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Trade and Investment Linkages in Higher Education Services in Malaysia

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Executive Summary

In the Third Industrial Master Plan, several service sub-sectors were identified as new sources of growth for the country, including education services. Apart from this sector's contribution towards growth, private higher education institutions (PHEIs) can also contribute towards increasing access to education and equity. Malaysia aims to be a global education hub by 2010. In view of the above, this study aims to explore the trade and investment links in private higher education in Malaysia. Specifically, the study assesses whether, and if so, how trade and investment policies in general, and in the education sector in particular, are coordinated at the national level. Barriers towards trade and investment in private higher education are also examined in order to provide policy input for the liberalization of trade and investment in private higher education, focusing in particular on the need for trade and investment policy coordination at the national and regional level.

The shortage of supply and the emergence of both program and institutional mobility in private higher education have encouraged PHEIs to grow in Malaysia. Since various ministries and agencies in the country govern the service sector, the development of the different sub-sectors in services is under the jurisdiction of the respective ministries or agencies. Consequently, the trade and investment policies in private higher education are formulated, facilitated, regulated and enforced by the Ministry of Higher Education (MOHE) in Malaysia. These policies are formulated in consultation with the relevant stakeholders and also in view of international best practices, thus reducing the problem of policy coordination within the Ministry and its affiliated agencies.

In Mode 1 (cross-border trade in services), it was found that the main barrier to trade is not related to regulations but to the preference of the students for the more traditional mode of learning. Policy coordination problems emerge as distance and e-learning is dependent on policy decisions from other ministries such as the Ministry of Energy, Water and Communication to improve the country's infrastructure support.

Nevertheless, the implementation of PHEI policies may also encounter several problems related to inter-agency coordination despite the consultative process that took place during the formulation of policies. As shown by the results of a survey of PHEIs conducted as part of this study, the main problem encountered in Mode 2 (consumption abroad) is the students' visas, which requires coordination between MOHE and the immigration department.

In the case of Mode 3 (commercial presence), the study found that unlike the case of goods, investment in education services is less dependent on foreign equity. Instead, the mobility of programs has led to the emergence of a large variety of foreign-linked programs in the country that have no links with foreign equity investment. Foreign equity thus plays a less important role in trade in education services. The accreditation problems identified in the survey may be attributed to the large number of players as well as the variety of programs and institutional capabilities of different players as not all PHEIs are equally equipped to meet the demands of LAN. As of 2006, 839 programs have been fully accredited and 5,865 have been awarded provisional accreditation. However, another 1,600 programs are

still unaccredited. Although the reasons for the large number of unaccredited programs are not known, the system of accreditation may need further improvements.

The main problem associated with Mode 4 (natural persons) appears similar to that of students' visas, namely processing time to obtain visas and work permits. Shortening the entry time will facilitate the entry of foreign lecturers although cost considerations may be a more natural barrier to trade in this mode. Ultimately, the potential of Malaysia to be an educational hub will depend on the development of the PHEIs in the country from mere teaching institutions into world-class universities that have high caliber faculty members who are also researchers.

It should be noted that the study faces some limitations as the survey was restricted to the 27 PHEIs allowed to confer degrees in 2005. Out of these 27 PHEIs, only eight responded. Nevertheless, the interviews and in-depth semi-structured interviews with some of the PHEIs, trade association members and officials from the Ministry of Higher Education provide some insights on the trade and investment issues in this sector.

I. Introduction

In Malaysia, the service sector has grown considerably over time. In 1980, it contributed 44.7% towards the Gross Domestic Product (GDP) and 46.0% of total employment of the country. By 2005, its contribution has grown to 60.8% of GDP and 58.0% of total employment in the country (Malaysia 2006, 523). Its importance for the country in terms of complimenting the growth in manufacturing was recognized in the Second Industrial Master Plan (IMP2: 1996-2005) that first introduced the idea of developing supporting services under its Manufacturing ++, or the cluster-based development strategy. However, no specific service sectors were targeted for development.

In contrast, the Third Industrial Master Plan (IMP3: 2006-2020) not only reiterates the importance of the service sector as an important intermediary for supporting the development of businesses and trade in all sectors, it further targeted eight service sub-sectors for development. These are business and professional services, distributive trade, construction, education and training, healthcare services, tourism services, ICT services and logistics. The contribution of these sub-sectors as new sources of growth for the country includes their potential to provide linkages and spillovers between sectors. Nevertheless, given the limited size of the domestic market and the importance of trade to the Malaysian economy, the potential of these sectors to be new sources of growth for the country is inevitably dependent on their export potential.

