider the equation ‘lack of regulation/quality assurance equals low quality of provision’ too simplistic. For OECD and UNESCO this is the basis of their proposed solution:

There is therefore a need for additional national initiatives, strengthened international co-operation and networking, and more transparent information on procedures and systems of quality assurance, accreditation and recognition of qualifications. (UNESCO 2005, p. 9)

What exactly the two organisations mean by ‘national initiatives’ becomes clear just a couple of lines later:

Countries attach a high importance to national sovereignty over higher education. Higher education is a vital means for expressing a country’s linguistic and cultural diversity and also for nurturing its economic development and social cohesion. It is therefore recognized that policy-making in higher education reflects national priorities. (UNESCO 2005, p. 10)

This means that national authorities shall bear the responsibility for solving the quality problems in CBHE. The firm belief in the effectiveness and obviously also the appropriateness of state regulation in higher education forms one starting point of the GUIDELINES.

In order to fully understand the GUIDELINES, the historical context needs to be taken into account. The call for regulation by national authorities is at the same time an implicit statement against any kind of market-driven regulation. This points directly to the discussions about GATS. Obviously OECD and UNESCO took the side of the critics in treating education under GATS and joined in the statement ‘Higher education is not a commodity!’ Both organizations hence understand the GUIDELINES consequently as ‘an educational response to the growing commercialisation of higher education’.

- (c) The second important principle of the GUIDELINES is cross-border collaboration, or even a joint responsibility for quality assurance. The strong emphasis on cross-border cooperation and cooperation in the regional framework goes beyond dealing with a particular case by calling for the creation and strengthening of mutual trust, which is regarded

as an important condition for the mutual recognition of diplomas. To recommend that the agencies cooperate at a regional level in order to create mutual trust and to provide examples of good practice was in 2005 already far from being a new challenge for quality assurance agencies. The involvement of foreign experts in review teams was certainly already wide spread, however not the rule. Involvement of foreign experts in review panels is in some countries even standard practice for quality assurance of study programmes ‘at home’.

Recommending that universities apply the quality assurance regime of the receiving country in addition to the quality assurance procedures at home, however, should not be considered as a proposal to solve existing uncertainties or the lack of responsibilities in quality assurance in CBHE; instead, it gives a brief description of one of its main problems. It is precisely a joint responsibility, specifically in cases when external quality assurance is linked to any form of licensing in the two countries which creates considerable bureaucratic challenges for quality assurance agencies to conduct the reviews and even more for a university to implement a programme at all.

- (d) A closer examination of the recommendations shows that those who seek concrete guidelines for quality assurance procedures in CBHE must be disappointed. The GUIDELINES stay at the level of basic principles: for example, comparability of quality standards of provision ‘at home’ and ‘abroad’, cooperation and shared responsibility in all aspects of quality assurance and recognition.

FROM 2005 TO 2015: CHANGING FRAMEWORK CONDITIONS

What’s the relevance of the GUIDELINES ten years after their adoption? Without doubt, the situation regarding CBHE has changed significantly. This is already true with regard to the volume of CBHE. Also, the forms of provision of CBHE have diversified and new forms, such as education hubs, have gained importance.

Regional Integration and Convergence

Regional integration has to be considered as an important feature of recent developments in higher education with huge impact on all questions concerning regulation and quality assurance. This is true for the level of legally binding regulation but also at the level of ‘soft law’. A very

influential development in this respect is, without doubt, the Bologna Process with the official launch of the EHEA in 2010. Two features of the Bologna Process shall be mentioned in particular: the adoption of the *Qualifications Framework for the European Higher Education Area* in 2005 and the resulting alignment of the national qualifications frameworks with it on the one hand, and the convergence of national quality assurance systems based on the adoption of the *Standards and Guidelines for Quality Assurance in the European Higher Education Area* (ESG) and their subsequent implementation in the participating countries.⁴ Both developments could also be considered as a response to the GUIDELINES' call for closer regional co-operation. If one adds the implementation of the Lisbon Recognition Convention in the EHEA, three pillars of transparency in the provision of higher education programmes at the regional level have changed substantially.

But the EHEA is just one example, although maybe the most powerful. The concept of regional qualifications frameworks spreads around the globe and the same is true for the area of recognition. Finally, in quality assurance regional integration also spreads. Frameworks like the ESG have been developed or are under development in South America, Central America, Southeast Asia, the Asia-Pacific Region, East Africa, West Africa and the whole African continent.

In the field of quality assurance another development has to be mentioned which shows how significantly the situation has changed compared to 2005. Regional initiatives for quality assurance, particularly addressing CBHE, emerged first in the Asia-Pacific region. Already in 2006 a joint initiative of UNESCO and APQN issued the '*UNESCO/APQN Toolkit Regulating the Quality of CBHE*'.⁵ For 2015 ENQA announced Guidelines for external QA in CBHE as a result of a project conducted together with partners from the Arab region, the Asia-Pacific region and Europe.⁶

If it's true that the risk of low quality provision arises in particular because of lack of transparent information, one has to acknowledge that, generally speaking, huge progress has been made in clarifying expectations regarding types of qualifications, qualification levels, quality of provision, and so on.

Quality Assurance Covers CBHE

OECD and UNESCO named as a main problem that external quality assurance processes would not cover CBHE. A closer look at the various quality assurance regimes calls for a more differentiated view on

this question. When the ESG were adopted in 2005 they, indeed, didn't refer to CBHE or any specific issues related to that kind of provision. However, the ESG were designed "to be applicable to all higher education institutions and quality assurance agencies in Europe, irrespective of their structure, function and size, and the national system in which they are located" (ENQA 2009, p. 12). This means that they were also to be applied implicitly to CBHE. The draft of the revised ESG which are supposed to be adopted at the Bologna ministerial conference in Yerevan in 2015 explicitly state that they are "applicable to all higher education including transnational and cross-border provision." (ENQA et al. 2014, p. 5) The question of whether or not quality assurance procedures based on the ESG cover CBHE shall be answered by distinguishing the various approaches to external quality assurance. Whereas accreditation will be dealt with separately in the next sub-section, this paragraph will shed light on CBHE in evaluations and quality audits. Typically these two approaches place the core responsibility for quality assurance on the institutions, which define the quality goals and also the design of their internal quality management. That means that naturally CBHE has to be covered by internal quality assurance and will, hence, be dealt with also by external quality audits that evaluate the effectiveness of internal quality management.

However, it is fair to say that the coverage of CBHE is most often not a question of methodology and often not even of the willingness of the institutions. It is rather a question of awareness of the specific nature of CBHE to be taken into account.

It is understandable that the outcome of an official Bologna Seminar, organized by ENQA in 2008, did not satisfy those who advocated for taking into account CBHE more precisely and explicitly. The final statement of that seminar concluded rightly that the ESG do not need to be amended in order to cover CBHE but are equally applicable to that form of provision as well (Costes et al. 2008)

The issue of awareness is also relevant in external quality assurance and is linked to the notion of relevance. It might not be surprising that CBHE was hardly taken into account in external quality assurance regimes of those countries that were latecomers in exporting or systematically importing higher education, such as Germany. The situation looks significantly different in the UK, as one of the biggest exporters of higher education. QAA, the UK Quality Assurance Agency, conducts specific reviews of cross-border provision of the UK universities in various countries, includ-

ing the United Arab Emirates in 2014.⁷ The issue of quality in CBHE was even a main reason for setting up the former Australian quality assurance agency AUQA (Stella 2011).

In conclusion, one can say that today CBHE is explicitly covered in countries which are big in exporting and/or importing higher education, sometimes even with separate procedures, whereas quality assurance regimes in low-level exporting or importing countries might well cover CBHE without making it explicit and most likely also without too specific attention.

Accreditation/State Approval Disregards CBHE

Making a pointed statement, one might say that national accreditation regimes *necessarily* disregard any specific features of CBHE. Although pointed indeed, in essence it is valid. Most of the accreditation procedures have a legally defined mandate within the context of the national higher education system, which is either substituting state approval of a programme or constituting the necessary basis for such a decision. As a consequence the degrees offered in such programmes are normally state recognized degrees. This link to state approval requests a standardized treatment of all programmes. For specific features of CBHE, for example requests regarding staff or cultural sensitivity, these approaches hardly offer room. This is particularly true for the accreditation of ‘outgoing programmes’, which have to align to the same qualifications frameworks and formal criteria the programmes offered ‘at home’, because they deliver a state recognised degree (of the sending country!) irrespective of the location of delivery. It’s noteworthy that national authorities mainly trigger this kind of external quality assurance.

Where ‘incoming programmes’ are subject to ‘accreditation’ this is very often a different kind of accreditation; typically these are accreditation since they lead to a formal yes/no decision based on fixed criteria. However, although normally a kind of licensing is connected to the decisions they are not any kind of state approved, nor do these accredited programmes automatically lead to state recognised (by the receiving country!) degrees (Ziguras and McBurnie 2015).

This strong legal nature of accreditation is the main reason for the fact that one request of the GUIDELINES has not proven to point in the right direction, which is the request for bilateral agreements of accreditation bodies.

Bilateral Agreements in Quality Assurance: Solution or Problem?

The second core recommendation of the GUIDELINES, the collaboration of accreditation agencies in order to reach mutual-recognition agreements, deserves particular attention. Experience from Europe shows that this kind of bilateral agreement does not seem to be the solution for the problem, but rather its description.

In general, international collaboration in the field of quality assurance has become easier and easier due to a growing convergence of approaches, methodologies and tools used. The high level of convergence in the EHEA with the ESG as common ground for reviews might be somewhat exceptional. However similar developments emerged and continue to emerge in most other regions of the world. In addition, also at the inter-regional level, the differences between the approaches diminish more and more and refer mainly to aspects like the use of students in review panels or publication of reports, but not to the general design of external quality assurance procedures. It is important to note that this type of convergence refers to methodological aspects of quality assurance in general. The legal implications of accreditation decisions draw a completely different picture for the case of accreditation. Due to its close link to state approval, accreditation agencies might be equally able to find common ground with regard to methodological aspects and the design of their procedures. However the criteria or standards applied usually contain various aspects which are not directly related to questions of academic quality but refer to specific national formal aspects such as student workload, number of study-places, denomination of degrees or admission regulations. Because of the legally binding nature of their decisions, accreditation agencies are less flexible—if at all—in the application of those criteria and standards. In the EHEA, the *European Consortium for Accreditation* had interesting experiences with mutual recognition agreements, which turned out to help in building trust through common grounds in terms of methodology without being able to overcome the legal barriers in many cases.⁸

In conclusion, one can say that the methodological developments in quality assurance result in a high degree of convergence with regard to quality assurance without direct legal consequences. Partly a reason for that development, and partly a consequence of it, is the fact that quality assurance agencies establish an increasingly dense net of networks, joint projects and jointly conducted reviews, so one can conclude that this request of the GUIDELINES is on its way to being fulfilled.

CONCLUSION: THE FUTURE OF THE GUIDELINES

What conclusions are to be drawn? Are the principles of the GUIDELINES still worth being applied? Are the recommendations still worth being implemented? Do they still address the right questions and give the right answers?

In 2012 OECD published an analysis of the implementation of the GUIDELINES. According to the study the GUIDELINES have been implemented to a very high degree: on average the OECD member countries conform to 72% of the main recommendations with an even higher degree of conformity with regard to the recommendations for higher education institutions (80%). Governments and quality assurance and accreditation bodies comply on average with 76% and 61%, respectively. Based on this analysis the authors come to the interesting conclusion that, on the one hand, no revision was necessary but rather additional efforts in implementing the GUIDELINES. On the other hand the conclusion was that the GUIDELINES seem to be not very relevant for the universities because very many don't even know of them (Vincent-Lancrin and Pfötenhauer 2012).

The following conclusions propose how to proceed with the GUIDELINES in the future.

Firstly, the development of CBHE in terms of volume and type of provision calls for even greater attention to specific issues of CBHE in the future. The growing non-coincidence of legal, political and educational frameworks request answers to questions about responsibilities, quality standards and recognition.

Secondly, it is important to emphasise that the two underlying principles, which are national responsibility and international collaboration of parties involved, haven't lost any of their relevance. On the contrary, recent and current developments in higher education don't give any reason for assuming that issues like recognition and quality assurance, and regulation in general, would move out of national responsibilities. The trend towards regional integration actually shows that the 'regional soft-law approach' based on national responsibility combined with international (regional) collaboration actually strengthens the role of both principles.

Thirdly, any translation of the principles of the GUIDELINES into action in the year 2015 and the years to come must take into account recent developments and address new issues.

With regard to the recommendations of the GUIDELINES the following proposals are made:

- (a) The specific nature of CBHE needs to be defined. The experience of recent years shows that one has to acknowledge a low level of awareness about the specific features of provisions of CBHE. The discussion about the presumed risk of low quality provision or even disreputable providers disregards the differences between CBHE and 'regular' provision within national borders. The specific features go beyond being 'culturally sensitive' in the provision. It is understandable that, as a consequence, neither national authorities nor quality assurance and accreditation agencies, and sometimes not even higher education institutions, recognize the need to pay specific attention to questions about quality in CBHE. Only based on the understanding of the specific nature of CBHE can answers to questions about regulation, recognition and quality assurance be given.
- (b) Due to the specific features of CBHE and the resulting challenges for its provision, CBHE has to be addressed explicitly in all kinds of existing regulations of higher education and in all kinds of quality assurance and accreditation. Whereas in methodological terms this does not call for completely new approaches, it calls for standards or criteria that help to address the specific features of CBHE. Also in this respect the GUIDELINES are still valid.
- (c) A clear distinction has to be made between quality assurance without direct legal consequences on the one hand, and accreditation with links to state approval on the other hand.
- (d) Higher education institutions and national authorities have to accept the particular task to engage in quality assurance explicitly. Based on a joint understanding of the specific features of CBHE and the resulting tasks for quality assurance:
 - higher education institutions shall cover all CBHE provision by their national internal quality assurance mechanisms and make results and further information public and accessible, in particular to the prospective students and the stakeholders in the country of provision.
 - national authorities and/or accreditation agencies shall, in the case of accreditation regimes with links to state approval, cover all CBHE provision by addressing its specific features explicitly in any standards and criteria. Results and further information shall be made public and accessible, in particular to the prospective students and the stakeholders in the country of provision.

- (e) The regional framework, if applicable, shall be used to develop a joint understanding of the specific features of CBHE and the consequences for any kind of quality assurance and accreditation. Standards and criteria to be applied in quality assurance and accreditation shall be agreed upon at the regional level. Separate from this, the effectiveness of bilateral agreements lags significantly behind the regional approach, not least because of the pace of regional integration. A second disadvantage refers to the efficiency of such an approach. Drafting and adopting dozens of bilateral agreements seems to be very bureaucratic and burdensome, compared to a regional approach.
- (f) A global regulatory framework is not likely to emerge, not least because currently a framework for such an approach or an actor is missing. Instead inter-regional collaboration can fill the gap. Regional approaches should be articulated with each other. Based on the, in some cases, high level of regional integration an articulation of regional approaches might be an effective approach to respond to the issues of quality in CBHE without over-exerting the capacity to develop regulatory frameworks or ‘soft-law’ approaches.

In conclusion, apart from the approach to mutual recognition agreements, the principles of the GUIDELINES are still valid. In particular regional and inter-regional collaboration is paramount in order to achieve the aim of a common understanding of the specific nature of CBHE among all parties involved. Such common understanding is the necessary basis for effective regulation and quality assurance. A revision of the GUIDELINES is not necessary; it might not be feasible anyway. Besides, it would be inappropriate to turn the GUIDELINES into specific guidelines for quality assurance. But the GUIDELINES need to be translated into documents that give guidance for practical work on the ground. Regional efforts to develop good practice in quality assurance of CBHE should be coordinated in order to reach inter-regional consensus.

NOTES

1. For definition and development of CBHE see British Council (2013), Knight (2007).
2. Exemplary: Knight (2007, p. 22).
3. Germany has adopted bilateral agreements about mutual recognition of qualifications with 18 countries <http://www.kmk.org/zab/veroeffentlichungen->

- [und-beschluesse/akademische-erkennung.html#c8745](#) (accessed 14.12.2014).
4. Hopbach, A. (2012). External quality assurance between European consensus and national agendas. In Curaj, A., Scott, P., Vlasceanu, L. and Wilson, L. (Eds.), *European Higher Education at the Crossroads: Between the Bologna Process and National Reforms*, Dordrecht: Springer.
 5. UNESCO (2006), UNESCO-APQN toolkit: Regulating the quality of cross-border education, Bangkok http://issuu.com/revisionsg/docs/esg_-_draft_endoresed_by_bfug (accessed 16.12.2014).
 6. <http://qache.wordpress.com/> (accessed 16.12.2014).
 7. <http://www.qaa.ac.uk/en/ReviewsAndReports/Pages/TNE-Review-UAE-2014.aspx> (accessed 16.12.2014).
 8. For further information visit <http://ecahe.eu/home/services/joint-programmes/multra/> (accessed 16.12.2014).

