

Submission to the Senate Select Committee on the Free Trade Agreement Between
Australia and the United States of America

Comments on the Impact of the Proposed Free Trade Agreement Between Australia and
the United States of America on Higher Education

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In this submission we address issues relating to the higher education sector, particularly in regard to teaching services, arising from the Australia – United States Free Trade Agreement (AUSFTA).

Some concerns have been expressed in the broader public debate surrounding the Agreement that the signing of the AUSFTA could result in a flood of poor-quality American diploma-mills entering Australia and lowering the country's standards. Conversely, others are concerned that prestigious, high-quality American institutions could enter the market, drawing both local and international students away from Australian institutions. Australia committed in 1994 to a relatively liberalized education sector under the General Agreement on Trade in Services (GATS), providing relatively unrestricted market access to private foreign higher education providers. Higher education services have also been included in all of Australia's bilateral trade agreements to some extent. Given the history of the previous decade, it does not seem likely that the AUSFTA will make a significant difference to the attractiveness of Australia for foreign providers.¹ In any case, Australian higher education institutions have extensive and rapidly growing transnational operations, and in our opinion the Australian higher education industry and governments should, for the sake of international consistency and credibility, be encouraging the presence of foreign providers here to complement local institutions.

The most common fear about the AUSFTA expressed in the Australian higher education sector concerns the extension of public funding to U.S. education institutions operating in Australia. We note that the Australian government lists among its objectives for the AUSFTA, to 'Ensure that the outcome of the negotiations does not limit the ability of government to provide public services, such as health, education, law enforcement and social services'.² Such statements of reassurance are necessary, especially in light of the lack of clarity in relation to some public funding under the GATS, which will not be resolved until a case is brought before a WTO dispute resolution panel or a formal clarification is issued by the WTO secretariat.³ The AUSFTA side letter 'regarding the supply of education services', confirms that 'nothing in the above chapters will interfere with ... government funding, subsidies or grants, such as land grants, preferential tax treatment, and other public benefits, provided to education and training institutions'. This appears to be a relatively clear protection of the right of governments to discriminate in favour of local providers in allocating funding.

Debates around the impact of the GATS have also sensitized the sector to the potential of trade agreements to limit the regulatory options available to governments. The AUSFTA side letter on education appears to be clear on this point also, stating that nothing in the Agreement 'will interfere with: (a) the ability of individual education and training

¹ C Ziguras (2003) 'The impact of the GATS on transnational tertiary education: Comparing experiences of New Zealand, Australia, Singapore and Malaysia', *Australian Educational Researcher*, vol.30, no.3, pp.89-110.

² Senate Foreign Affairs, Defence and Trade References Committee (2003) *Voting on Trade. The General Agreement on Trade in Services and an Australia-US Free Trade Agreement*. Canberra: Commonwealth of Australia, p.169.

³ C Ziguras, G McBurnie & L Reinke (2003) *Implications of the GATS: are foreign universities entitled to Australian funding?* Presented to the 17th IDP Australian International Education Conference, Melbourne, http://www.idp.com/17aiecpapers/program/friday/globalpanel/ZigurasMcBurnieReinkeFri0900_p.pdf.

institutions to maintain autonomy in admissions policies (including in relation to considerations of equal opportunity for students and recognition of credits and degrees), in setting tuition rates, and in the development of curricula or course content; (b) non-discriminatory accreditation and quality assurance procedures for education and training institutions and their programs, including the standards that must be met...’ The term ‘non-discriminatory’ may provide scope for conflicting interpretations, as does the GATS provision that licensing requirements be not more burdensome than necessary to ensure the quality of the service.

While much of the commentary on the AUSFTA in the higher education sector has concerned such ‘defensive’ issues as those mentioned above, there appears to have been little interest in potential benefits of the Agreement for Australian higher education exporters. This is despite the Australian government having listed among its objectives for the AUSFTA, to ‘Seek reduced impediments in accessing the United States market for Australian services suppliers such as providers of professional services’ and to ‘Explore the scope for improvements in the recognition of the qualifications and experience of Australian professionals in the United States’.⁴

It would seem that the most significant aspect of the US regulatory environment for Australian universities is the recognition of degrees and professional qualifications. In particular, the non-recognition of Australian Bachelor degrees for purposes of professional practice and entry into postgraduate courses in the USA is an ongoing issue. Credentialing bodies in the USA do not normally recognize Australian Bachelor degrees as equivalent to Bachelor degrees awarded by US institutions. The difficulty lies in the relative length of pre-tertiary and tertiary studies. The Australian system requires 13 years of pre-tertiary study, followed by three years of tertiary study to be granted a pass-level Bachelor degree. The US system requires 12 years of pre-tertiary study, followed by four years of tertiary study to be granted a pass-level Bachelor degree. The length is the same, but it is segmented differently. US institutions regard the initial freshman “common” or “liberal arts” year as a core component of the tertiary degree, while Australia regards it as the equivalent of the last year of secondary education. The Australian Education Office in Washington D.C. has had discussions with the American Association of Collegiate Registrars and Admissions Officers on this matter, but without apparent success. These issues could be addressed by closer liaison between appropriate bodies from each country.

The inclusion of education and professional services in the AUSFTA may provide an additional avenue for tackling such matters, however the side letter on education specifically exempts admissions processes from the agreement. It remains to be seen whether recognition of qualifications for purposes of professional registration has also been exempted from the Agreement.

NAFTA signatories have to date held several summit conferences and established a range of bodies and programs to promote educational mobility and academic cooperation, as

⁴ Senate Foreign Affairs, Defence and Trade References Committee (2003) *Voting on Trade. The General Agreement on Trade in Services and an Australia-US Free Trade Agreement*. Canberra: Commonwealth of Australia, p.169.

well as cooperation between government, business and the education sector.⁵ Such initiatives are important to avoid the perception that educational linkages between the countries involved are primarily commercially motivated. As we have argued elsewhere, Australia needs to balance its ardent advocacy of educational trade liberalization with strong support for non-commercial and aid-funded internationalization to avoid undermining the sector's reputation in the eyes of our overseas colleagues.⁶

⁵ C Barrow, S Didou-Aupetit, and J Mallea (2003) *Globalisation, Trade Liberalisation, and Higher Education in North America. The Emergence of a New Market under NAFTA?* Dordrecht: Kluwer Academic Publishers.

⁶ G McBurnie & C Ziguras (2003) 'Remaking the world in our own image: Australia's efforts to liberalise trade in education services', *Australian Journal of Education*, vol.47, no.1, pp.217-34; C Ziguras, G McBurnie & L Reinke (2003) 'Hardly Neutral Players: Australia's role in liberalizing trade in education services', *Globalisation, Societies and Education*, vol.1, no.3, pp.359-74.