Although Malaysia has not offered to open up education services under its current commitment in the General Agreement on Trade in Services (GATS), the government has progressively opened up the sector for private and foreign participation. As noted in the IMP3, there are currently 16 private universities in the country, of which 11 are Malaysian-owned and five, branch campuses of foreign countries (Malaysia 2006, 552). At the same time, Malaysian higher education institutions are also establishing campuses abroad. The number of foreign students enrolled in HEIs in Malaysia is also increasing. In 2005, a total of 40,525 foreign students were reported enrolled in these institutions, with 84% in private higher education institutions (PHEIs) (MOHE 2006a, 2-22 and 3-25). This has contributed towards export revenue and also towards reducing the perennial services deficit in the country.

Malaysia has also recognized the potential contribution of PHEIs towards economic growth. This is evident from the report from the Ministry of Higher Education (MOHE 2006b, 77) that recommended PHEIs as a sector that can generate economic growth besides increasing access and equity. In fact, Malaysia has aimed not only to be a regional center for higher education but also to be a global education hub by 2010.

In view of the above developments, this study aims to explore the trade and investment links in private higher education in Malaysia. Specifically, the study assesses whether, and if so, how trade and investment policies in general, and in the education sector in particular, are coordinated at the national level. Barriers towards

trade and investment in private higher education are also examined in order to provide policy input for the liberalization of trade and investment in private higher education, focusing in particular on the need for trade and investment policy coordination at the national and regional level.

II. Evolution of Private Higher Education in Malaysia

2.1 Historical Overview

Private higher education is not a new phenomenon in Malaysia; rather this sector has been in existence since the 1980s (Tan 2002, 142). Affirmative action undertaken under the New Economic Policy (NEP) that was promulgated in 1970 after the politicized racial riots in 1969 led to the use of a quota system that restricted the admission of non-Bumiputeras[1] in public institutions of higher learning in the country. Consequently, private higher educational institutions (PHEIs) emerged to meet this excess demand, especially during the economic recession in 1985 as the alternative; an overseas education became too expensive. In particular, the imposition of full fees on overseas students by the British universities led to an increase in the demand for private higher education in the country.

Economic recovery and the subsequent buoyant growth of the economy in the second half of the 1980s intensified corporate presence in this sector, thereby facilitating the rapid growth of private higher education. Malaysian companies, be it individually, or as a consortium of companies or public listed companies or government corporations viewed private higher education as an alternative source of revenue as well as a means to enhance the property values of corporations that are involved in the development of new townships (Tan 2002, 120). The rapid development of this sector did not just serve to reduce foreign exchange losses by providing an alternative pathway to an overseas education for domestic students. Rather, the government envisioned that the development of this sector into a regional education hub would also enable Malaysia to shift from being a net importer to become a net exporter of higher education by 2020 (McBurnie & Ziguras 2001, 93). At the same time, it would also complement the government in meeting the human resource needs of the country.

By 1995, 34.7% (or 127,423) of the students enrolled in higher education were enrolled in private institutions while 51.5% were enrolled in local public institutions of higher learning (Lee, 1999, 37). The rest were studying overseas. The number of PHEIs grew from 156 to 354 in 1996. In response to the rapid growth in private higher education, the Private Higher Educational Institutions (PHEI) Act and the National Accreditation Board Act were passed in 1996 to enhance the development of PHEIs by enabling the private sector, for the first time, to establish degree-granting institutions as well as foreign universities to set up branch campuses in the country. The Act also defines the government's regulatory control over all PHEIs while the National Accreditation Board (commonly referred to as LAN), was established to ensure that minimum standards as determined by the Board are met by the PHEIs. In addition, LAN also awards certificates of accreditation to the certificates, diplomas and degrees conferred by the PHEIs. Subsequently, the recession in 1998 due to the

[1] Bumiputeras refers to the Malays and indigenous ethnic groups in Malaysia.

advent of the Asian Financial Crisis (AFC) contributed toward an accelerated implementation of these Acts and a further push to develop the PHEIs.

In 2004, the Ministry of Higher Education was established to oversee the development of both public and private higher education in the country. By 2005, there were 258,825 students enrolled in PHEIs or 45% of the total number of students enrolled in the institutes of higher education in the country (Ministry of Higher Education 2006a, 3-25). The number of foreign students enrolled has also increased from 13,472 in 2001 to 33,903 in 2005. In 2005, these foreign students comprised 13% of the total number of students enrolled in PHEIs.