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Massive Open Online Courses (MOOCs)

José Manuel Martins Ferreira

Don't be afraid to ask, comrade!
Don't be talked into anything.
Check for yourself!
What you do not know yourself
you don't know.
Scrutinise the bill,
it is you who must pay it.
Put your finger on each item,
ask: how did this get there?
You must take over the leadership.
In praise of learning (Bertolt Brecht)

INTRODUCTION

Massive Open Online Courses (MOOCs) comprise educational content developed for mass delivery through the internet, and became a mainstream educational trend in 2012. An article published in *The New York Times* in November of that year dubbed 2012 as “The Year of the MOOC” (Pappano 2012), and a plethora of grandiose expectations followed en masse. In a time when the average human attention span is said

J.M.M. Ferreira (✉)
Faculty of Engineering, University of Porto, Porto, Portugal

to range from five to 20 minutes, a course prepared for mass delivery must necessarily rely on multimedia content, and short videos in particular. So do MOOCs in general, which Wikipedia appropriately define as “online course[s] aimed at unlimited participation and open access via the web” (Wikipedia 2015). Early critics argued that although we’re indeed talking about *Online Courses*, the first half of the acronym may be misleading. It is true that *Massive* takes up a different dimension when applied to the *World of Warcraft* MMORPG (Massively Multiplayer Online Role-Playing Game), which claims more than ten million active subscribers and 100 million accounts created since its beginning. A few hundred thousand participants hardly justify the use of ‘massive’ when seen at this scale, but it nevertheless represents an unprecedented success in terms of distance education. The second adjective is more problematic, since *Open* has a different meaning when used in the *open education* jargon. MOOCs are indeed ‘open’ for registration, but their content is by rule not available for reuse. Bearing these comments in mind, we may consider that the words in the acronym answer the basic question that underlies the second section: “[What Are MOOCs?](#)”

The third section discusses the potential of MOOCs with respect to their target public and educational scenarios. The business model underlying the provision of these courses is still evolving, but the rule is that registration is free and open to anyone, while certification is normally available as a paid service. Additional revenue may come from a variety of direct and indirect sources, but the basic model of free access and paid certification has implications itself on what these courses can be used for. The two main groups of users will comprise members of the public at large, who are normally interested in acquiring knowledge, but have no specific need for certification, and participants engaged in graduation or lifelong learning programmes, where certification is useful for academic recognition. The same content and platforms may also be used in other contexts, such as bespoke small private online courses (SPOC) for corporate training or on-campus blended-learning education.

The advantages and disadvantages of MOOCs are the subject of the fourth section in this chapter. These courses share the main advantages of other types of distance education resources, for which flexibility is the key word. The participants in a MOOC are able to carry out their activities at any time, and from any place with internet access. However, this is not equivalent to saying that the participants are free to progress at their own pace, since most MOOCs have fixed start and end dates. This rule

is essentially a consequence of one major disadvantage that is normally associated with this type of course—the difficulty of providing effective tutorial support to a large number of participants. In the vast majority of cases, answers to questions are left to the responsibility of a hardly controllable ecosystem of peer support, and therefore the importance of creating a learning cohort, by forcing a start date for the course.

The implications of MOOCs on the teaching and learning world, and particularly on higher education (HE), are the subject of the concluding section in this chapter. Much has been said in this respect, particularly because many early observers saw these courses as a threat to the sector in general, and to traditional universities in particular. Whether or not MOOCs are a form of disruptive innovation is still open to debate, and there are interesting examples of HE institutions where online delivery was the deciding factor between bankruptcy and successful survival. MOOCs are already an important form of online course delivery, and will become increasingly important as their academic recognition widens. Their implications can be anticipated in the near term with respect to the modification of pedagogical paradigms, for example in the form of flipped classroom scenarios, but also in the medium to longer term, with respect to technological aspects, and to the HE academic profession and its economic landscape.

WHAT ARE MOOCs?

Massive Open Online Courses (MOOCs) gained widespread public attention during 2012. Hollywood-type MOOC trailers and high-quality content delivered free of charge by some of the world's best universities were perceived as a major pedagogical revolution by various academic sectors (Barber et al. 2013). Much of the over-expectation faded away during the following three years, but it is now clear that MOOCs are here to stay and will challenge traditional education as we know it. Higher education (HE) has come a long way since the 1960s, when hundreds of students packed amphitheatres at Cornell University to hear Richard Feynman's lectures on theoretical physics. It is debatable whether the *massive* audience that can be seen in those lectures (Feynman 1964) would be sustainable today, when amphitheatres have Wi-Fi and students have smartphones and tablets to distract them. Fifty years later, Cornell uses the very same smartphones and tablets as allies to attract generation Z students to similar lectures that are now delivered in the form of MOOCs (Chernoff 2015).

Many excellent MOOCs are available nowadays, frequently prepared and delivered by some of the best professors from top-ranked universities. By rule, as the acronym indicates, they are *courses* intended for a *massive* audience, supporting *open* registration, and prepared for *online* delivery. There are pros and cons in each of these words—*massive* participation helps to democratise access to high-quality educational materials, but it is incompatible with personalised support; *open* stands for free access, but should not be misunderstood as the allowance to reuse content; and *online* delivery ensures anytime/anywhere access, but will also in most cases mean strictly electronic communication, lacking any form of direct personal contact. This dualism helps to explain why MOOCs have very low completion rates, which were regarded with surprise in the earlier stages of their history.

George Siemens and Stephen Downes are normally credited as having offered the first MOOC, which was entitled *Connectivism and Connective Knowledge* (Siemens 2014). This course was delivered in 2008 to 25 tuition-paying students at the University of Manitoba, Canada, plus 2200 external participants, who attended online for free. Early MOOCs were based on networking and knowledge interchanging among participants, and their pedagogical model emphasised collaboration as a major contributor to the learning process. MOOCs of this type became known as cMOOCs, which is generally accepted to mean ‘connectivist MOOCs’. The current wave of MOOCs is normally referred to as xMOOCs, where the ‘x’ is said to stand for ‘eXtended’ (Downes 2013). xMOOCs are built upon well-defined learning routes and milestones, instead of relying on collaborative study and networking as the essential means to acquire knowledge. In very simplistic terms, we may say that cMOOCs are closer to an exploratory, constructivist learning model, and xMOOCs are closer to an instructivist approach to education, where the transmission of knowledge relies largely on pre-recorded short video lectures, according to a one-to-many approach, where all interaction takes place in deferred time, normally through a course discussion forum.

Stating that xMOOCs have an instructivist flavour is by no means equivalent to saying that they promote instructivist learning models. As will be discussed in more detail in the last section (entitled “[Implications on Higher Education Teaching and Learning](#)”), MOOCs are increasingly used to transform HE pedagogical paradigms. In particular, xMOOCs can be used to flip a classroom, replacing many or all the traditional lectures with live discussions and practical/hands-on exercises. *Flipped classroom*

models have indeed been used for a long time in arts and humanities degrees, but were recently rebranded by MOOCs as a modern pedagogical approach in science and technology areas. The learning model adopted in flipped classrooms is essentially constructivist by nature, even if based on xMOOCs.

The next big milestone in the MOOC timeline was the *Introduction to Artificial Intelligence* course offered online in late 2011 by Sebastian Thrun and Peter Norvig, which registered a record-breaking number of 160,000 participants. The enrolment figures of this course were clear evidence that something new was happening, of hardly predictable consequences. Thrun launched a company called Udacity in February of 2012, which was quickly followed by Coursera in April of that same year and by several other companies since mid-2012. Non-profit ventures also followed, among them edX, which was launched by MIT and Harvard in May of 2012. In June of 2013 edX was released as an open source MOOC platform, and enabled a growing number of institutions worldwide to set up and maintain their own servers. Open edX is also used in some countries to set up a nationwide MOOC platform, as happened in Norway, where Bibsys offers this service to all Norwegian HE institutions (Bibsys 2014).

The emergence of MOOC platforms fractured the world of online learning technologies, where most e-learning platforms shared similar functional features. In simplistic terms, MOOC platforms such as edX normally host informal education courses that are open to the public, while e-learning/learning management system (LMS) platforms are used in blended learning and formal education contexts, normally hosting online courses awarding credit points which are restricted to degree students. Current MOOC platforms are in various ways much simpler than traditional LMS platforms, which comprise more sophisticated administration and assessment features. The target audiences of LMS and MOOC platforms will increasingly overlap over time, and their distinctive features will become less evident as time passes, but the dividing line between formal and informal education may keep these two families apart, at least in the near future.

According to Edutechnica's Spring 2015 updates concerning LMS market share, Blackboard and Moodle are now used in more than 50% of all US HE institutions with more than 700 full-time equivalent (FTE) students (Edutechnica 2015). Market share reports will however show widely varying figures for different specific domains, for example, US-based 700+ FTE students, global or education & government LMS market share, and so on. Whatever the observation angle, MOOCs and novel MOOC

platforms still represent a very low share of the global market. In spite of this difference, major LMS providers quickly realised the importance of supporting MOOCs, as illustrated by specific products from Blackboard (CourseSites) and Canvas (Canvas Network). In what concerns the usage of MOOCs in Europe, an information portal launched by the European Commission in September of 2013 maintains a scoreboard that registers the existence of more than 1000 MOOCs at the time of writing (OpenEducationEuropa 2015).

THE POTENTIAL OF MOOCs

In a report entitled *Hire Education*, published in 2014, Michelle R. Weise and Clayton M. Christensen point out two main reasons why higher education is ripe for disruption (Weise and Christensen 2014):

1. “the price of tuition has soared; student loan debt [in the U.S.] now exceeds \$1 trillion and is greater than credit card debt”;
2. “employers are demanding more academic credentials for every kind of job yet are at the same time increasingly vocal about their dissatisfaction with the variance in quality of degree holders”.

The mismatch between degree qualifications and employer satisfaction is not new, and had already been termed ‘the great mismatch’ by *The Economist* three years earlier (The Economist 2011). The major problem faced by traditional ‘brick and mortar’ universities is that “they are unable to respond naturally from within”, as pointed out by Weise and Christensen—their value proposition model is just too stable, and has been basically the same for centuries. On the other hand, new universities offering online degrees centred their value proposition models on two potentially disruptive factors: convenience and low cost. MOOCs play a relevant role in this context, but their disruptive potential depends on a variety of factors that go well beyond student debt and qualifications mismatch (which are not at the same level in Europe and in the USA).

There are also non-technological, but possibly no less disruptive factors. The transformation of student profiles is at the top, as explained by Gabriel Kahn in a 2014 Slate magazine article (Kahn 2014):

College is still designed for 18-year-olds who are signing up for an immersive, four-year experience replete with football games and beer-drinking. But those traditional students make up only 20 per cent of the post-secondary

population. The vast majority are working adults, many with families, whose lives rarely align with an academic timetable.

MOOCs may represent a viable option for these new student profiles, particularly if it is possible to claim study credits upon successful completion. Informal recognition is already available through a variety of digital means. Basic digital certificates are awarded free of charge by MOOC providers, and a growing number of academic institutions issue open badges supported by the Mozilla foundation.

The education world had indeed been changing fast, prior to the emergence of MOOCs, and continues to do so independent of the MOOC mania. The implications for HE teaching and learning will be discussed in the last section of this chapter, and comprise pedagogical, technological, and economic consequences. The potential of MOOCs with respect to their target public and educational scenarios can be summarised as shown in Table 12.1.

Table 12.1 The potential of MOOCs with respect to their target public and educational scenarios

Open access to informal education	Anytime, anywhere, free of charge: MOOCs are the closest that we've come to this education utopia. Reality will lag behind in the case of course calendars with pre-defined start and end dates, political restrictions limiting internet access, and business models driven by for-profit ventures, or sustainability of non-profit initiatives. Nevertheless, the past three years witnessed the development and delivery of thousands of MOOCs, offering a wide variety of informal education resources (formal education impact proceeds at a slower pace, as a consequence of pedagogical and economic uncertainties)
Data collection	The science of educational/learning analytics now has access to a huge amount of fine-grained information about how students learn (Long and Siemens 2011). Every action of each student becomes part of his/her digital footprint in a MOOC. An extraordinary wealth of data is now available that may be used to correlate demographic information, student success, usage patterns of digital content, collaborative and social networking behaviours, and so on. Considering that reading habits and knowledge acquisition methods are fundamentally different among pre- and post-internet generations, the pedagogical data collected by MOOC platforms is vital to optimise course design and learning performance

(continued)

Table 12.1 (continued)

Recruitment	When hundreds of thousands of people from all over the world come together as a single learning cohort, the data collected about their activity is not just important for pedagogical aspects; it may also be used for head hunting purposes, or likewise by a university for hunting the brightest students
Transformation of pedagogical paradigms	Integrating MOOCs into university courses is increasingly common, and brought flipped classrooms into the spotlight as a mainstream pedagogical paradigm in science and technology courses. It should be said that flipped mode classes have been used for a long time, particularly in arts and humanities, but the availability of MOOCs greatly facilitated their implementation in other areas
Partnerships with industry and communities	Industry-university partnerships can greatly improve the quality of science and technology courses, but industry experts have little time to deliver lectures during their working hours. Integrating those lectures in a MOOC not only solves this problem, but also ensures reusability of content from one learning cohort to the next
Corporate training	Continuing professional education and on-the-job training have made use of distance education alternatives in the past, but the availability of high-quality MOOCs offered by some of the world's best universities is increasingly important as a corporate training alternative (Bersin 2013)
Business value for alternative education providers	The provision of MOOCs is already an important business area, and several companies were set up specifically for this purpose since 2012. This type of online courses can be particularly important for alternative education providers as referred elsewhere in this book (cf. the chapter <i>Quality, e-Learning and Alternative Providers of Higher Education</i> (Chap. 14) by Judith S. Eaton)
Internationalisation	MOOCs can be excellent ambassadors for institutional internationalisation via programme mobility (cf. Table 1.2 of the chapter <i>Cross-Border Higher Education: A New Business?</i> (Chap. 1) by Alberto Amaral). Their global reach represents an unmatched opportunity to showcase the educational portfolio of each institution and to attract international students for on-campus programmes

We are still witnessing the infancy of MOOCs, and there is a long way ahead before we can assess their longer-term impact on both formal and informal education. Some conclusions may start to be derived from pioneering studies, and the interested reader will find plenty of information in two reports detailing the first two years of edX courses at Harvard and MIT (Ho et al. 2014, 2015). The impact of MOOCs on residential

blended-learning education is particularly worth mentioning, namely in what concerns identified patterns of user participation and certification across courses, and its relation to course completion rates. These aspects are particularly interesting in the context of course sequences (*XSeries* in edX, *Specialisations* in Coursera), which are becoming increasingly popular due to their relevance in terms of monetisation strategies, accreditation of studies, and acquisition of job skills (Blake 2014; Coursera 2015). The demographic data available in the Harvard/MIT edX reports also offers valuable insight as to how MOOC participants split into several main categories. As further information becomes available, learning analytics correlating learning practices and academic success will be of fundamental importance for influencing instructional design practices and pedagogical strategies (Yousef et al. 2015).

After all the hype surrounding MOOCs in 2012, the low-profile reality that followed reached the bottom line when Sebastian Thrun, co-founder of Udacity, stated publicly in a 2013 interview that MOOCs were ‘a lousy product’ (Chafkin 2013). Not surprisingly, the 2014 Gartner’s Hype Cycle for Education showed MOOCs in the ‘Trough of Disillusionment’ phase. Likewise, in a 2014 survey conducted by the Huron Consulting Group for the Chronicle of Higher Education, Chief Information Officers (CIOs) and faculty placed MOOCs in the very last position among nine alternatives addressing “innovations that will have the most positive impact on American higher education in the future” (The Chronicle of Higher Education 2014). The percentage of CIOs and faculty who indicated MOOCs in the survey was only 2% in the case of two-year degrees, 3% for four-year degrees in public schools, and 4% for four-year degrees in private schools. On the opposite end of the scale, ranging from 59% to 68%, was ‘adaptive learning to personalise education’. Given the downfall in expectations, how shall we assess the potential of MOOCs now? According to the Hype Cycle for Education page maintained by the University of Minnesota, MOOCs left the ‘Trough of Disillusionment, in 2015, and are now in the ‘Slope of Enlightenment’ phase (University of Minnesota 2015).

ADVANTAGES AND DISADVANTAGES

Like all other teaching and learning approaches, MOOCs have pros and cons. It is possible to list them in a dualistic manner as shown in Table 12.2, where advantages and related disadvantages are associated according to each feature represented in the acronym.

Table 12.2 MOOCs—a dualistic perspective of advantages and disadvantages

<i>Feature</i>	<i>Advantage</i>	<i>Disadvantage</i>
Massive	Change pedagogical paradigms. Democratise access to informal education	Lack personalised support
Open	Promote institutional internationalisation	Blur cultural diversity
Online	Enable extensive learning analytics. Support anytime/anywhere access	Allow many options for academic dishonesty. Peer interaction is limited to electronic communication
Course	Offer high-quality informal educational content from top universities	Face accreditation difficulties

The organization of a *massive* course designed to be delivered to an audience that may reach hundreds of thousands of participants leaves few pedagogical alternatives. To start with, peer support may be the only form of help available. Tutors may be hired to support forum discussions, but this solution is not compatible with a massive participation of students from all over the world. It represents a huge contribution to democratise access to informal education, but the bottom line is the absolute lack of personalised support, which is a distinctive disadvantage of MOOCs in general. However, these very same features also open up interesting possibilities to change on-campus blended-learning pedagogical paradigms (Docq and Ella 2015). Flipped classrooms became the classic example associated with the integration of MOOCs into university courses, but there are other less common examples, such as distributed flips (Caulfield 2013). Whatever flipping method is adopted, swapping classroom time with interactive or practical work, instead of allocating it to theoretical plenary sessions, represents a move towards student-centred models.

