
Annex. A comment on immigration controls and education in the United States

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The passage of the USA Patriot Act the month after the 11 September 2001 terrorist attacks on the United States has had an unintended impact on many sectors.¹ One of these sectors is higher education: the tightening of US immigration laws is having an effect on the 600 000 students who come to the USA every year to study.

The importation of students into the US higher education system is a large industry for the United States. Because of the restrictions imposed by the changes in immigration laws, the question for the USA now is whether it should be ‘importing students’ or concentrate on ‘exporting’ higher-education services. Countries such as Australia and the United Kingdom have made the decision to do the latter: in 2002 each nation generated revenues of over \$4 billion from education services abroad, up from almost zero in 2000.²

New information technologies, international trade liberalization, and an unprecedented demand for education and training have changed the global market for these services. The link between education and standard of living as well as its importance for economic competitiveness have been realized at all levels. Together, these forces have combined to increase the global demand for higher education and training. The sector is experiencing unprecedented expansion and diversification in terms of both the number and variety of providers of higher education and training as well as the array of services they offer. Higher education is coming to be seen increasingly not only as a national public service but also as an international commodity.

Education and training rank fifth in terms of the USA’s export earnings from service branches, bringing almost \$13 billion into the US economy in 2002.³ This figure primarily arises from international students studying in the USA and does not capture the receipts from the growing number of branches, and other ventures, established overseas by providers of US education services.

As a result of new security concerns and the tightening of visa restrictions, international students are having trouble entering the United States to pursue opportunities for higher education. Many educators fear that this may result in a loss of international market share. The United States’ primary competitors in education services—Australia, Canada and the United Kingdom—are making concerted efforts, with the assistance of their governments, to take advantage of this extremely high level of global demand. As a result, US providers of these services will need to look

¹ For the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the USA Patriot Act of 24 Oct. 2001) see URL <<http://www.epic.org/privacy/terrorism/hr3162.pdf>>.

² See the Internet site of the US National Committee for International Trade in Education (NCITE) at URL <http://www.tradeineducation.org/general_info/frames.html>.

³ NCITE (note 2).

to reach these students in their home countries, whether by creating a branch campus, a joint venture, or through distance learning.

Throughout the world, there is a growing middle class. Their children will want to have access to higher education, and if economic growth and prosperity are to continue, a higher education will become more and more of a necessity. In an article in *The Chronicle of Higher Education*, Goldie Blumenstyk points out that, in areas or countries of the world such as South-East Asia, Latin America and India, governments are finding that there is not enough space for students in their own public institutions.⁴ She goes on to say that ‘about 60% of India’s population is 25 or younger’. She further notes that in Brazil, in 2002, 80 000 students applied for the 4000 available spaces in the public university, and by the year 2010 Mexico will need 2 million more university places. The needs in China are just now being quantified.

What does the new transnational higher education look like? The old model was that US citizens studied abroad, while students from abroad came to the USA. Today’s new modes are the establishment of branch campuses of existing universities; twinning between US and foreign educational institutions; ‘bricks and mortar’; distance education; and the use of traditional educational facilities for corporate training programmes.

A number of other possible barriers to the international trade in education have been noted by the World Trade Organization (WTO).⁵ They include: the introduction of national legislation restricting imported activities, already in place in countries such as Greece, Malaysia, Singapore and Spain; limitations on the recognition of foreign credentials by qualified authorities (Israel, Japan and Sweden); problems created by customs regulations (Hungary and Russia); obstacles to the free movement of persons (Denmark, Greece and Japan); and limitations on foreign ownership, for instance in Mexico and Thailand.

The issues and challenges this creates for a country like the USA are numerous. Should visas be restricted for international students and should these students be denied access to Western-style, high-quality education? Does ‘exporting’ these educational services, instead of ‘importing’ the students, provide a real alternative? How do you replace the cultural experience of living in another country, which is key to people’s understanding and acceptance of each other? Where should this issue be debated internationally—at the WTO, the Organisation for Economic Co-operation and Development or the United Nations?

The issue should be of especial concern to the United States because the most prestigious US institutions of higher education are private, not public. These institutions do not want the US Government to set policy. The whole problem may be linked with a wider dilemma over immigration controls and the balance between their two possible functions: to keep out the bad, but also to let through the good. The agenda is one which should be of serious concern to ‘rich men’ and ‘poor men’ alike.

⁴ Blumenstyk, G., ‘Spanning the globe: higher-education companies take their turf battles overseas’, *Chronicle of Higher Education*, 27 June 2003.

⁵ For WTO documents on education services see URL <http://www.wto.org/english/tratop_e/serv_e/education_e/education_e.htm>.