2.2 Nature of Private Education Activity: Major Players and Types of Provisions

Based on Table 1, it can be seen that there are five types of PHEIs that are currently operating in Malaysia. As at 2005, there are 10 PHEIs that have university status. Out of these 11, three are universities that were set up by the three public corporations in telecommunications, electricity and petroleum (Tan 2002, 129). Of the three, Universiti Multimedia (or the Multimedia University) was the first to be established in 1999 (see Appendix 1). The public corporations were privatized first before they expanded their operations to the education sector. Although they were initially set up to produce engineers, the programs offered have expanded beyond engineering over time.

TABLE 1. Number of Private University/Colleges, 2005

No.	Category of Private Institutions	Number of Private Institutions
1	Private Universities	11
2	University Colleges	11
3	Foreign University Branch Campuses	5
4	Colleges	532
5	Total	559

SOURCE: Ministry of Higher Education (MOHE) 2006

Apart from government corporations, the state[2] of Selangor was the first state in the country to establish its own PHEIs, namely Universiti Industry Selangor (UNISEL). Its curriculum and extra-curriculum are industry-centered as they are meant to meet the industry needs of the country.

Two virtual universities were set up. Universiti Terbuka Malaysia (UNITEM or the Malaysian Open University) is established as an open university, based on the Open University of Britain, to deliver distance education. A consortium of public

[2] Malaysia has a total of 14 states in the country

universities in the country manages it. The second university that also provides distance learning, namely University Tun Razak (or UNITAR) is privately owned.

The International Medical University (IMU) was initially a college that was later upgraded to university status in 2001. It was the first PHEI that offered a medical program (1993) and a pharmacy course (1996) (Tan 2002, 131). It continues to offer a single discipline, namely medicine and allied health sciences.

Of the other three universities, the Malaysian University of Science and Technology (MUST) was established initially in collaboration with the Massachusetts Institute of Technology for post-graduate studies. Universiti Tunku Abdul Rahman (UTAR) that was established by a political party is one of the most recent private universities established. The other is Universiti Kuala Lumpur (UniKL).

The government also invited four foreign universities to set up branch campuses in Malaysia. These are Monash University and Curtin University of Australia and Nottingham University and De Monfort University of the United Kingdom (Appendix 1).

Although initially private colleges were not allowed to confer degrees, this was subsequently relaxed for a selected number of private colleges, beginning with IMU. By 2005, eleven private colleges were allowed to confer degrees when they were upgraded to college-universities (Appendix 1). However, there are also 532 other private colleges that are still not allowed to confer degrees in the country. It should be noted that out of these 500 over PHEIs, only 200 of these institutions are allowed to recruit international students and for specific programs within each institution (Challenger 2006a, 237 and interview MOHE, 3 July 2007).

A variety of programs are offered by PHEIs due to their historical development and their funding constraints. Although some PHEIs do offer their own internally developed programs, most offer foreign-linked programs. Historically, when PHEIs first emerged in the 1980s, they had to forge different types of linkages with foreign universities in order to offer different types of degree programs and professional qualifications as they were not allowed to confer degrees (Lee 2004, 4). Thus numerous foreign-linked programs or transnational programs have evolved, namely foreign university programs completed wholly in Malaysia, be it in branch campuses or in private colleges through franchise programs; twining degree programs, credit transfer programs, external degree programs and distance learning programs (Table 2). Appendix 2 shows some examples of foreign university programs that can be completed wholly in Malaysia in collaboration with the respective joint partner foreign universities. Institutional linkages with local public universities have also emerged with some of the private colleges carrying their programs.

Since tuition fees are the main source of revenue for most of the PHEIs, their programs have to be tailored to market demand. Although some corporate-linked PHEIs did receive some financial subsidies from their parent company in their initial years, these subsidies are often withdrawn over time and the PHEIs have to be financially self-sufficient. Consequently, the PHEIs tend to offer programs in

disciplines that do not require a large capital outlay in disciplines such as accountancy, business studies, and computer studies.