The *open* registration policy of MOOCs enables the participation of students from all over the world, creating a truly international cohort. The same happened in distance education courses offered decades ago, but their one-to-many nature did not facilitate interaction among the participants. As a showcase of the educational portfolio, a MOOC catalogue is also an effective tool to promote programme mobility. A noted drawback is that there is a risk of impoverishing cultural diversity, if the content shared by all the participants is exactly the same in all countries. Licensing of content as a monetisation strategy can counteract this tendency, and the translation of edX courses into Mandarin may be pointed out as a known example. The growing number of MOOCs created in Europe also

acts in favour of preserving cultural diversity, particularly if we consider the variety of languages in which they are being produced. One distinct disadvantage of xMOOCs is that ‘open’ means nothing more than ‘open registration’, since the vast majority of these courses do not support, or even allow, other instructional designers to reuse their content.

Contrary to many previous distance education courses, in which physical documents were mailed through the postal system, *online* courses can be built solely on digital content. Access at any time, from anywhere, isn’t really 100% true, but the combination of flexibility and quality of content has reached new heights with MOOCs. On the other hand, the footprint left by MOOC participants offers an unprecedented wealth of pedagogical information, which will help us to understand how people learn, and also how to optimise instructional design methods. A noted disadvantage of the ‘online’ mode, in the context of MOOCs, is that all interaction will take place by electronic means, leaving out direct personal contact with teachers or the remaining learning cohort. On the other hand, not even the most sophisticated identity management systems are able to detect and prevent fraud. A wide range of educational and professional services are now available online that can also be used for academic dishonesty purposes. Any student can commission his/her assignments through various online academic concierge services. The quality of the deliverables will vary, particularly when an assignment is set up for bidding on a tight budget, using an academic freelancing or outsourcing platform. Independent of their quality level, all such deliverables will (supposedly) be original pieces of work, and as such will pass undetected through traditional plagiarism detection tools (task descriptions posted in such sites frequently inform the bidders that their deliverables will be submitted to Copyscape or Turnitin before being handed over to academic authorities). Accreditation of studies made through MOOCs may be possible if assessment is based on proctored exams, but the wide availability of cheating gadgets (Monorean 2015) weakens the use of videoconferencing for this purpose. Notice that academic dishonesty can also be found at institutional level, and has already been addressed in the *Cross-Border Higher Education* chapter of this book (cf. section “Degree Mills, Rogue Providers and the Need for Strong Regulation” in Chap. 1). There is in fact a growing number of companies offering fake degrees online, lectured by ‘permanent faculty’ impersonated by stock photo models (Anderson and Pesca 2015).

All *courses* designed to become a MOOC aim to offer free access to high-quality educational content. The need to generate revenue is not forgotten, either in the case of non-profit initiatives such as edX, or in the case of for-profit companies such as Coursera, Udemy, Udacity, FutureLearn, iversity and others. Out of sustainability concerns or due to the need to care for investor objectives, there are a variety of monetisation strategies that may include tuition fees, paid approval certificates, provision of learning analytics, and so on . In most cases, however, it will be possible to enrol in a course and to follow it through without any cost. Given the high quality of many MOOCs, and the prestigious universities that are behind them, free access remains as one of the main advantages of MOOCs, and has certainly made a difference for democratising access to informal education. However, learning in a do-it-yourself world unavoidably faces accreditation restrictions. Given the range of academic dishonesty options referred to in the previous paragraph, the only way to ensure that the students achieved the proposed learning goals is to set up a final exam, with its accompanying cost. Some people may see this condition as a disadvantage, but it should be added that paying for an exam, in a tuition-free course, is already common in similar contexts—the University of the People in the USA has no enrolment or course content charges, and its sustainability is ensured by small processing fees that are solely related to the application process and final exams. Accreditation difficulties may be regarded as a disadvantage of MOOCs, but it should be said that the associated cost is not the only reason: Contrary to what happens with cross-institution academic recognition concerning traditional courses, very few MOOCs are valid for credit in more than one university.

IMPLICATIONS ON HIGHER EDUCATION TEACHING AND LEARNING

The availability of high-quality online courses free of charge facilitates the development of online universities that challenge the traditional brick and mortar model. In a TEDx talk delivered in 2012, Michele Pistone claims that universities survived unchanged for centuries because they possessed knowledge and experts, which scarcely existed elsewhere in the past, and also because they possessed socially accepted mechanisms for certifying mastery (Pistone 2012). The fact that knowledge and experts are now easily accessible at our fingertips certainly questions the survival of the traditional HE model, which is still protected by the

fact that universities remain, at least for the time being, the only socially acceptable form of acquiring a degree. However, various disruptive education scenarios may question the survival of traditional universities as we know them today (Weise and Christensen 2014). The disruptive potential of MOOCs may not be sufficient to destroy HE as we know it, but it is not difficult to anticipate some of their implications in pedagogical, technological and economical areas.

The pedagogical implications were largely addressed throughout the previous section, where we considered the advantages and disadvantages of MOOCs. The new pedagogical paradigms integrating MOOCs into blended-learning university courses are particularly worth mentioning, because they promote student-centred education models. Traditional HE pedagogical paradigms are still very much based on teacher-centred plenary classes, which survived the Bologna revolution for two main reasons:

1. Research-intensive universities value scientific productivity over pedagogical excellence
2. Plenary lectures are traditionally well accepted by students, who resent the higher workloads of active learning methods

Flipped classrooms based on MOOCs can be a game changer in this context, because they release classroom time that can be used for discussions and practical work, while offering the students easy access to theoretical content that can be consumed anywhere, at any time of their convenience (Contact North 2015).

The technological implications are unfolding quickly. It has already been noted that CIOs and faculty undervalue the innovative potential of MOOCs for HE (The Chronicle of Higher Education 2014), but their number continues to grow at a remarkable rate, both in Europe and in the USA. The decision taken in 2013 by MIT and Harvard to release the edX platform code as open source enabled any institution to set up their own MOOC server, and effectively created a competition between traditional LMS platforms and MOOC platforms. Many institutions nowadays offer e-learning and MOOC support to their faculty, without a clear definition of their respective application domains. The dividing line between e-learning and MOOCs was further blurred by the fact that several e-learning companies started offering MOOCs, as happened with Blackboard's CourseSites and Canvas Network, and several universities developed their own MOOC platforms based on a traditional LMS, e.g.

on Moodle (Lorenz et al. 2015). The essential differences between a traditional LMS platform and a MOOC platform are but just a few:

1. The number of users in a single course, which are expected to be much higher in a MOOC;
2. The variety of pedagogical features and administration and assessment modules, which are usually more sophisticated in a traditional LMS platform;
3. The delivery of content is widely based on video streaming in the case of MOOCs.

Usage scenarios and current developments suggest that the technical features of MOOC platforms and traditional LMS platforms will become more similar. On the other hand, and since MOOCs became a mainstream tendency in the context of distance education, where dematerialisation was ensured by default, their progressive acceptance in blended-learning contexts will push the on-campus dematerialisation trend, including a more frequent use of digital certificates and open badges.

The economic implications of MOOCs can only be partially envisaged at this time, both because their business model is still under development, and also because the prevalence of online courses will modify faculty structures and the nature of HE jobs in ways that depend on a variety of social factors (Carey 2015; The Economist 2015). A recent study addressing the future of MIT education anticipates that “the roles of MITx instructor and MITx student may exist in 2020” (Massachusetts Institute of Technology 2014, p. 22). In this context, it is particularly interesting to reference the case of the Southern New Hampshire University (SNHU) in the USA: in a period of five years, SNHU multiplied its number of students by 17 and took up a leading role among US HE institutions offering online education (Raths 2014). Their financial model can be used as an example concerning the anticipated economic implications of MOOCs used in blended-learning contexts: “Just like many of the for-profit universities, SNHU tries to maximise efficiencies and scale up everything it does to drive down costs. At SNHU, online courses are created centrally and then farmed out to a small army of adjuncts hired for as little as \$2,200 a class” (Kahn 2014).

The full implications of MOOCs are yet unclear at this stage, but it is certain that the number of HE institutions investing in the production of these courses will continue to grow for years ahead, and that they

will become increasingly common in blended-learning on-campus education. Accreditation of MOOCs will become progressively standard in traditional universities, and examples are already available in this respect (Straumsheim 2015). MOOCs are still in their infancy as a mainstream educational resource, but it is already evident that this form of online coursework is here to stay, and that it has already made a huge contribution to democratising access to informal education in all parts of the world where internet access is available.

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PART VI

Quality Agencies and Cross-Border
Higher Education

Quality Assurance of Cross-border Higher Education – a Case for Collaboration Between National Quality Agencies

Padraig Walsh

Member States have the right and indeed duty to protect their citizens from fraudulent and low quality higher education. In relation to the regulation of higher education, how is this achieved?

In this paper, I will look at a number of scenarios relevant to the quality assurance of international education. I will focus more generally on the quality assurance of qualifications and the quality assurance of Cross-Border Higher Education (CBHE) rather than the specific provisions of the Services Directive.

I will begin by looking at the specific example of how these matters are regulated in my home country, Ireland, an EU Member State. If we have no confidence in the particular, we cannot proceed to the general.

I will follow this with a look at how international higher education operates between Ireland and its nearest neighbour, the United Kingdom, as there is significant mobility between both jurisdictions.

P. Walsh (✉)

Quality and Qualifications Ireland (QQI), Dublin, Ireland

I will then conclude by looking at quality assurance across the wider European Higher Education Area and see how amenable it is to the development of well-regulated and quality-assured higher education.

QUALITY ASSURANCE OF IRISH HIGHER EDUCATION

The quality assurance of higher education in Ireland is regulated through the Quality Assurance and Qualifications (Education and Training) Act, 2012 (Ireland 2012), which established the new Irish agency, Quality and Qualifications Ireland (QQI). The agency was an amalgamation of four agencies responsible for qualifications and quality assurance in higher and further (vocational) education.

I will use Ireland and QQI specifically as an example for a number of reasons:

- Obviously, it is the system with which I am most familiar
- As a country, Ireland has the highest percentage of its population in the EU in the age category 25–34 with a higher education qualification
- QQI has been established relatively recently (in November 2012)
- QQI has responsibility in relation to qualifications and quality assurance
- Irish higher education institutions export higher education to an increasing number of countries throughout the world
- Ireland has a significant number of private institutions that offer awards from non-Irish (mainly UK) universities
- Ireland has a significant number of international students, including many from outside the EU
- Ireland is a very open economy and is relatively lightly-regulated (under-regulated?) in relation to higher education

In relation to qualifications, QQI also acts as the National Academic Recognition Information Centre (NARIC). We provide qualifications advice to Irish students who wish to have their qualifications explained when they are looking to move overseas for further study or to gain employment. This service has been heavily used in more recent times due to the global economic crash which has seen 10% of the population of young people in Ireland emigrating since 2008.

QQI also offers a service to non-Irish graduates who are immigrants to Ireland and wish to have a statement of equivalence issued to them in relation to their qualifications for the purposes of further study or to gain employment. Ireland has a large and recent immigrant population, with significant numbers coming in the past decade from newly admitted Member States from the former Eastern Bloc. In 2013, for instance, a quarter of children born in Ireland were born to mothers who were not born in Ireland.

QQI is also responsible for maintaining and reviewing the ten-level Irish National Framework of Qualifications (NFQ) (QQI 2015) which was established in 2003. The Irish NFQ was the first national qualifications framework to be self-certified against the Bologna (EHEA) Framework in 2006 and was the first to be referenced against the 8-level European Qualifications Framework for Lifelong Learning (European Commission, n.d.) in 2009.

The 2012 legislation that established QQI was developed to regulate (further and) higher education in the knowledge that Ireland was relatively open in relation to the provision of higher education and an EU Member State that has to comply with the Services Directive.

- How then does Ireland both inform and protect higher education students from fraudulent or poor-quality higher education?
- What responsibility or regulatory powers does the national quality assurance agency have in relation to qualifications and quality assurance?

It is important to note that Ireland has a system of higher education with significant academic autonomy. In the EUA 2009 Autonomy Scorecard, Ireland was ranked first of 34 higher education systems analysed for the category of academic autonomy. Public higher education institutions in Ireland are self-awarding. They validate their own programmes. The state has no role in the setting of the curriculum or in setting conditions for the appointment of university staff or in the internal structures of the university beyond specifying the parameters covering the composition (but not the membership) of the governing body (Board) and academic council (Senate).

QQI's function in relation to public higher education institutions is to act as an external quality assurance agency and to perform periodic

audits/evaluations of the effectiveness of quality assurance procedures. QQI also has responsibility for the validation of programmes and the external quality assurance of private higher education institutions that choose QQI as their awarding body.

QUALITY ASSURANCE OF THE EXPORT OF IRISH HIGHER EDUCATION

The 2012 Act introduces the concept of ‘linked providers’, which are higher education institutions that do not have degree-awarding powers themselves but whose awards are made by ‘designated awarding bodies’ such as the Irish public universities. This places the responsibility for external quality assurance on the awarding body (the university) and QQI, as part of its evaluation of the university, has to assure itself as to how the university quality assures the ‘linked provider’.

To do this, since its establishment, QQI receives annual reports from each university which include a return of ‘linked providers’ and the university’s plans to evaluate the effectiveness of quality assurance of the linked provider. In effect, the university has to act as a quasi-quality assurance agency in respect of the linked provider.

The concept of a ‘linked provider’ applies to any of the university’s awards, wherever they are delivered, including in the EU, EHEA and in other continents. QQI, as part of its annual reporting requires universities (and other ‘designated awarding bodies’) to return information on its collaborative and transnational provision:

- ‘Linked’ providers (where the university makes the award to another higher education institution without its own awarding powers either in Ireland or overseas)
- Its ‘joint-awarding’ (either in Ireland or overseas) with other awarding bodies including foreign universities

This exercise, over the past number of years, has been very illuminating in detailing the significant amount of Irish higher education that takes place outside the cloisters of the university campus in Ireland. In many cases, this has been as illuminating for the universities as it has been for QQI! The latest version of this composite return indi-

cates that Irish higher education institutions make awards (either jointly or on their own) in

- Europe (France, Germany, Malta, Norway, Poland, Portugal, Spain, Sweden and the United Kingdom)
- Asia (Bahrain, China, Dubai, Egypt, Hong Kong, Malaysia, Oman, Saudi Arabia, Singapore and Sri Lanka)
- America (the United States)
- Australia

The periodic audit of a university undertaken by QQI as part of its new cycle of reviews will have to take account of all of these relationships and awards. Until the 2012 Act (which replaced the quality assurance provisions of the 1997 Universities Act) there was no specific legislation covering the operation of Irish universities outside of Ireland.

The economic downturn of 2008 has had a disastrous effect on the Irish economy and on the higher education sector in particular. Staff numbers have been cut and public funding has been significantly reduced. This is at a time when the current demographics in Ireland point to increasing demand for access to higher education (in stark contrast to much of the rest of Europe and in the peripheral countries of Europe in particular).

Core funding per higher education student has declined by 15% since 2008 against a background where student numbers have grown by 14% in the same period. Many universities have had to seek additional revenue streams as the undergraduate tuition fee for Irish and EU students is capped by government. In reaction to this, many Irish universities have sought to develop programmes with universities outside of Ireland and indeed Europe, largely in Asia.

The legislative provision in Ireland is that the universities, as self-awarding bodies, are responsible for the quality assurance of their awards, wherever they are delivered and hence QQI ultimately has responsibility for how the university is exercising its awarding powers, wherever that may be.

What can QQI, the national quality assurance agency do to ensure that the higher education institution is using its awarding powers in a responsible manner? QQI has a responsibility to periodically evaluate the effectiveness of the quality assurance procedures established by an awarding body in respect of its education provision on its own campuses and wherever the higher education body makes awards, in this case to linked providers.

QQI will, when fully operational, manage a cycle of review of higher education institutions on a 5–7 year basis. In addition, each designated awarding body is required to submit an annual institutional report and to undergo an annual dialogue visit with QQI (Needless to say, such dialogue visits do not extend to Hong Kong or Australia!). The agency also publishes an annual digest of the annual institutional reports.

With the enactment of the 2012 Act and a significant increase in the number of Irish higher education institutions making awards overseas, QQI requires all of the designated awarding bodies to make returns on its linked colleges (whether they be in Ireland or overseas) and from 2014, the institutions have agreed to publish their annual institutional reports. This will give greater visibility to the quality assurance arrangements that the institutions have entered into at home and abroad. Under the 2012 Act, the external quality assurance requirements on a designated awarding body with a linked provider are greater than those of QQI's responsibilities in respect of a designated awarding body.

The linked provider is required to develop quality assurance procedures and ensure they fit with the designated awarding body. The procedures have to be based on QQI guidelines and have to be put in place and periodically reviewed by the linked provider. This could include regular reviews of study programmes or disciplinary units. The outcomes of these evaluations have to be reported and submitted to the designated awarding body. The designated awarding body also has to periodically review the effectiveness of these processes. The designated awarding body is required to publish the outcome of these evaluations and also to provide a copy of any such report to QQI.

Following any such review, the designated awarding body can issue directions to the linked provider which the provider must implement. If the directions are not followed, the designated awarding body can withdraw the approval of the quality assurance procedures, in effect withdrawing the awarding of qualifications for the linked provider.

An element of the periodic review of a designated awarding body by QQI will include how it is managing its collaborative provision, or in other words how it is overseeing the quality assurance of its linked providers both at home and abroad. The reports arising from any such reviews will be published on the QQI website.

The increase in the activity of higher education institutions across borders causes particular challenges for quality assurance agencies. In some countries, overseas campuses of foreign awarding are required to operate

under licence. Ireland, however, does not operate a licensing system for private higher education institutions. In Europe, the licensing system may operate at the local level (canton/autonomous, region/lander level, etc.) or national level. There may also be a requirement for the local quality assurance or qualifications agency to have a role in the quality assurance or qualifications recognition of franchises or campuses of foreign universities. In many cases, the overseas campus has to satisfy the quality assurance arrangements for the national agency where the campus is located and the quality assurance arrangements for the national agency where the awarding body is based.

This is the case, for instance, with Ireland's private medical university, the Royal College of Surgeons in Ireland, RCSI (a designated awarding body with its own degree awarding powers). RCSI has to be quality assured by QQI for its operations in Ireland and Bahrain, has to be accredited in Ireland and in Bahrain by the Irish Medical Council, and is also accredited by the Bahrain Medical Council in Bahrain. To be sure, to be sure, to be sure!

Good working relationships between quality assurance agencies in both host and receiving institutions are certainly in the interests of higher education institutions and students. The above gives some explanation as to how QQI operates with respect to Irish higher education institutions when they are making awards outside of Ireland.

QUALITY ASSURANCE OF INTERNATIONAL HIGHER EDUCATION IMPORTED INTO IRELAND

What role does QQI play in relation to non-Irish institutions operating in and making awards in Ireland? Due to our shared history and language, there is a long tradition of mobility of students and labour between Ireland and the United Kingdom. In the area of vocational education, City and Guilds has been operating in Ireland since 1901 (which predates the break-up of the United Kingdom of Great Britain and Ireland in 1922).

City and Guilds has operated a Dublin office since 2002 and has in place a dedicated team to support local centres, agencies, employers and learners. With the establishment of the Irish National Framework of Qualifications (NFQ) in 2003, the qualifications of City and Guilds were formally aligned to the Irish NFQ in 2008. This was seen as an important milestone in benefitting learners in Ireland seeking to progress onto the

next level of their training and career progression. City and Guilds vocations awards are aligned up to level 6 of the Irish NFQ, whereas most higher education awards operate at levels 7–10.

Developments in higher education have taken place at a later stage. Prior to the establishment of QQI, private higher education institutions seeking accreditation generally sought this from the former Higher Education and Training Awards Council (HETAC), since amalgamated into QQI.

As the title ‘university’ is protected under Irish law, only the seven public universities (and the federal National University of Ireland) can use the title. The institutions of the former polytechnic sector, for instance, are termed Institutes of Technology. They are not permitted to use the title ‘university’, although the current National Strategy for Higher Education offers them the chance, as part of an amalgamation of several Institutes of Technology, to acquire the status and title of Technological University, once such legislation has been enacted.

In a similar manner, private Irish higher education institutions covet the title ‘university’ but are not permitted to use it. This has persuaded some private higher education institutions to seek awards from UK universities since the mid-1990s. Over time and with the establishment of HETAC, some of these arrangements moved on to joint awarding between HETAC and the relevant UK University and eventually many of the private institutions sought to have the majority of their provision awarded by QQI. One of the reasons for this is that QQI-validated higher education programmes offered by private providers qualify for tax relief on tuition fees and such programmes are included in the Irish National Framework of Qualifications.

Under the 2012 Act, QQI has the power to delegate authority to make awards to higher education institutions without their own awarding powers. All of the public Institutes of Technology have such powers but the 2012 Act permits, subject to Ministerial regulations, such powers to be given to private providers. It is likely that this will only be exercised in cases where the higher education institutions has an established and mature history of programmes being validated by QQI (and formerly by HETAC).

Due to the economic success of Ireland in the period 1998–2008, the country became attractive to immigrants and, as the labour market tightened, the immigration and education authorities operated a visa-granting system that permitted visa-required students to work 20 hours per week during term and full-time outside of term to support themselves in their study in Ireland.

As work-based immigration in Ireland is tightly controlled, obtaining a student visa is the simplest method of accessing the EU for a non-EEA citizen. Between 1998 and 2008, the Irish authorities, under pressure of a tightening labour market, turned something of a blind eye to much student immigration and a relatively large industry has evolved in the area of English-Language training, vocational education and higher education mainly to visa-required non-EEA students. This follows the experience of other countries with significant numbers of overseas students such as the UK and Australia. Although a number of these institutions offer QQI (formerly HETAC awards in higher education or FETAC awards in vocational or further education) awards, the majority offer awards of UK vocational awarding bodies or the awards of UK universities.

The issuing of student visas by the Irish Department of Justice has been based on the operation of an Internationalisation Register, which was originally maintained by the Irish Department of Education but which has been maintained by the National Qualifications Authority of Ireland since 2008 (and then transferred to QQI in 2012), on behalf of the Departments of Education and Justice. This register is a list of programmes (higher education, vocational education and English language training) that fulfill some basic requirements in terms of programme duration and student contact time.

As part of the International Education Strategy of the Irish Government in 2009, priority areas in English language and Higher Education have been identified. The international education strategy also committed QQI to the establishment of a ‘quality mark’ for international education, which would be awarded to providers of education and training who complied with a code of practice for the provision of education and training to International students.

During the passage of the legislation that established QQI in 2012, the Irish government was persuaded that the phrase ‘quality mark’ for international education might confuse stakeholders in relation to the normal institutional quality assurance review processes operated by QQI and the term ‘international education mark’ (IEM) was included instead. The authorisation of the IEM by QQI will be at the level of a provider.

- What is the intention of the IEM?
- How will it protect the state from rogue operators?
- How will it protect students from poor quality provisions?
- How will it protect the state from economic migrants posing as students?

The operation of the IEM for QQI requires a number of stages:

- For a new provider of higher education, firstly they have to agree quality assurance procedures with QQI.
- They then have to validate a programme of education and training with QQI.

The provider can then apply for the international education mark. This will involve an evaluation against a statutory code of practice for the provision of education and training to international students. There is a fee for the initial authorisation of the mark and an annual charge (related to numbers of international students). The IEM is awarded at the level of a provider. The definition of international student for the purposes of the IEM is a student who is in Ireland primarily for the purposes of education and training.

One of the aims of the IEM is to increase the proportion of full fee-paying students from outside the EEA. Ireland currently operates a system where there are no undergraduate tuition fees payable for full-time EEA students (under 23), although there is a not inconsiderable and rising ‘student registration charge’ which will be €3000 annually by the beginning of the academic year 2014–15.

WHAT IS THE IMPORTANCE OF THE IEM?

There has been growing concern in Ireland that the student visa system was being abused. This came to a head in 2014 when a report by *The Sunday Times* newspaper led to allegations that some private colleges were falsifying attendance records for students who were really economic migrants posing as students. When a number of these colleges closed down suddenly in spring 2014, many visa-required students were left significantly out of pocket and without courses of study to follow.

The Ministers for Education and Justice established a task force to look at the issue of private colleges recruiting international (visa-required) students and in September 2014 announced a package of regulatory reforms that would apply from the start of 2015. QQI will have a major role to play in this reform of the regulatory regime for international students.

From 1 January 2015, in order to qualify to recruit international (visa-required non-EEA) students, an education provider will have to apply for and be authorised to use the QQI International Education Mark. In addition, a new version of the Internationalisation Register will be imple-

mented by the Departments of Education and Justice. Only programmes validated by Irish awarding bodies in higher education will be listed on the Register, with a number of exceptions (in relation to providers offering certain international accountancy qualifications). All vocational education qualifications (including those awarded by QQI and by UK vocational awarding bodies) will be delisted.

These changes are being strongly resisted by providers who offer mainly vocational qualifications made by UK awarding bodies and are almost entirely reliant on visa-required international students. There are also a number of private providers who receive awards from UK universities, as described above, that will also be impacted by the regulatory changes.

CO-OPERATION BETWEEN NATIONAL QUALITY ASSURANCE AGENCIES IN IRELAND AND THE UNITED KINGDOM

From the above, it is clear that the education systems in Ireland and the United Kingdom are inextricably linked. There is the historical association with City and Guilds awards that predates Irish independence; the use of a common language and the long history of the three-cycle Bachelor, Master's and Doctoral system.

There are also a number of more unfortunate shared experiences. There is a shared concern in relation to bogus colleges recruiting economic migrants posing as students. The owners of the colleges in *The Sunday Times* investigation were found to have run a similar college in the UK, which fell afoul of QAA, the agency that is currently responsible for quality assurance of the UK higher education sector. Since its establishment in 1997, it has largely been concerned with the public university sector. In 2011, it took over responsibility for educational oversight, the process whereby a body achieves 'trusted sponsor' status, in relation to a higher education provider being able to recruit visa-required non-EEA students to the satisfaction of the then UK Borders Agency.

Since 2013, QQI and QAA have met on a biannual basis. The agencies signed a Memorandum of Understanding and an Information Sharing Protocol at the ENQA General Assembly in October 2013. This was in recognition of our shared interest in quality assurance.

Just like in Ireland, UK universities have autonomous awarding powers, meaning they can and do exercise these outside the UK. The international education industry is of great importance to the UK economy and the protection of its reputation is vital for the country and QAA. Due to the

large volume of UK provision overseas, QAA probably has one of the most developed systems of overseas audit of CBHE. UK universities have been and continue to be very active in the Middle East, the Indian sub-continent and the Far East.

QAA has developed a variety of methods for auditing collaborative (including transnational) provision. It is extensively provided for in the UK Quality Code for Higher Education. QAA has, over the past 20 years, conducted country-based audits including site visits to China, India, Malaysia and Singapore, to name but a few locations. The agency has also undertaken quality audits of collaborative and overseas provision separate to the audit of the home university. In the most recent consultation on its institutional review model that QAA has engaged in, with respect to collaborative provision, the feedback from universities is that they would prefer if all of their provision (campus, collaborative and transnational) was undertaken within a single audit.

UK universities are less active within Europe than in Asia, but for the reasons given above, in recent years, an increasing number of UK universities are making awards in Ireland.

OVERSIGHT OF UK AWARDING IN HIGHER EDUCATION

The website of the UK government provides a helpful description of the regulation of the UK higher education system. This distinguishes between what are termed ‘recognised’ and ‘listed’ bodies. Recognised bodies are institutions that can award degrees. These include the familiar public universities. Degree awarding powers are derived from ancient or Royal Charters or more recently from the Privy Council. QAA has a role in recommending the granting of degree-awarding. ‘Listed bodies’, on the other hand, are bodies without degree-award powers but may offer courses that can lead to a degree from a recognised body.

As the UK government website puts it, in rather stark language:

If your degree is awarded in the UK, it must be a ‘recognised award’, or come from a recognised or listed body—otherwise it will be considered bogus and won’t count when you’re looking for a job.

The registers of listed and recognised bodies are maintained in a piece of secondary legislation called a statutory instrument. It is important to note, however, that the register of listed bodies refers only to bodies reg-

istered in the territory of the UK. There is no equivalent statutory or consolidated list for bodies where UK universities are making awards outside of the UK, including Ireland.

QAA, as the body currently charged with the external quality assurance of UK self-awarding universities has responsibility for quality assuring provision, wherever it is delivered by a UK university, including in Ireland. This activity should be captured in the periodic quality audits of UK universities making awards in Ireland. As the scope of this activity is relatively recent, there has never been a country audit of awarding by UK universities in Ireland.

UK universities are required to comply with the UK Quality Code for Higher Education including providing information on and demonstrative confidence in their management of collaborative provision. Audit Reports by QAA (and anecdotal inspection of websites by the author) reveal, however, that the provision of information on collaborative provision is uneven.

Some universities provide interactive maps and web links to the locations of overseas providers offering UK awards and list the specific programmes on offer. In the case of other institutions, such information is more difficult or impossible to find or confirm. Where UK universities are making awards in Ireland, there is also uneven information provided by the Irish franchise or education provider on its website.

ROLE OF QQI IN THE QUALITY ASSURANCE OF TRANSNATIONAL EDUCATION

When QQI has fully rolled out its policies, a number of elements should be in place to protect and inform students in relation to higher education qualifications and quality assurance in or from Ireland:

- There will be a searchable Directory of Programmes and Awards recognised in the Irish National Framework of Qualifications (NFQ)
- QQI will publish and maintain a list of providers making awards in the NFQ
- This will include a list of ‘linked providers’ of Irish ‘designated awarding bodies’ indicating their collaborative and transnational provision
- QQI will publish and maintain a list of providers that have been authorised to use the QQI International Education Mark
- The Directory will list awards made by Irish Awarding bodies

- QQI will publish quality reviews of all designated awarding bodies
- QQI will publish quality reviews of all bodies availing of QQI awards
- QQI will publish quality reviews of 'linked providers' that have been commissioned and published by Irish 'designated awarding bodies'

QQI has the responsibility for the maintenance of the Irish NFQ. The Irish framework is relatively open and to date, has formally aligned awards made by non-Irish awarding bodies that are making awards in Ireland, such as the aforementioned City and Guilds.

The alignment process, however, needs to be as robust as all other qualifications in the Irish National Framework of Qualifications. QQI, as custodian of the NFQ, has to ensure that however an award makes its way into the framework, it is subject to comparable quality assurance procedures. In the case of QQI awards or the awards of other Irish awarding bodies, an award, once placed, is subject to periodic reassessment through the process of quality assurance.

QQI has to ensure that the same process occurs for non-Irish awards included or aligned, in the NFQ. The importance of being recognised in the NFQ is that many government funding programmes use the term 'recognised in the framework' as a proxy filter for eligibility for funding.

Over time, QQI expects that its role, as gatekeeper to the NFQ, will be an increasingly important mechanism in ensuring that all awards in the NFQ are quality assured; whether they are made by Irish awarding bodies in Ireland, Irish awarding bodies operating outside of Ireland or the awards of non-Irish awarding bodies making awards in Ireland.

THE QUALITY ASSURANCE OF CBHE IN THE EUROPEAN HIGHER EDUCATION AREA

I now wish to extend the discussion of the recognition and quality assurance of higher education qualifications to the wider European area. In particular, what role can and do national quality assurance agencies play in the quality assurance of CBHE?

The Bologna Process since 1999 aims to facilitate mobility of students and labour throughout Europe for increased economic benefit. Prior to 1999, the systems of higher education in Europe were largely closed. There was relatively little CBHE education within Europe, almost no joint degrees and relatively few quality assurance agencies. There was not

a system of comparable degrees, no national qualifications frameworks and certainly no meta-frameworks.

The European Standards and Guidelines (ESG) for Quality Assurance in Higher Education (ENQA 2005) and (ENQA 2015) assert that Higher Education Institutions have primary responsibility for the quality of their provision and its assurance. The ESG proposed broad principles and an interconnecting system of internal quality assurance within higher education institutions; the external quality assurance of such systems and a quality assurance system for external quality assurance agencies.

Where have we made progress in the past decade? In the current version of the ESG, the term ‘learning outcomes’ is only mentioned three times. It is mentioned seven times in the new ESG. The 2005 ESG (ENQA 2005) were framed in the context of national quality assurance systems. Standard 3.2 on Official Status requires agencies to be formally recognised by competent public authorities and should comply with the requirements of the legislative jurisdictions within which they operate. Standard 2.7 referred to agencies undertaking reviews on a cyclical basis.

The proposed revised 2015 ESG (ENQA 2015) recognises the distance quality assurance has travelled and makes no reference to legislative jurisdictions and the periodic reviews standard have moved from an agency requirement to an institutional requirement

The European Association for Quality Assurance in Higher Education (ENQA) was charged in 2003 by the ministers responsible for higher education in the Bologna signatory countries, in cooperation with EUA, EURASHE and ESU (the representative bodies for higher education institutions and students) with proposing a system of standards, guidelines and procedures for the signatories to the Bologna declaration.

The ENQA report to the Ministerial conference in Bergen in 2005 proposed a series of principles-based standards and guidelines (ESG) but stopped short of recommending common procedures. This was in recognition of the different approaches that existed (and to some extent, still exist) within Europe to quality assurance ranging from strongly autonomous systems of institutional-based audit in some Member States to more restrictive systems of state-sponsored approval of accredited programmes of study in others.

The principle of automatic/less bureaucratic recognition of qualifications sits uneasily with the differences prevalent in some of these systems. The snowball that became the Bologna process has also meant that the

countries added to the process along the way (*ipso facto*, the least prepared) were expected to reach the same end point in significantly less time.

This is not to take from the success that the establishment of the European Higher Education Area (EHEA) has been. Quality assurance and qualifications frameworks in particular stand-out in comparison to the progress on some of the other Bologna action lines.

How realistic is it to believe that the common principles within the Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG) provide sufficient confidence to the Member States in relation to the recognition of qualifications and the quality assurance that sits behind those processes?

The 2005 Ministerial Statement adverted to the establishment of a register of quality assurance agencies operating consistently with the ESG. It also envisaged a system of national qualifications frameworks based on learning outcomes consistent with the Bologna three-cycle system. The European Quality Assurance Register for Higher Education (EQAR) was established in 2008, with ENQA, EUA, EURASHE and ESU as founding partners.