TABLE 2. Types of Transnational Programs Conducted By PHEIs in Malaysia

No.	Program	Description of Program
1.	3+0 Foreign University Degree Programs completed in Malaysia	PHEIs are permitted by foreign university partner to conduct the entire degree program in Malaysia for the foreign university partner. Degree is awarded by the foreign university partner.
2.	Foreign University's External Degree Program leading to degree qualifications	Students register as an 'external student' with a foreign university and study through the tutorials conducted by the local private college. The syllabi, entry requirements and examinations are determined by the foreign university. The degree awarded is no different from the degree awarded to the 'internal' students.
3.	Split Degree Programs	This allows the partial completion of the degree program in local private colleges but the final part has to be completed at the twinning partner overseas. Degree is awarded by the twinning partner overseas. There are several options: • Twinning degree option: The student attends part of the course locally and the balance at the twinning university; • American degree transfer/credit degree transfer: The student collects sufficient credit through a local private college and then completes the remaining credits in the foreign university; • Advanced standing entry option: The courses offered by the local private colleges are validated and moderated with 'advanced standing' entry status by a group of overseas universities for advanced entry into the final part of their degree programs.
4.	Distance Learning Program Arrangement	This is similar to the external degree program with the students admitted directly into the university, with local private college providing the tuition classes and administrative support. Self study materials are provided and the electronic media like the Internet, video-conferencing, satellite, video cassettes, audio-visual teaching aids etc are used as the teaching media; private colleges provide face-to-face meetings with tutors in a class room setting. Evaluation may include a local component, unlike the external degree programs.

SOURCE: Challenger, 2006b. Education Guide Malaysia, 10th edition.

Table 3 shows that out of the 101,395 students enrolled in private PHEIs in 2005 for degree programs, 61% are in the arts, while within the discipline of science and technology, 21,282 or 54% are enrolled in computer and technology studies.

TABLE 3. Student Enrollment For a Bachelor Degree in PHEIs, according to Field of Studies, 2001-2005

FIELD OF STUDIES	2001	2002	2003	2004	2005
LITERATURE					
Arts, Design and Music	590	1,215	1,111	1,663	4,521
Business and Administration	29,246	25,995	36,220	44,895	35,934
Education	475	3,715	7,281	8,813	12,610
Humanity	1,555	837	931	1,072	777
Law	1,313	1,209	1,158	1,115	1,504
Service Sector	100	94	171	244	243
Social Science	149	949	1,254	1,642	6,039
Language	237	11	159	199	96
TOTAL	**33,665**	**34,025**	**48,285**	**59,643**	**61,724**
SCIENCE AND TECHNOLOGY					
Agriculture	-	-	-	-	272
Computer and Technology	13,883	18,617	25,754	25,466	21,282
Health and Welfare	-	-	-	-	753
Medicine	2,381	2,469	3,886	4,724	4,916
Science and Mathematics	260	1,360	412	600	2,029
TOTAL	**16,524**	**22,446**	**30,052**	**30,790**	**29,252**
TECHNICAL AND VOCATIONAL					
Engineering and Technical Skills	9,289	10,058	11,801	14,229	10,047
Air and Maritime	75	153	72	130	-
Manufacturing and Construction	412	380	421	533	372
TOTAL	**9,776**	**10,591**	**12,294**	**14,892**	**10,419**
TOTAL (LUMP SUM)	**59,965**	**67,062**	**90,631**	**105,325**	**101,395**

SOURCE: MOHE 2006

2.3 Trade and Investment Linkages

2.3.1 The Overall Coordination of Trade and Investment Policies in Malaysia

In Malaysia, the New Economic Policy (NEP) that was introduced in 1970 guides all socioeconomic planning in the country. The NEP has two prongs in its objectives, namely growth and redistribution. The latter includes the redistribution of ownership wealth to ensure an equitable distribution among the country's various ethnic groups. In order to achieve this, quantitative targets were set: by 1990, the Bumiputeras (or indigenous) should hold 30% of the corporate equity while the non-Bumiputeras and foreigners should hold 40% and 30%, respectively. In addition, 30% of employment is also reserved for the Bumiputeras. The enforcement mechanism for the NEP is a licensing system that was set up under the Industrial Coordination Act of 1975. This Act empowered the Minister of International Trade and Industry (MITI) to impose any condition (including compliance with NEP targets) on the issuance and renewal of licenses. The Malaysian Industrial Authority (MIDA), under MITI, is the agency that is in charge of the promotion, approval of Foreign Direct Investment (FDI) in manufacturing activities as well incentives given.

Non-manufacturing activities that are not under the jurisdiction of any Ministries or agencies have to seek investment approval from the Foreign Investment Committee (FIC), which was established in 1974 as a unit within the Economic Planning Unit, to ensure the fulfillment of the NEP goals. Approval for foreign investment including licenses is under the purview of the respective regulatory body in the case of service activities that are under the jurisdiction of a specific government agency or Ministry. For example, the Central Bank is the regulator of the banking industry and foreign investment in banking have to be approved by the Central Bank, which also awards the banking license for the foreign service provider.