EQAR's vision (as described on its website) is "a coherent quality assurance framework for the European Higher Education Area (EHEA) in which higher education institutions have the freedom to turn to any EQAR-registered agency for their external quality assurance reviews, and in which qualifications are thus universally recognised." This vision is consistent with the Services Directive.

It is interesting to look at the convergence in the membership of ENQA and EQAR since 2008. By October 2014, for ENQA, of the 48 countries in the EHEA, 22 countries have agencies that are full members of ENQA, two of which are currently under review. Fifteen countries have agencies as affiliates and eight countries do not have agencies in any status with ENQA.

Of the fifteen countries that have affiliates, six are EU members states (Cyprus, Greece, Italy, Malta, the Slovak Republic and Sweden), one (Iceland) is an EEA state, one (Andorra) is a micro-state; three are former USSR republics (Armenia, Georgia and Kazakhstan); two are former Yugoslav republics (Bosnia & Herzegovina and FYR Macedonia) and the remaining two are Albania and Turkey.

Of the 8 EHEA countries that have neither member agencies nor affiliates in ENQA, two are small or micro-states (Luxembourg and Liechtenstein), one (Slovenia) is a member of EQAR and has applied for ENQA membership, one (Latvia) has a former ENQA member agency.

The remaining four are three ex-USSR republics (Azerbaijan, Moldova, and Ukraine) and one ex-Yugoslav republic (Montenegro).

In total, there are 41 ENQA full member agencies (all of whom have undergone a successful review against ESG). In relation to EQAR, there are 32 agencies listed who have undergone a successful review against ESG. There are 30 agencies that are ENQA full members and are listed on EQAR, a very significant level of convergence. There are two agencies listed on EQAR that are not members of ENQA, one of which has applied for ENQA membership. There are eight ENQA full members that are not listed on EQAR, a number of which are a result of recent agency mergers and who are likely to apply to EQAR in the near future.

In advance of the approval by the Ministers of the revised ESG in May 2015, it is possible that the intersection of ENQA full members and EQAR listed agencies will be close to complete. That said, how close are we to the EQAR vision of “a EHEA in which higher education institutions have the freedom to turn to any EQAR-registered agency for their external quality assurance reviews, and in which qualifications are thus universally recognised”?

This should be looked at also in the context of the 2006 recommendation of the European Council on further cooperation in quality assurance in higher education that encourages EU Member States, through its national authorities, higher education institutions and quality assurance agencies to apply the ESG and called for “member states to enable institutions to seek accreditation from outside their own country from an agency which meets their needs and profile”.

Let us look at the reality of the two visions described above. EQAR wishes higher education institutions to have the freedom to turn to “any registered agency for their quality assurance reviews”. The EU is encouraging Member States through their national authorities to permit Member States to seek accreditation “from outside their own country” but “from an agency which meets their needs and profile”.

In theory then in 2014, there are 32 agencies listed on EQAR who could be performing evaluations on a European-basis within the 48 higher education systems of the EHEA. According to the EQAR website, which lists the countries where registered members could be active, in theory, 40 of the 48 states have or could have EQAR-registered agencies operating within their borders. The reality would appear to be somewhat different. Some of this turns on the difference between a HEI turning

to “any registered agency” and a national authority permitting a HEI to turn to a foreign agency “which meets their needs and profile”.

Europe is not a homogeneous entity and higher education, in many cases, still has many essential national characteristics. The ESG were founded on principles for a reason and they have to reflect the diversity of Europe. There is still a mix of institutional audit and programme accreditation practised and a mix of national, regional and pan-European agencies practising comprehensive and discipline-based evaluation systems. It is simply not practical, possible nor even desirable, based on the current profiles of quality assurance agencies, for a higher education institution to turn to ‘any EQAR-registered agency’ for its quality assurance reviews.

Of the 32 EQAR-listed members, fifteen are comprehensive national agencies; five are comprehensive regional agencies, three are pan-European agencies (one of which is comprehensive and the other two are discipline-based), seven are agencies regulated in a national market (five of which are discipline-based) and two are national discipline-based agencies

The EHEA, as currently configured for quality assurance purposes, is not in a position to support a purely unregulated free market. The public good argument of higher education has resonance with the provision of other public goods such as electricity, gas and water. While there is a market in the provision of utilities, their regulation largely operates on a national basis. The market competes for electricity, gas and water largely around competitive pricing for a similar product. In higher education, the market tends to compete around the diversity of product offering rather than an identical or similar product offering. How would a market of quality assurance regulators function effectively across Europe, when the product offering is not equivalent?

That said, there are functioning markets in academic accreditation or labels but they are voluntary and largely discipline-based. Accreditors of Business Schools or MBA programmes compete in a market based on the quality of product offering but the market is not regulated. The standards are set by the accreditors themselves.

The only truly functioning market for quality assurance in the EHEA is probably in Germany. In Germany, higher education is a devolved responsibility of the Lander (or regions) so there is no national quality assurance agency. Germany has a number of quality assurance agencies (a mixture of comprehensive and specialised ones) but also has an Accreditation Council, which is a market regulator. OAQ (the Swiss national agency) is

also accredited by the Accreditation Council but had to undergo a separate review to its ENQA membership to be so recognised.

There are, in 2014, very few national comprehensive quality assurance agencies that have performed evaluations outside of their home country. OAQ has performed an evaluation in Germany and FINHEEC (now FINEEC of Finland) has undertaken an evaluation in Austria. CTI (the French engineering accreditor) has jointly accredited programmes in French-speaking parts of Switzerland and Belgium (in co-operation with the national/regional agencies there). Apart from those mentioned above, the only EQAR-listed comprehensive quality assurance agency performing evaluations on a large-scale basis throughout Europe is the Institutional Evaluation Programme (IEP) arm of the EUA. Reviews of the more-limited fields of chiropractic and public administration education are performed across the continent by EQAR-listed agencies in those disciplines.

For us to reach the EU vision of higher education institutions choosing an agency which meets their ‘needs and profile’, quality assurance would have to move from threshold standards to grades of excellence.

This desire, on the part of the European Council, is probably primarily motivated by the wish to have systems that are more open and international. Indeed, there is an indicator under discussion in the forthcoming Bologna Stocktaking Process that would ‘colour’ a national system ‘dark green’ in the Scorecard if they permit their higher education institutions to choose any (sic) EQAR-registered agency to conduct their evaluations and colour it ‘bright red’ if higher education institutions are forced to use a national agency for their quality evaluations.

There are certain ironies in this approach. There seems to be a sentiment that using a non-national agency would give a ‘more international’ review. This thinking fails to acknowledge that many ‘national’ quality assurance agencies (particularly in countries with small populations) populate their review teams largely with international members (Ireland and Switzerland, come to mind, for example). Increasingly, the Governing Boards of many national quality assurance agencies also contain foreign members. The use of foreign agencies is no guarantee of international outlook. Indeed, Europe’s most populous countries tend to be the most persistent in their underuse of non-nationals on their Governing Boards and within their review panels.

There may be a more fruitful way of opening up quality assurance. A potential way forward is co-operation between neighbouring countries with mobile populations. QAA in the UK and QQI in Ireland,

in addition to meeting frequently and to sharing information, have also agreed, for instance, to exchange staff at each other's reviewer training sessions. Co-operation between agencies in Francophone and Germanophone countries and within the Nordic countries may also be more desirable.

HOW CAN NATIONAL QUALITY AGENCIES COLLABORATE IN THE AREA OF QUALIFICATIONS RECOGNITION AND QUALITY ASSURANCE?

What can we agree on? The draft vision for the new ENQA Strategic Plan (ENQA n.d.) looks towards European higher education that enables students to receive qualifications recognised and respected worldwide. It is hard to see national authorities, higher education institutions and students disagreeing with such a sentiment.

This can only happen when there is confidence in the quality assurance of qualifications wherever they are delivered and by whomever they are quality assured. This requires the deepening of a shared understanding of quality assurance among national authorities, higher education institutions and quality assurance agencies. The confidence of students and other stakeholders in higher education is more likely to be established and maintained through effective quality assurance activities which ensure that programmes are well-designed, regularly monitored and periodically reviewed, thereby securing their continuing relevance and currency.

The robust regulation by Member States of awards made by awarding bodies under their control; transparent systems for recognising qualifications from other Member States; increased cooperation between quality assurance agencies in relation to CBHE; more commitment by Member States to the principles of quality assurance, qualifications and learning outcomes that they signed up to in the Bologna declaration will go a long way towards allaying fears posed by the Services Directive.

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Quality, E-Learning and Alternative Providers of Higher Education

Judith S. Eaton

INTRODUCTION

E-learning, the wide variety of applications of electronic technology to teaching and learning, has already resulted in significant changes in traditional classroom-based higher education. However, this is not its only major impact. E-learning is also playing an important role in the emergence of ‘alternative providers’ of higher education: companies or organisations that offer educational experiences apart from traditional colleges and universities. These new sources may be an emerging sector of higher education, attracting significant numbers of students and perhaps taking a place alongside traditional institutions as another desired mode of going to school at the tertiary level. This paper focuses on the emerging alternative providers of higher education and the challenge of quality assurance. If this sector is to take a place alongside traditional higher education, how can we be confident that students are learning and that quality education is provided?

J.S. Eaton (✉)

Council for Higher Education Accreditation (CHEA), Washington DC, USA

E-LEARNING

E-learning as an approach to teaching and learning is effective and important as a means of organising and providing a higher education experience. Using electronic technology, the traditional site-based classroom has been broadened to include virtual as well as in-person activities. Information is available from an enormous array of sources, no longer confined to the four walls of the classroom or the experience of professors and students. Student enrolment and attendance may be real or virtual, as may the participation of professors.

E-learning is part of accelerating the unbundling of higher education, the dispersion of academic tasks heretofore and typically under the umbrella of a single college or university to a number of different sources. One company may develop an electronically delivered curriculum; another provides academic advising online and yet another provides an electronic platform for delivery of education materials. Faculty may come from a variety of backgrounds, in addition to traditional academic training, or may even be self-appointed, in contrast to an appointment by a college or university. Where these functions were, at one time, grouped within a single entity, the college or university, they can now be provided through multiple sources.

E-learning is also becoming fundamental to another significant shift in higher education: the emergence of companies or organisations that have independently developed educational offerings for students. These ‘alternative providers’ are unrelated to traditional higher education and operate outside its longstanding structure of sustained education leading to a degree. Using e-learning as the preferred mode of delivery, the alternative providers offer courses, parts of courses and strings of courses, accompanied by competency-based and assessment of prior learning approaches. This, in turn, has led to electronic arrays of evidence of skills and new forms of credentialing such as badges, nano-degrees and other certifications.

ALTERNATIVE PROVIDERS

Alternative providers are legal entities separate and apart from traditional colleges and universities. These non-institutional providers may be public or private companies, for-profit or non-profit organisations, or divisions within existing organisations. And, they may be anywhere. Education is as close as a computer, cell phone or iPad. Their offerings are free or low-cost.

These providers typically do not offer academic credit, although their offerings may sometimes be acknowledged for credit by a traditional college or university, especially if evaluated and recommended by an acknowledged service that assesses either courses or student learning for credit.

Examples of alternative providers include private companies offering educational experiences, such as US-based StraighterLine that offers online courses for a US \$99 monthly subscription fee and a typical US \$49 course fee (StraighterLine, *Membership Pricing*, 2015b). StraighterLine has articulation/transfer agreements with more than 80 colleges and universities in the United States. It has enrolled 10,000 students since its inception in 2009 and anticipates growth to 15,000 (StraighterLine, *About Us*, 2015a). Another provider is Pearson Learning Solutions, which offers more than 130 online courses for US \$299 each (Prospero 2015). These providers also include companies that offer an online representation of a skill such as Mozilla Open Badges (Mozilla, *How Do Open Badges Work?*, 2015). Here, electronic tools are used to array evidence of skills and achievements of individuals. Mozilla has reported that there are thirteen badge-issuing platforms that have resulted in 1.1 million badges (Mozilla, private correspondence, 23 July 2014).

Massive open online courses (MOOCs) have emerged as the most visible and controversial manifestation of e-learning carried out by alternative providers. MOOCs are online courses or modules for career or general education, training or general interest. To their advocates, MOOCs represent the ultimate in the democratisation of access to higher education—available to anyone at any time and often free. To their critics, MOOCs are questionable as educational experiences and perhaps should not even be called ‘education.’

MOOC providers include companies such as Coursera, Udacity, edX, FutureLearn, France université numérique, Open2study, Veduca and Udemy. More than 3,850 MOOCs currently operate worldwide (Uvalic-Trumbic 2014). By one estimate, ten million students have registered for MOOCs (Shah 2013). Udacity reported 1.6 million users in April 2014 and Coursera has millions of students in hundreds of courses. Udemy reports that it has five million students and 22,000 courses (Young 2015). FutureLearn, on its Website, calls on the public to join more than 974,000 people who are learning together (FutureLearn 2015).

These alternative providers, whether private companies, MOOCs or badges, increase opportunities for students that can lead to traditional degrees when bridging to higher education. Student transfer is an explicit

goal for a number of alternative providers. This bridging is taking place in part because especially MOOCs have contributed to the acceptance of online learning within traditional higher education. MOOC educational experiences, although offered by alternative providers, are sometimes created by institutions such as Harvard, Stanford, The Open University, the University of Nottingham and Cardiff University.

ALTERNATIVE PROVIDERS AND TRADITIONAL HIGHER EDUCATION

One of challenges associated with a discussion of alternative providers is to clarify the ways in which they represent a distinctive sector and set of educational offerings. This includes distinguishing between (1) traditional higher education and alternative providers as well as (2) longstanding vs. newer alternative providers, with the latter relying primarily on e-learning. Some alternative providers have been around for many years and are well-established such as corporate or military training. The alternative providers discussed here are driven by e-learning and are more recent, include providers of MOOCs, badges and coursework from private companies.

In an effort to examine the distinctiveness of alternative providers, the Council for Higher Education Accreditation and the Presidents' Forum, both US organisations that focus on quality in higher education and e-learning, formed a commission in 2013 to examine the emerging alternative providers. Their report, issued in August 2014, describes three categories of providers that are now part of higher education (Commission 2014). Their 'Category A' of providers includes traditional colleges and universities that are authorised to operate and are accredited by accreditors recognised by the US Department of Education or by the Council for Higher Education Accreditation. 'Category B' includes providers of assessment of courses or student learning for credit recommendations and other services. 'Category C' includes alternative providers of higher education as described above, either long-standing or recently established.

As described in the commission report, Category A providers are public, private, not-for-profit and for-profit institutions that offer college-level courses, certificates and degrees. The quality of these institutions and their offerings is verified through peer review and accreditation. The determination of credit earned by a student rests fully within the purview of the faculty of each college or university.

Characteristics of providers

<i>Category A</i>	<i>Category B</i>	<i>Category C</i>
<i>Institutions</i>	<i>Assessment providers</i>	<i>Non-institutional providers</i>
Chartered, authorised and accredited universities and colleges (public, private, for-profit and nonprofit) Offer education from colleges and universities structured to provide degrees or certificates in a site-based or distance-based environment for full- and part-time students	Providers of assessment of courses or student learning for credit or other purposes Provide assessment of courses or student learning to confirm academically credible study and recommend academic credit awards, subject to acceptance by Category A institutions	Alternative providers of education offerings (established and more recent) Typically offer primarily not-for-credit short studies from individual companies that can result in certifications for students studying part-time. More recent providers are typically online. Some providers may seek equivalencies from Category B providers and acceptance by Category A providers
Hold accreditation from third-party accreditors recognised either by the US Department of Education, the Council for Higher Education Accreditation or both Charge tuition and fees	Typically do not sustain independent third-party oversight for quality. Generally adhere to qualitative examination acceptable to accredited institutions Charge for services	Typically do not sustain independent third-party oversight for quality. May be officially acknowledged by trade or national associations Charge little or nothing for offerings, with the exception of certifications
Considered the primary source of quality higher education for centuries	Provide either assessment of courses that includes peer review and may include organisational capacity or provide assessment of individual student learning	Develop offerings that are often responsive to workforce or professional occupational skill requirements and may include offerings in general education or the liberal arts
May provide longitudinal or other evidence of student performance and success	Sustain legitimacy and widespread acceptance within the higher education community for long-standing providers	May provide evidence of effectiveness based on the market and student demand
May be eligible for federal and state funds for student financial aid, programmes, research and facilities	Are not eligible for federal or state funds	Are not eligible for federal or state funds

Source: Commission (2014)

Category B providers are external evaluation and assessment services to examine courses or student learning at the college-level. They determine equivalency, recommending whether a particular course or program is worthy of conversion into traditional college credits leading to a university credential or determining whether students have achieved specific learning outcomes or competencies. Such organisations are the US-based American Council on Education, the National College Credit Recommendation Service and the Council for Adult and Experiential Learning and are well established. The recommendations of these assessment services include peer review of individual courses or evaluation of student competencies.

Category B providers have been instrumental in promoting acceptance of long-established alternative providers' courses for degree credit by many colleges and universities, helping to move these alternative offerings into the mainstream of postsecondary education. Category B credit services may evaluate the offerings of either well-established or recent alternative providers' products or individual students.

Category C includes the alternative providers discussed here, with offerings that are primarily online courses, parts of courses or other education experiences. These providers seek to take advantage of opportunities in the higher education market created by changing demands for skilled workers, as well as rising tuition costs and sometimes perceived low return on investment from institutionally based degree programs. Such providers are part of a response to calls for expanded affordability and access to postsecondary education.

Some of the Category C providers have offerings that have been evaluated and accepted for credit by Category A colleges and universities and Category B assessment services have reviewed and recommended these offerings. Some Category C providers are newer with a more limited track record of performance. In some cases, new alternative providers might develop partnerships with long-standing providers or subcontract with the long-standing providers (Commission 2014).

E-learning, then, is having a powerful influence as a key characteristic of the emerging alternative provider sector, characterised by not only the reliance on online delivery, but also its availability to a mass higher education audience, emphasis on episodic as distinct from sustained education and focus on credentials short of a traditional degree.

US EXAMPLE: PUBLIC POLICY, E-LEARNING AND ALTERNATIVE PROVIDERS

Alternative providers have not emerged in a vacuum. They are created and operate in environments in which, typically, higher education is subject to significant political pressures, government oversight and public scrutiny. The US engagement with e-learning and alternative providers is a useful illustration of the impact of public policy on these providers and especially what this means for potential students. In the United States, these providers emerged at a time of growing public policy interest in expanding the sources of higher education. Lawmakers are calling for greater access, innovation, affordability and accountability. What has been the legal and regulatory response as these providers establish themselves?

Initially, the key issues at the federal level were whether e-learning courses or degrees were equivalent in quality and rigor to site-based education and whether federal funds should be used for student grants and loans for these offerings. US accrediting organisations began to include consideration of e-learning in their reviews of traditional institutions and programs. In the main, these students experienced e-learning as it was integrated into existing site-based instruction or offered along with site-based coursework. At this time, the value and desirability of e-learning were primarily the concern of higher education leaders, not the public or government.

In 2013 and 2014, however, both the executive and legislative branches of the federal government began to tie e-learning to interest in alternative providers as well as the traditional sector. The White House, for example, in the paper released in conjunction with the US president's 2013 State of the Union address, spoke to the importance of innovation in higher education in order to enhance access and affordability and called for new norms and processes to judge academic quality for innovative offerings. 'Innovation' typically referred to education offerings outside traditional colleges and universities.

Since 2013, ten new bills were introduced in the US House of Representatives and Senate that also called for greater innovation, with some bills that would provide federal student aid money for competency-based education and for training beyond what is offered in traditional higher education. Other bills called for greater government involvement in holding higher education accountable for evidence of student achieve-

ment and success. E-learning and alternative providers were seen as part of a solution to the public policy concerns of federal officials.

For the first time at the federal level, a significant effort to rate the effectiveness of traditional colleges and universities, a proposed College Ratings System, was also initiated (USDE 2014). The ratings system was in part driven by the same public policy interests that alternative providers represented: access, affordability and accountability. And, ratings came about at a time when alternative providers were becoming increasingly prominent as another solution to these public policy concerns if traditional higher education was not up to the challenge.

The ratings system is intended to group degree-granting colleges and universities based on their effectiveness with regard to access to higher education, the affordability of individual institutions and the success of institutions when it comes to student achievement such as graduation, earnings and advanced degrees. Ultimately, the rating of an individual college or university could affect its eligibility for federal funds such as student grants and loans, with institutions that are less effective receiving less money than institutions that provide evidence of greater effectiveness.

The ratings system became enormously controversial, with much of the academic community opposed to its development and implementation. The major criticisms are based on the concern that the ratings, although not intended for this purpose, would serve as a federal ranking system and that this would produce an undesirable competition for status that would divert the higher education community from more substantive goals such as additional attention to student achievement. Similarly, academics questioned the capacity of the federal government to develop an appropriate and reliable methodology by which to rate institutions. Finally, considerable criticism focused on the likelihood that institutions that fared poorly in the ratings would be those that are the least well-financed and, at the same time, served students with the greatest educational and financial need, thereby harming access.

To date, the federal government intends to make institutions subject to the ratings in the 2015–2016 academic year. This would be confined to categorising institutions by their effectiveness. Any financial impact on colleges and universities, however, is not anticipated until 2018 and would require congressional action.

The discussion of the impact of e-learning is no longer confined to colleges, universities and students. It is now much more than an internal discussion among academics about how to go about teaching and learning.

E-learning as a driver towards alternative providers is having a major impact on public policy, influencing the development of federal law and regulation as well as spawning federal initiatives such as the ratings system. The funding of higher education and the role of government in its oversight are both strongly influenced.

HOW DO WE ADDRESS QUALITY?

E-learning and alternative providers are also putting pressure on quality assurance. These providers are not regularly reviewed by a formally recognised third party focused on quality assurance and quality improvement. Around the world, quality assurance as we know it has developed to scrutinise traditional higher education—site-based, classroom-based and structured by degrees and credits. Quality review has typically focused on the major academic functions of these institutions—curriculum, academic standards and faculty—addressing higher education as a preparatory experience for life and work. Quality assurance looked at higher education as a bundled experience.

As indicated above, the initial implementation of e-learning took place within this traditional framework, augmenting classroom-based learning and degree programs. Given that e-learning functioned within the context of a traditional higher education experience, quality assurance practice accommodated this development by incorporating e-learning into its longstanding expectations of quality when it came to, for example, curriculum and academic standards. At the same time, reviewers of quality acknowledged that e-learning was a different experience that required different evidence and judgment about quality and called for explicit evidence of how e-learning, in addition to site-based approaches, met quality expectations.

With e-learning and alternative providers, however, education moves outside the purview of traditional quality assurance. With the advent of alternative providers, the accommodation made by accreditors and other quality review bodies to date may no longer be enough. With StraighterLine, MOOCs, and badge platforms, something different is required of quality assurance. Not only does the e-learning as a delivery mode require review, but also the providers themselves. This, in turn, has led to such fundamental questions as ‘what is quality’ being asked afresh.

The challenges to addressing quality that emerge from e-learning and alternative providers go beyond important practical considerations such as

what are appropriate academic standards, processes and quality expectations. Addressing quality in this context raises questions about the fundamental assumptions and values of traditional higher education and the extent that alternative providers are a part of this world. These assumptions and values also undergird quality assurance. Do the alternative providers reflect the academic values on which traditional higher education is based, for example, academic freedom, the value of a degree, a primary emphasis on intellectual development? Should the educational experiences offered by alternative providers be considered 'higher' or 'tertiary' education? Can episodic education with its current structure and organisation be considered to fit with sustained education focused on intellectual development? Or, do alternative providers occupy a different niche and what is this?

E-learning and the alternative providers force questions such as 'Is this where we want higher education to go?', 'What is happening to our vision of individual intellectual development that has been the historical heart and soul of traditional higher education?', 'Is there a choice about going here or will higher education as a mass commodity driven by concern for access and affordability drive the future of colleges and universities?'

Moreover, whether private course providers, badge platforms or MOOCs, all enrol students world-wide, operate beyond country and region, with both sending and receiving countries have both interests and concerns. This has put pressure on major multi-national and national organisations, whether whole or in part focused on quality. These include the European Quality Assurance Register, the International Network for Quality Assurance Agencies in Higher Education and the Council for Higher Education Accreditation.

There is an ongoing lively international discussion about emerging quality assurance issues and challenges that now includes consideration of alternative providers. The United Nations Educational, Scientific and Cultural Organisation has been considering a global convention for international recognition (Gonzalez-Pose 2015). The Organisation for Economic Co-operation and Development attempted to establish a single set of expectations of student learning outcomes. Qualifications frameworks became the norm in dozens of countries and in many regions (Tremblay et al. 2012). Rankings have become a norm for quality in many countries, using either country-based ranking systems or international rankings (Hazelkorn 2015). This has led to questions about any need for international quality standards or some type of 'international regulatory framework' (CHEA 2014).

Even as these big questions are beginning to be addressed, alternative providers continue to attract students and are establishing themselves and take play a role in relation to traditional higher education. The need to address their quality is clear, even if the alternative provider sector's ultimate positioning, role and relationship to the fundamental assumptions and values of traditional higher education are not.

A new generation of quality assurance standards, practices and processes may be needed. If the traditional community wants to embrace the alternative providers, it is likely, over time, that these operations will reflect some of these assumptions and values of this community. If, over time, the alternative providers constitute not only a different sector, but are positioned as outside higher education, the assumptions and values will likely not prevail. In the first instance, quality assurance practice would need modification, not replacement. In the second instance, new practice would be required.

THE QUALITY PLATFORM

If the alternative providers are to play a central role in the future of higher education, quality will be an essential, central, challenging and driving issue for its survival and success. How is quality to be addressed? What are appropriate conditions for quality? Appropriate expectations of quality? Is the quality industry that has been vital to the effectiveness of the traditional higher education community to be a crucial actor in the emerging non-institutional sector?

One response, a start to address the many questions, is the 'Quality Platform' developed by the Council for Higher Education Accreditation. The Quality Platform is a review, a process and a tool for assuring and improving quality for alternative providers of higher education. The Quality Platform builds on the centrality of teaching and learning. It is not traditional 'accreditation'—but does have some similar features (Eaton 2014).

The Quality Platform is based first and foremost on evidence of student learning outcomes to judge quality. It involves a self-evaluation by the provider based on standards and an external review by peer experts and the public based on standards. The expert team will decide whether the provider meets the standards and award of 'quality platform provider' status. There will be periodic re-examination of the provider with the requirements of transparency and comparability of review and results. Providers that successfully complete a review are designated 'Quality Platform Providers.'

The beneficiaries of the Quality Platform are students, employers and government as well as traditional higher education and accreditation. Students benefit from the information provided by the quality review, from the comparisons of similar providers, from the transparency of the review and the emphasis on quality judged by what students learn. Employers gain from the public information about the quality of individual providers when making decisions about supporting workers seeking additional education. Government can benefit if, ultimately, a determination is made to finance students attending alternative providers because officials will have evidence of quality and see the greater likelihood that public funds will be well-spent. Traditional higher education institutions benefit because they have a reliable source to which to turn to judge the quality of alternative providers, especially when making decisions about awarding credit. Traditional accreditors benefit from knowing that the alternative providers have sustained an external quality review and thus can be trusted as sustaining quality offerings.

Standards

Standards associated with the Quality Platform are focused first and foremost on student achievement. To date, four standards have been developed:

1. *Learning Outcomes are Articulated and Achieved.* The provider organises its work, determines the content of offerings and sets expectations of rigor based on anticipated and actual results for students who enrol, i.e., information about gain in skills, competencies or other attributes resulting from a learning experience.

Useful information in meeting this standard could include:

- Articulation of expectations for all students and across all offerings.
- Evidence of student learning gains, competencies and other attributes as identified.
- Descriptions of the basis on which the organisation judges the performance of faculty, the content of curriculum and the progress of students.

2. *Student Learning Outcomes Meet Postsecondary-level Learning Expectations.* The provider demonstrates that the articulated and

achieved student learning outcomes are consistent with expectations of student learning at degree-granting colleges and universities.

Useful information in meeting this standard could include:

- Description of the basis used to determine whether outcomes are to be considered as postsecondary.
3. *Curricula Provide an Opportunity for Successful Transfer of Credit.* For the provider's offerings intended to be used for credit or credentialing at a college or university, the provider:
- Builds opportunity for student progression beyond its offerings as part of its curriculum development.
 - Organises offerings into a coherent learning experience that can be sustained across multiple providers of higher education.

Useful information in meeting this standard could include:

- Description and documentation of opportunities for students to successfully use the offerings as part of meeting broader education goals.
 - Material that provides a context for the offerings in relation to generally accepted curricular content throughout higher education, e.g., general education goals, goals associated with a program or major.
4. *Transparency is Maintained and Comparability is Established.* The provider develops and provides reliable, easily accessible and readily understandable information to the public, at least annually, about its performance:
- An aggregate description of the student learning outcomes that are achieved.
 - The results of comparisons of performance among similar types of non-institutional providers.
 - An aggregate description of the uses of the offerings to students, e.g., advancing toward an educational goal, employment.

Useful information in meeting this standard:

- Documentation of student achievement from the provider and other similar providers.

As part of the Quality Platform review, the provider will submit the following:

1. Documentation of legal status.
2. The most recent external financial audit.
3. Current information about the provider's purpose, its offerings and credentials offered (e.g., certificates).
4. Current student enrolment.
5. Description of current practices to assist and support students: faculty, advisors and other academic professionals working with students who undertake offerings.

The Quality Platform Team of Experts will be composed of academics and members of the public. These may be individuals with significant faculty or administrative experience or both in traditional or non-traditional higher education or members of the public with a significant experience or interest in higher education. 'Members of the public' include students and individuals from the business community, government, philanthropic organisations and the arts. Each team will be made up of three people.

The tasks of the Quality Platform Team of Experts are to:

1. Review the application submitted by the provider, the background information and evidence that standards are met.
2. Meet with the provider (either in-person or electronically).
3. Prepare a report that:
 - (a) Documents whether standards are met and how well.
 - (b) Recommends whether the provider is to become a Quality Platform Provider and
 - (c) Includes, as needed, an Experts Management Letter with suggestions for improvement.

Providers are to:

1. Complete a Quality Platform Application.
2. Provide and certify background information.
3. Submit evidence that Quality Platform standards are met (self-review).
4. Engage with a Quality Platform Team as requested (external review).
5. Receive a positive judgment from the team of experts.

The review process will take three to six months from the date of receipt of an application.

Quality Platform Provider status will be valid for three years and will be renewable upon undertaking an additional review. A Quality Platform seal will be issued for placement on providers' Websites and in major print and electronic publications. Information about those designated as Quality Platform Providers will be publicised.

If the Quality Platform is successful, it will take its place alongside a number of other quality and accountability tools such as traditional accreditation, qualifications frameworks and rankings systems. It may also be incorporated into the review practices of traditional accreditation and quality assurance. will operate in relation to traditional institutions, accreditation.

WHAT OF THE FUTURE?

Although e-learning is still considered by some to be an exception to the ideal of traditional higher education, it now involves so many students and has affected so many instructional approaches that it is firmly rooted in higher education. E-learning is viewed by governments in many countries as part of the solution to the problem of access to higher education, lifelong learning and competing in a knowledge economy. It is difficult to imagine higher education today without the web and ongoing electronic communication.

The alternative providers, as the most visible manifestations of e-learning, can also emerge as pivotal in the future. They would be crucial not only because of e-learning, but because they represent the application of e-learning to reconfigured or new models of what higher education is. The alternative providers are the embodiment of episodic education in life vs. preparatory education for life. They lend themselves to a utilitarian, pragmatic approach to higher education—an undertaking that is to obtain employment or improve earnings or get a credential of some sort. While desirable to some, this is raising concern in the academic community because it is in contrast to the ideal of higher education as serving the primary purpose of intellectual development.

Alternative providers' role in enhancing access also reinforces the role of governments in higher education. With college or university attendance viewed as essential and, increasingly, a consumer good, governments have positioned themselves as playing a key role in further ensuring affordability,

in consumer protection and in determining the worthiness of education experiences for a competent workforce and international competitiveness. This primary impact is that governments have moved far into the arena of academic decision-making and judgment, thereby diminishing the autonomy of traditional higher education and the self-determination of colleges and universities.

Quality review will undergo some refashioning to address the alternative providers. This might take place either through traditional quality assurance organisations revising their review practices. It may occur through the emergence of new quality assurance bodies to focus specifically on alternative providers or the expansion of quality and accountability tools such as ranking systems.

At their core, e-learning and the alternative providers have the potential to change the fundamentals of expectations of a vision of higher education. They are part of a transition from the basic outlines of the enterprise toward the next generation's definition of what is meant by 'higher education.' If, as described, episodic education becomes the norm, this raises intriguing questions about the basic role and values of higher education. Traditional colleges and universities would continue to serve as sources and arbiters of the values and direction of higher education and the intellectual development of a society, but this role may be less important. Instead, education experiences of a broad range of types and sources, whether characteristic of traditional higher education or not, may prevail.

E-learning and alternative providers of higher education are having a dramatic impact on traditional higher education. They are about much more than additional opportunities for students or creativity in higher education offerings, as important as these are. E-learning and alternative providers are indicative of a fundamental transition in higher education. Such a transition has profound implications for quality assurance.

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PART VII

Conclusions

Conclusions

*Maria João Rosa, Cláudia S. Sarrico,
and Orlanda Tavares*

‘Plus ça change, plus c’est la même chose!’

‘Mammon, the demon of wealth and greed is very fast replacing the Indian goddess Lakshmi’

‘It does not matter the direction of the wind if you do not know where you are going’

In October 2014, an international conference on “Higher Education as Commerce: Cross-Border Higher Education and the Services Directive” has been jointly organised by A3ES—the Portuguese Agency for Assessment and Accreditation of Higher Education—and CIPES—Centre for Research in Higher Education Policies, in Oporto, with the basic idea of discussing Cross-Border Higher Education (CBHE) dimensions, the issues it poses for nation-state systems of higher education and

M.J. Rosa (✉)

Department of Economics, Management and Industrial Engineering,
University of Aveiro, Aveiro, Portugal

C.S. Sarrico

ISEG Lisbon School of Economics and Management, Universidade de Lisboa,
Lisboa, Portugal

O. Tavares

Agency for Assessment and Accreditation of Higher Education (A3ES),
Lisboa, Portugal

its associated potential, including the phenomenon of massive open online courses (MOOCs). The consequences following from the EU Services Directive and the measures national quality assurance agencies are (or are not) envisaging to ensure an acceptable balance between the interpretation of higher education as a tradable service against its abiding mission to advance knowledge, to raise the educational level of the nation's citizens, to sustain its innovative capacity and to uphold its social cohesion were all themes under debate during the three days of the conference. Experts from different countries and areas of expertise have presented and discussed different perspectives on the theme, exploring approaches that go from sceptical to evangelist in nature. This book is the final product of the conference, each chapter being a contribution for the debate on CBHE. In this final chapter, we intend to offer overall conclusions regarding the topics covered in the different chapters, and in addition provide some avenues for future debate, by pointing out some of the benefits and threats the way ahead may bring. Although most presenters argued that this is not a totally new topic for higher education—*plus ça change, plus c'est la même chose*'—it became clear from the discussions that something new might be emerging in the higher education scene after all.

CROSS-BORDER HIGHER EDUCATION: CONCEPTS, MODES OF DELIVERY AND MOOCs

Universities have always been regarded as one of society's most international institutions. As Amaral argued in his chapter (Chap. 1), "Universities have internationalisation in their genes since their very early foundation". Also Neave claimed that a number of the issues raised were not entirely new, albeit they reemerged in new contexts. It just seems that there is an incessant terminological juggling to actually put very "old wine in new bottles". These new bottles are needed because, over the last three decades, international activities have dramatically expanded in volume, scope and complexity. Some settings, as Salmi and Tavares highlighted, have positively contributed to this expansion: the introduction of a market and trade approach to international education; an increased demand for tertiary education (especially the unmet demand from first-time, adult and career-changing students); the renewed emphasis on education mobility; the great advance in the use of information and communication technologies for education delivery; favourable higher education laws; the capacity to build partnerships in countries willing to expand private higher

education; the use of English as an international language; and national e-learning policies.

International activities range from traditional faculty exchanges and study-abroad programmes to new forms of education provision for foreign students, which are known as transnational, borderless or Cross-Border Higher Education. Although often used interchangeably, these terms hide some subtle conceptual differences, which are related to these new developments of higher education. The term *borderless* “refers to the blurring of conceptual, disciplinary, and geographic borders traditionally inherent to higher education” (Knight 2003, p. 2), suggesting the dissipation of borders in a situation of exceptional advance in distance and e-learning education. As these new forms of education provision have risen, so have concerns with quality, accreditation and funding, which reinforce the importance of borders. The term *cross-border* seems precisely to emphasise the existence of those borders, which are deemed to be relevant in a context of regulatory frameworks, the focus of this book.

Although far from a unanimous definition, and despite the exclusion from the definition of CBHE of e-learning provided in a purely distance mode, as it is the case of some national authorities such as the Australian, the concept is broadly defined as “higher education that takes place in situations where the teacher, student, programme, institution/provider or course materials cross national jurisdictional borders. CBHE may include higher education by public/private and not-for-profit/for-profit providers. It encompasses a wide range of modalities, in a continuum from face-to-face (taking various forms such as students travelling abroad and campuses abroad) to distance learning (using a range of technologies and including e-learning)” (UNESCO/OECD 2005). This definition includes the two main CBHE providers mentioned in Salmi and Tavares’ chapter (Chap. 3): the traditional higher education institutions that are usually oriented to teaching, research and service to society (containing public non-profit, private non-profit and private for-profit institutions); and the “new or alternative providers” that primarily focus on teaching and the delivery of education services (usually companies or organisations that provide education programs and/or services with for-profit purposes, commercial education, corporate universities, professional, governmental and non-governmental organisations, virtual universities as well as other sorts of organisations, including rogue or low quality providers). This means that beyond the traditional face-to-face interactive mode, education can also be delivered at a distance, in a virtual environment (synchronous and asynchronous), and

in a mixed mode. CBHE is therefore a global, expanding phenomenon that can cover several forms of education provision: double/joint programmes, offshore campuses, networks, mergers, virtual education and many others that are still in an expansion and development stage.

In fact, it became clear with Ferreira and Eaton's chapters (Chaps. 12 and 14) that new challenges are being posed to higher education systems all over the world through the introduction of new information and communication technologies (ICT). Some of the signs of this new technological environment can be found in relatively new modes of education delivery, including blended learning, digital content, open educational resources and Massive Open Online Courses (MOOCs). In this book a special emphasis has been given precisely to MOOCs, described as a "disruptive innovation", which reaches millions of students who mostly, so far, did not need to pay a cent. As a relatively recent online learning phenomenon, MOOCs are becoming of significant interest for higher education institutions and venture capitalists that see it as a new business opportunity. The business model, as Ferreira argued, is still evolving, but the rule is that registration is free, while certification is normally available as a paid service. While MOOCs share the main advantages of other types of distance education providers, such as flexibility of carrying out activities at any time, from any place with an Internet access, the participants are not free to progress at their own pace, as occasionally happens in other distance education scenarios. Additionally, the lack of personalised support, the eventual blurring of cultural diversity, the potential to attract dishonest academic options, the reduced peer interaction limited to electronic communication, and the accreditation difficulties were reported as some of the threats affecting MOOCs.

Although MOOCs are still in an early stage as a mainstream educational resource, it became clear that this form of online courses are here to stay, as it has already made a substantial contribution to democratise access to informal education in all parts of the world where Internet access is available. Being already an important form of online course delivery, MOOCs will become increasingly important as their academic recognition enlarges. Their implications, as Ferreira highlighted, can be anticipated in the near term with the change of pedagogical paradigms, for example in the form of flipped classroom scenarios, but also in the medium to longer term, with respect to the HE academic profession and economic landscape. Producing MOOCs requires the need of a new species of 'professional staff'. Therefore, as Neave argued, MOOCs appear to usher in a further

round in re-defining the boundaries, not just between historic nations but also between academic and administrative labour.

MOOCs are therefore an interesting new development, which at its best could contribute to more social engagement, the greatest quality for the greatest number of students, broadening access and knowledge and allowing higher education attendance by a large number of students at low unit costs. However, as with other modes of CBHE, there is heterogeneity in the field. To be made properly it is probably a costly enterprise, which raises doubts about the sustainability of their business model.

HIGHER EDUCATION AS A TRADABLE COMMODITY AND COMMERCIAL ACTIVITY: THE GATS AGREEMENT AND THE SERVICES DIRECTIVE

In a context of global competition, knowledge has been assumed as a prime factor for economic growth. Internationalisation of higher education has therefore been increasingly driven by market orientations and the economic rationale has gained prominence over the political, academic and cultural rationales. The prominence of the economic rationale can be found in the neo-liberal ideologies which have advocated the elimination of national barriers to allow for an open market and international trade. These neo-liberal ideologies tend to nurture a shift from the paradigm of higher education as a social and cultural right or as a public good to a paradigm that emphasises economic returns, whereby institutions become service providers and students become consumers of a commodity.

Some steps towards greater commercialisation of education are taking place alongside the fiscal pressure on the welfare state. Under the argument that free trade would subsidise the intellectual progress of mankind, a first step has been the attempt to liberalise education services through the General Agreement on Trade and Services (GATS), under the framework of the World Trade Organization (WTO). A specific proposal to the WTO, to consider education as a tradable service or a commodity to be included in the GATS, was spearheaded by the United States. Governments of industrialised countries have keenly sought to make the most of a growing national and international market of education, which has steadily been acknowledged as a lucrative service industry and export commodity.

A second step to liberalise education services, in the European context, occurred when the European Parliament and the Council of the European Union passed the Directive 2006/123/EC, on services in the internal

market—the Services Directive (European Union 2006). As was stated by Amaral, the Directive aimed to create an EU internal market in services by removing barriers and determining that a provider from Member State A is allowed to offer its services in Member State B as long as it complies with the regulatory framework of Member State A, where the provider is registered. The Services Directive, although explicitly excluding areas such as health, environment, public health, and security, is not clear about whether it includes or not education services. Education could fall both under the excluded category of “Services of General Interest” (SGI), or under the included category of “Services of General Economic Interest” (SGEI). Member States are entrusted by the Directive to define their national application of the categories SGI/SGEI as long as they comply with Community law. Final decisions are made by the European Court of Justice.

This means that the European education policies are surrounded by uncertainty, opening up possibilities for different interpretations. The interpretation of the Commission has considered that private provision of education falls under SGEI. For this reason, if a private institution operates in a foreign Member State, the host Member State not only cannot forbid franchising operations, but also cannot determine the accreditation of the provided programmes by its national agency. That responsibility lies with the exporting Member State. Nevertheless, as Bischof stated, little data exists about CBHE activities in Europe, and it is not clear how exporting Member States deal with the responsibility of assuring the quality of the HEIs/programmes that are being offered in foreign Member States.

The Services Directive, because of its ambiguity, has generated some controversy. In this book, while some potential benefits were recognised, some critical views also raised major problems related with the implementation of the Services Directive. De Groof argued in favour of the benefits resulting from the Services Directive, namely no barriers, no obstacles, trust, convergence, integration of the labour market, mobility, readability, transparency, comparability, and non-discrimination. Also Berlinguer in his chapter (Chap. 6), saw the Services Directive as an important step to build a truly European internal market, and as a way to build a European academic area, without questioning national sovereignty. Arguing that national-state fragmentation has been a serious obstacle to the development of European science and education in the face of global competition, the author considers that the Directive is beneficial as it might encourage to go beyond the obsolete and egoistic vision of intellectuals who consider

culture and education their own realm, detached from reality. Assuming that competition might stimulate quality, Berlinguer considers it a mistake to go back to an old idealistic concept of knowledge, closed and jealous of its past. The main problem is not the Services Directive in itself but the Bologna Process, which unfortunately is ongoing at an extremely slow pace. Bologna should then overcome nationalistic resistance to offer young people a common European qualification, and a common labour market, with wider employment opportunities for skilled labour.

However, the same authors have also pointed out some of the potential risks of the Services Directive. De Groof in his chapter (Chap. 7), has highlighted some of the contradictions that the implementation of the Services Directive on CBHE raises: the national versus the international character of education; the fact that education is both public and private, a service and a good; the fact that education appears either as a responsibility of the state, and also as belonging to the market, interpolating the ‘third sector’—in particular civil society; and the double character of education as a cultural good and as something with economic significance. Berlinguer also recognises that there is a risk of subjugation, exploitation, and control of culture by private interests that may hinder citizens’ rights. To defend the receivers of services, the basic instrument is quality assurance, which is a prerequisite for mutual trust and recognition. However, mutual recognition is yet difficult to achieve. There are still some gaps to overcome in order to achieve mutual recognition: differences in the process and criteria of recognition of qualifications among quality assurance agencies; international standards versus local standards; and the emergence of some rogue agencies. If different agencies assess different things (institutions or programmes), if some agencies have different status (independent or dependent from their governments), if the process of recognition is either bilateral or multilateral, mutual recognition appears more ideal than real. If different Member States, in their sovereignty, have different quality assurance systems which operate under different standards, or respond to different national needs, the quality certificates issued by the agencies of the exporting country might not respond to the host country needs, expectations, standards or legal framework. Mutual trust requires, therefore, homogeneity and uniformity of standards.

As Bischof alerted, CBHE providers tend to look for places with favourable economic and structural conditions (typically capital cities), weakly regulated, and therefore they do not tend to foster either more equitable access to higher education, or equity between regions. Moreover, while

around one third of Member States have in place quite strict requirements regarding the control of foreign providers operating in their territory, one quarter does not have any regulation in place. Yet, the level of regulation and the amount of CBHE activity in receiving countries appears to have a rather weak relationship. Therefore, Bischof suggested that regulation has little effect and that even strict regulatory frameworks cannot prevent CBHE providers from operating where there is a good “market” for their educational product. Taking into account that most countries rely on the accreditation procedures of others, Bischof considered that it is a moot point to know the extent to which this is a sign of trust as much as a convenience. Bischof concluded that as long as transparency tools for registration of incoming providers did not exist, rogue providers would have leeway to exploit. However, the author believed that the already existing European infrastructures—the ENIC/NARICs, The European Register for Quality Assurance (EQAR) or initiatives such as Qcrossroads, hold promising potential to build further cooperation.

Also very critical about the Services Directive, Amaral concluded stating that the European Union has gone much further than the WTO/GATS in the liberalisation of trade in education services. The Services Directive is not following the recommendations of international organisations such as UNESCO and OECD, and even of the World Bank. It seems, however, that the European Commission has recently recognised that there has been too much intrusion in an area protected by subsidiarity. In its recent report on quality (European Commission 2014), the European Commission suggested the possibility of bilateral agreements authorising the QA agency in the receiving country to perform on behalf of the sending country QA agency. It is yet to be seen how far the European Commission is prepared to go to eliminate the ambiguity of the Services Directive.

It seems therefore that CBHE is somehow caught in between two contradictory pressures: internationalisation (a commitment to advancing universal knowledge) and nationalisation (a commitment to the local interests of nation states). These opposing pressures are difficult to reconcile especially when CBHE is seen as commerce, giving increasing rise to the economic rationale, attracting capital investment and profit. The for-profit character of CBHE has triggered regulatory mechanisms to protect the interests of nation states and its citizens, preventing fraudulent practices. But much more needs to be done.

A fair market would require a level playing ground for competition. The Services Directive, aiming to build a truly European market, assumes

that each nation has similar priorities and features, which, in fact, is not the case. Each European country has its own social and economic features, regulatory mechanisms and purposes. For instance, a country with a strictly regulated higher education system might look suspiciously for CBHE provision either because it collides with national interests, or because there is a lack of trust in the quality assurance system of the providers. As Noorda (2015) alerted, higher education is very national in terms of legal prescriptions, finances, quality assurance, academic calendars, professional qualification specificities, academic culture, etc. The paradox is that even when higher education systems and their institutions want to be international, it is expected that they are in full agreement with their local and national preferences and tastes. As Sursock mentioned in her chapter (Chap. 4), although internationalisation is rising in importance, it is fair to say that institutions still tend to serve mainly their regional and national communities, even when engaging in European or international activities.

These different nation states' features and purposes, as well as lack of trust, might lead the Services Directive to fail its purpose. Moreover, the Services Directive, establishing that the responsibility for the quality assurance of programmes lies with the exporting Member State, rather than with the receiving country, is apparently becoming the *visible* hand of liberalisation.

CROSS-BORDER HIGHER EDUCATION ACTUAL EXPERIENCES

As already stated in this concluding chapter, there are a significant number of different types of CBHE, ranging from the traditional forms of students and academic mobility between different countries to more recent approaches that essentially rely on the mobility of programmes or providers, such as branch campuses, franchising activities and validation agreements. The first group of CBHE types of activities exists since the university exists as an institution (see Neave's (Chap. 2) and Amaral's (Chap. 1) chapters), while the second group has spread quite rapidly only in recent years, admittedly very much under the promotion of the EU single market and the development of a suitable regulatory framework for it, namely the Services directive and the possibility of considering education a service of general economic interest. The economic crisis affecting Europe in the recent years has also promoted CBHE activities as a way of searching for new financing streams (see Walsh's chapter (Chap. 13)).

But what is the real situation regarding CBHE in Europe? In his chapter (Chap. 8), Bischof presents an overview of the types of activities that are actually taking place, although referring that so far little data exists to adequately support a deep and effective analysis of the situation. Even though, it is apparent from the existent data that the major exporters of higher education to countries all over Europe, on a world-wide scale, are by far the UK and the USA, with franchising agreements being used by the vast majority of UK exporters. Furthermore, European exporters are not only from capital cities, but CBHE is found to occur primarily in capital cities. The vast majority of exporting institutions are large and public, while the majority of receiving CBHE activity occurs at small, privately funded institutions. Interestingly, the countries with more students looking for higher education abroad—as it is the case of Greece—are also the ones receiving more CBHE activities (higher numbers of CBHE activities were found in Spain and Greece).

In the face of the CBHE diversity reported in Bischof's chapter (Chap. 8), it is not surprising that the chapters (Chaps. 10 and 9) by Jackson and Hackl address quite different situations for CBHE in the United Kingdom and Austria, respectively. The UK has a long track record of exporting higher education with a significant number of activities occurring at this level, including in-bound CBHE, transnational education and international partnerships. UK transnational education assumes a much larger scale than in-bound CBHE, with 78% of higher education institutions having some form of it. According to Jackson's chapter (Chap. 10) the main concern is now linked to the development of mechanisms to effectively assure the quality of these activities, in order to protect the UK higher education reputation and brand.

Perhaps on the opposite side of CBHE development in Europe, Austria emerges as a country where these types of higher education activities are still essentially about students and academics mobility, mainly under the framework of European programmes such as Erasmus. Although being an internationalised country in terms of academic staff and having a long tradition of receiving foreign students, it does not seem to be—at least yet—a significant market actor in CBHE, nor does it seem to have been much influenced by CBHE in its neo-liberal connotation (see Hackl's chapter (Chap. 11)). Austrian governments do not seem to be worried with either GATS or the Services Directive, since no formal actions have been taken in relation to both so far. But the future may well bring new developments in terms of programmes and institutions mobility (both inwards

and outwards). According to Hackl, the recent higher education legislation, inspired by New Public Management, favours higher education institutions' autonomy, which in turn allows institutions to offer programmes abroad. For the moment, and besides academic and student mobility, CBHE activities are reduced to foreign institutions operating in Austria, which can be registered, although without a formal recognition of their courses and degrees, and to some—although very few—Austrian higher education institutions that have established joint study programmes in cooperation with foreign institutions.

STAKEHOLDERS' VIEWS ON CROSS-BORDER HIGHER EDUCATION

Higher education institutions and their students are quite relevant stakeholders for higher education, and as such it is of utmost importance to understand what their views on CBHE are. The chapters (Chaps. 4 and 5) by Martins and Sursock present an overview of how they see the development of CBHE activities, both in terms of potential gains and benefits and of drawbacks, problems and challenges for higher education.

The students' view on CBHE and its implications essentially translates these stakeholders' concern with the role higher education should play in the construction of equitable and democratic societies. As they see it, there is the real danger that the rise of CBHE will bring with it other developments, such as the use of education as a potential market, the inclusion of education in trade agreements, the promotion of cost-sharing practices and the growth of private funding in line with the reduction of public investment, which will endanger the social benefits education may bring, contributing to worldwide inequalities and negatively affecting both actual and prospective students. Three basic types of concerns are put forward by students: (i) the economisation of higher the education content; (ii) the economisation of education to create a market of educational services; and (iii) the economisation of educational institutions, with implications for their governance and management.

CBHE is seen by students as having potential real benefits but also encompassing significant dangers. If carefully implemented, CBHE can effectively contribute to the development of societies, by helping to solve some of the challenges derived from an increasing demand for higher education; it is also an asset for international cooperation and allows for the development of more flexible ways of learning. On the negative side, it may

tend to commodify higher education, leading to inequalities, difficulties in students' access, a decline in underrepresented groups' participation, lack of justice and social development. Furthermore, students refer to the questionable quality of some providers (allied to difficulties in recognising low quality cases), dangers in terms of higher education systems' development in transition and developing countries (widening the gaps between regions and nations), the assumption of students as mere consumers and the idea of education only for market needs (assuming an utilitarian perspective) as other negative aspects that CBHE may promote.

Sursock's chapter (Chap. 4) gives an account of how European universities and other types of higher education institutions approach internationalisation, namely in terms of the type of activities developed and how important they are in relation to other strategic priorities; from that account, future trends are anticipated. Internationalisation seems to be in the top three priority areas for higher education institutions, together with quality assurance and Bologna degree structures, which may indeed be a consequence of the changing European and global political and economic contexts.

The recent economic crisis combined with the demographic downturn resulted in pressures—also from governments—to use internationalisation and CBHE as a source of income generation both for institutions and national economies (see Amaral, Sursock and Walsh chapters (Chaps. 1, 4, and 13)). As stated by Amaral in his chapter (Chap. 1), less governmental funds have led higher education institutions to look for additional sources of funding: competition for students is a reality and higher numbers of students may be enrolled through an increasing percentage of international ones, which tend to pay significant higher fees when coming from non-EU countries. Other options are the development of CBHE activities and, as referred by Sursock, we can witness aspiring global players preparing to develop and enhance their international outreach, including through the establishment of offshore campuses.

In terms of internationalisation priorities, institutions tend to refer the attraction of more international students, research and teaching internationalisation and the offer of more opportunities for their students to go abroad. Aspects such as the development of MOOCs and other types of e-learning programmes, capacity building, offshore campuses and the teaching of programmes in languages other than English collect much less support in terms of being considered priority areas for institutions' internationalisation. It seems that for European higher education institutions,

CBHE is by far much more linked to academic and students' mobility—the traditional view of it—than with programmes or providers mobility.

For institutions (see Sursock's chapter (Chap. 4)), competition and cooperation will increase in the upcoming years, which may explain why they identify quality assurance (understood as internal and external quality accountability processes) as the most important development, placing it consistently during the past eight years, along with internationalisation, as one of their strategic priorities. It may also explain why rankings and league tables are increasingly being thought of as important issues regarding higher education development.

HOW TO ASSURE QUALITY IN CROSS-BORDER HIGHER EDUCATION?

This is a book on CBHE and quality assurance and indeed all chapters addressed, to a certain extent, the need to assure quality in CBHE, even if not touching the topic directly. CBHE seems to create a significant number of challenges, one of the most relevant being how to guarantee that higher education programmes offered by a foreign institution really accomplish the quality standards established for home institutions. The fact that the Services Directive does not explicitly exclude education increases the burden since it leads, as already mentioned, to a situation where foreign institutions cannot be forbidden of operation by the host country nor can their programmes be subject to accreditation by the national agency. In this context, how to assure quality in CBHE? How can a receiving country protect itself and its nationals from low quality provision, degree mills and rogue providers?

The European Treaty (TFEU 2012) establishes the free movement of services within Europe, including the freedom of establishment and the freedom to provide services. But, as stated by De Groof in his chapter (Chap. 7), there is still a significant gap between what is written and the reality, with the EU still far from being a truly free market. A balance is needed between national responsibilities and the European principles regarding the establishment of one single market.

Amaral's chapter (Chap. 1) alerts for the existence of a clear opposition between the idea that national governments should resort to external quality assurance to guarantee that their higher education systems have a certain quality level, and the idea of a free movement of services, including of education, as established under the Services Directive.

As referred in many chapters of this book, higher education institutions have definitely entered an area of commercial activity, namely at the level of international trade. According to De Groof (see his chapter (Chap. 7)) even public universities tend to act as private companies in some respects, namely when commercialising services or searching for private funding. But are they actually prepared to do this? How do they assure the quality of the programmes they offer abroad? Using markets as regulators can be problematic (Sheehy 2010, p. 67); consumer protection and regulation is needed both in importing and exporting countries, be it licencing, accreditation or other mechanisms (Sursock 2001; Knight 2002; Tilak 2011).

In this respect, and according to the study presented in Bischof's chapter (Chap. 8), one can say that the situation in Europe at the level of receiving countries is quite diversified, ranging from no regulations at all to requiring that foreign providers will go through the accreditation procedures existent in the country. Exporting countries rarely seem to impose heavy restrictions on the exporting activities of their higher education institutions, even if they actually are responsible for the quality of the degree programmes and awards they offer and grant in other countries (including other European Member States). Some examples from the UK and Australia (see Jackson's and Amaral's chapters (Chaps. 10 and 13)) illustrate quite clearly the fact that the quality assurance schemes and regulations existent in exporting countries do not seem to be sufficiently efficient to eliminate cases of bad quality provision abroad.

The UK and Ireland emerge in this book as countries having some dispositions and regulations regarding CBHE. In Ireland (see Walsh's chapter (Chap. 13)) the QQI (Quality and Qualifications Ireland) acts as an external quality assurance agency; it validates programmes for private higher education institutions that choose QQI as their awarding body and it is also the agency responsible for the quality assurance of the Irish higher education export. Quality audits of Irish public universities include an examination of their CBHE activities where institutions have to demonstrate that they effectively assure the quality of their 'linked providers', meaning those institutions that offer degree programmes and award degrees. Universities have to provide QQI with an annual institutional report on their 'linked providers' that is published by the institution. These reports tend to be useful also for the country since they provide an account of the Irish situation as an exporting country in terms of CBHE activities. In the case of quality assurance of higher education imported into Ireland, mostly from the UK, QQI has established an 'International

Quality Mark—IEM’, which is awarded to international providers who comply with a code of practice (this mark was developed as a consequence of concerns regarding college falsifying attendance records for students who were in fact economic migrants rather than true students).

In the UK (see Jackson’s chapter (Chap. 10)), the Quality Assurance Agency (QAA) assures the quality of all UK programmes, especially those offered in partnership with other organisations and those delivered in other countries through CBHE provision. The outcomes from the reviews of overseas audits used to be a collection of reports on each of the partnerships; however, more recently, the main output is a country report, which details the range of UK provision and identifies good practices and recommendations for enhancement. Collectively, those reports are seen as useful references for good practices and improvement areas.

The 2014 European Commission report on quality suggests the possibility of bilateral agreements between quality assurance agencies, mandating the receiving country’s agency to act on behalf of the sending country’s one. And this does not seem to create problems regarding the Services Directive’s dispositions. This calls for cooperation among agencies and may indeed be the way forward to deal with higher education institutions and programmes’ quality assurance across borders, which is an issue put forward by many of this book’s chapters (Amaral, de Groof, Walsh, Jackson (Chaps. 1, 7 and 13)).

In general, the authors defended that the responsibility for CBHE quality assurance should probably lie in coordinated and shared responsibilities of national authorities and national quality assurance agencies of both the importing and the exporting countries, the receiving institutions even of some supranational organisations such as ENQA. This would imply a need for concertation between national and supranational actions. Jackson’s chapter (Chap. 10) refers that in the future it is likely that there will be a move towards greater cooperation and mutual recognition between international agencies. Agencies have developed their methodologies and approaches to quality assurance within the context of national expectations or legislation. With the development of a genuine global market for quality assurance services there is likely to be a greater degree of commonality of method and for the use of widely accepted reference points such as the Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG) (ENQA 2009). The case of Ireland (see Walsh’s chapter (Chap. 13)) illustrates an example of the collaboration between agencies to promote quality assurance

across the wider European higher education area. The two agencies meet on a bi-annual basis and have signed a Memorandum of Understanding. Walsh refers to this cooperation as a way to help overcome the fears and negative aspects posed by the Services Directive. And even the European Commission has shown some openness to cooperation between the agencies of exporting and receiving countries.

ENQA is actually leading a European project entitled ‘Quality Assurance of Cross-border Higher Education’ (QACHE 2015). The project is “looking closely into different ways in which European quality assurance agencies and higher education institutions address the accreditation and quality assurance of programmes delivered outside their countries”. The project intends to provide quality assurance agencies and higher education institutions with guidance for activities of internal and external quality assurance processes of CBHE, with support in establishing procedures for CBHE, as well as with comprehensive information on common approaches on quality assurance of CBHE. Based on good practices from Europe, Australia, Asia-Pacific and the Gulf Region, the project elaborates basic principles for a common approach to quality assurance of European CBHE enabling higher education to be of comparable quality and meet the same standards within or outside Europe and being recognised in the host country without facing double procedures (QACHE 2015). Other joint projects between agencies are being run, as well as the setting up of networks and jointly conducted reviews (see Hopbach’s chapter (Chap. 11)), which seems to indicate that indeed collaboration in the field of quality assurance is becoming a reality, even if not specifically in terms of CBHE.

The guidelines for quality provision of CBHE established by the OECD/UNESCO may be a useful roadmap to be used by European governments, higher education institutions and quality assurance agencies in their cooperation efforts. These guidelines, discussed in detail in Hopbach’s chapter (Chap. 11), are divided in recommendations for governments (in terms of national responsibility and international cooperation), higher education institutions (quality abroad should be comparable with quality at home and the receiving country quality assurance system should be respected) and quality assurance agencies (CBHE and collaboration between sending and receiving bodies should be under the remit of their duties and mission). The guidelines stay at the level of the principles and do not detail the specific actions to be taken by all these actors. They underline the need for national responsibility and the international collaboration of parties, reinforcing the importance of mutual trust between governments, institutions

and agencies for the mutual recognition of diplomas. In order to be more effective they need to be translated into documents that give guidance to the practical work on the ‘shopfloor’. Furthermore, regional and inter-regional collaboration is of paramount importance in order to achieve the aim of a common understanding of the specific nature of CBHE among all parties involved (see Hopbach’s chapter (Chap. 11) at this respect).

At the level of quality assurance, CBHE needs not only to be part of the external but also of the internal systems. So cooperation between agencies is needed to externally assure the quality of CBHE in both the receiving and the sending country, but it is also necessary to include CBHE in the institutions’ quality assurance systems. Hopbach states that higher education institutions’ internal quality assurance systems should cover all CBHE activities being developed, turning the information about it public and accessible for prospective students and other stakeholders in the country of provision.

CROSS-BORDER HIGHER EDUCATION: THE WAY AHEAD

It seems that there are many shades of CBHE and that the phenomenon is here to stay. Some see higher education as commerce; others see it as something more than a commodity. It is obvious that there is a significant economic impact of education, as well as a contribution to social development, and that internationalisation is a major concern of HEIs. However, internationalisation is a means to an end and not an end by itself (Noorda 2015). Internationalisation is not a separate task or domain of higher education but a qualifier of the core tasks of the university, which include teaching and learning, research and the third mission. The attempt to quantify outcomes as key performance indicators may serve accountability requirements, but they do not capture the intangible performances of students, faculty, researchers, and the community resulting from internationalisation (Noorda 2015).

CBHE has many potential benefits worldwide, both for importers and exporters. For importers, mainly developing countries, CBHE might, in principle, widen the learning opportunities through the provision of more choices for citizens, address skills gaps, further global citizenship, improve quality of local institutions through increased competition, challenge traditional higher education systems by bringing innovative approaches and methods, increase the relevance of qualifications for a global labour market and benefit domestic institutions which connect with prestigious foreign

institutions (Bashir 2007; Adam 2001). For exporters, CBHE represents essentially a great opportunity to access new sources of revenue (Adam 2001), as it was shown in Salmi and Tavares' chapter (Chap. 3). CBHE might also make European higher education more competitive (Adam 2001), one of the Bologna process' core aims.

However, many risks and threats related with CBHE have been identified. Indeed, most of the potential benefits for developing countries end up being more theoretical than real. Concerns about CBHE provision in developing countries include negative effects of competition on domestic higher education institutions, influx of low quality foreign providers, worsening inequality in access to higher education and unequal access to higher education markets (Bashir 2007). CBHE also raises problems associated with non-official and unregulated providers (often franchise institutions and branch campuses) who remain outside official national quality assurance regimes and are not subject to internal or external audit/monitoring processes; problems associated with consumer protection; difficulties with 'degree mills' and bogus institutions that might exploit the public; unfair competition for strictly regulated domestic institutions and subsequent loss of income; lack of information that makes it difficult to distinguish the good quality from the poor quality CBHE institutions.

While the lead exporting countries argue that the cross-border educational services should be liberalised and tradable, not all the systems are as open to receive foreign providers as they are to encourage other systems to open their borders to receive their own institutions. The importing countries (mostly developing countries) fear losing sovereignty in an area of national sensitivity (Gornitzka 2009). Therefore, there is a risk of a neo-colonialism in developing countries, which might lead to the suspicion that CBHE might be a form of cultural imperialism, given the probability of Western models of education becoming the global standard (Edwards and Edwards 2001). Global perspectives run the risk of being an imperialistic stance of international education, according to which 'one-size-fits-all' models are sold to 'knowledge markets' without taking into consideration the cultural needs and sensibilities of the communities within those markets (Patrick 1997). In fact, as Achim's chapter (Chap. 11) has highlighted, cultural traditions in education and science matter. Even a high quality standard programme in the home country might not work in a different context, with different students. However, while cultural differences and identities should be preserved, others might be chal-

lenged, especially in those cases where, for instance, equity between male and female students is still far from being a reality.

In all respects, what seems consensual is that quality assurance for all these new types of CBHE provision is needed. This will probably entail more collaboration between quality assurance agencies, and enforcement of global guidelines for assuring the quality of CBHE. But, at the same time, one should not overemphasise international accreditation, assuming that the more international accreditation stars an institution has, the more internationalized it is and ergo the better it is (Knight 2011). This corresponds to what Knight designated the *myth of international accreditation*. According to her, “foreign recognition of quality does not speak to the scope, scale, or value of international activities related to teaching/learning, research, and service to society either through public engagement or private enterprise” (Knight 2011, p. 15).

Current shortcomings were identified by ENQA, in its recent project entitled “Quality Assurance of Cross-border Higher Education” (ENQA 2015): a trust gap between home and host countries about the quality of CBHE; lack of cooperation in the quality assurance of CBHE; and a lack of information. Strengthening inter-agency cooperation is seen as the way forward in the promotion of mutual understanding, the sharing of information or good practices and the building of trust. It is also recognised that it is essential to explore ways for agencies to work together. The shared goal is to facilitate the provision of quality CBHE, avoid regulatory gaps, and unnecessary discrepancies and duplication, in the ultimate interest of higher education providers and students. As a result of that ENQA’s project, a toolkit (ENQA 2015) was proposed offering practical guidance on:

- Information sharing: how quality assurance agencies (QAAs) can improve the sharing of information on CBHE;
- Cooperation in quality assurance: how QAAs can enhance cooperation in their quality assurance;
- Networks of agencies: how networks of QAAs can facilitate information sharing and cooperation.

According to the toolkit, quality assurance agencies should share information about their respective QA systems and about cross-border providers, with a view to facilitating mutual understanding and building mutual trust. Consequently, quality agencies have to make clear and accessible

policies for the quality of CBHE; should make it easily accessible a list of those institutions they have quality assured, including any eventual list of quality assured CBHE provision, and associated reports; must seek to establish regular channels of communication to facilitate information sharing, strengthen mutual understanding, and explore ways in which they can cooperate with each other in the QA of CBHE.

However, the ENQA's project (QACHE 2015) addressed quality issues of CBHE between Europe and other continents and not exactly within Europe, leaving aside the issues posed by the Services Directive as discussed in this book. It would therefore be interesting to combine the outcomes of ENQA's project, which emphasise the quality of CBHE intercontinentally, with the specificities of CBHE within specific continents, such as Europe, where the Services Directive plays a very important role.

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