MITI is the coordinating agency for services. However, the collection of data and information of services is under the jurisdiction of the different Ministries and agencies that are overseeing the various service sub-sectors. The formulation of trade policies is facilitated through a consultative process with the relevant industries, interested groups, and Ministries. A national working group (WG) on services and several sectoral working groups have been established that works out Malaysia's national position for negotiations on the liberalization of services (UNESCAP 2002, 61). The WG on Services is made up of representatives from key Ministries, agencies and regulators who are directly involved with trade in services while each of the sectoral WG has representatives from the related professional bodies and industry associations for technical participation and consultations. The main function of the sectoral WG is to respond to issues in relation to liberalization of trade in services such as emergency safeguard measures, MFN treatment, requests for market access from Malaysia's trade partners and to prepare Malaysia's offers and feedback as to whether a particular sub-sector is ready for liberalization or not. Liberalization of services under the different modes is also formulated through this consultative process.

The Malaysian Services Industry Development Council (MSIDC) was established in 2006 in response to the policy suggestion outlined in the IMP3 to promote the development of the six-targeted sectors, namely distribution, tourism,

education, health as well as selected business and professional services. The relevant sectoral working groups have been placed under the MSIDC. There are currently 33 members of the council, 16 of whom are from the private sector, 13 from the public sector and 4 from academia. The private sector plays an important role in this council as they are expected to put forward recommendations to accelerate the growth of the selected sub-sectors. While the regulatory functions remain with the respective relevant Ministries and agencies, the council will be playing an important role in terms of the coordination and implementation of policies and programs, covering areas such as institutional support, infrastructure, rules an regulations, and liberalization initiatives (Ahmad Husni 2007, 1-3).

2.3.2 Trade and Investment Policies in Private Higher Education in Malaysia

In 2004, the Ministry of Higher Education (MOHE) was established to regulate tertiary education. The Department of Private Education was then renamed as the Private Higher Education Management Sector (Challenger 2006, 76). Its primary function is to formulate policies and to set the direction for the development of the PHEIs in Malaysia. Specifically, this Sector processes applications for the establishment of PHEIs, sets standards, enforces and regulates laws, manages the collection of fees, provides services such as advice, guidance, counselling and consultation as well as the collection of data and information on this sector.

There are four stages for getting approval to conduct courses and programs in Malaysia. PHEIs must first apply to MOHE (or the Ministry of Education prior to 2004) for approval to establish a private higher educational institution (McBurnie and Ziguras 2001, 92). In the case of private universities and branch campuses of foreign universities, they are identified by the Ministry and are invited to apply. All providers have to incorporate a company locally. After approval to establish has been granted, the institution has to apply for registration from the Private Higher Education Management Sector in MOHE. Upon registration, the PHEI must apply to MOHE for permission to conduct each course or training program. LAN assesses their applications and determines whether courses meet the minimum standards before making its recommendation to the Minister for approval or not. Provisional accreditation was introduced in 2006 to facilitate the students' application of government loans while full accreditation would require a more detailed appraisal of the quality of the courses carried out by a panel of assessors. Assessment for full accreditation can only commence after the first cohort of students is in their final year.

MOHE thus determines the trade and investment policies in higher education since it facilitates, approves, and regulates all providers and programs in private higher education. The ministry in consultation with the relevant stakeholders and agencies also formulates the country's offers for the WTO as well as the bilateral agreements. Enforcement is also under the jurisdiction of the ministry. The implementation of these policies, however, requires coordination between MOHE, LAN as the regulatory body in charge of standards and quality of the PHEIs and the immigration department for the issuance of student visas, work permits and visas for foreign lecturers. Registering a PHEI would also require the applicant to fulfil the requirements of local authorities such as fire safety and health besides the requirements of MOHE. MOHE also oversees the issuance and extensions of the duration of a permit to teach.

2.3.3 Trade and Investment Links in Private Higher Education in Malaysia

Cross Border Supply

As noted by the WTO, Council for Trade in Services (1998, 8), the bulk of the trade in this sector takes place through consumption abroad rather than in the form of cross border supply. In the case of Malaysia, Ziguras (2001, 6), noted that student preference for traditional modes of learning based on face-to-face contact with lecturers as well as the unreliability of dial-up Internet connections which are prone to drop outs and low bandwidth have led to the relatively slow development of distance learning in the country. Case studies by Ziguras show, for example, though the Australian campuses of Monash are rapidly adopting technology in course delivery, the Malaysian campus is still offering the traditional face-to-face approach in their teaching and learning. In his other case study, Universiti Tun Abdul Razak (or UNITAR) which is supposed to be Malaysia's first 'virtual' university also had to adjust its university model to accommodate the local preference by having some hours of face-to-face lectures and also a network of local learning centers for students to attend classes, interact with other students, sit for exams as well as to access computers and support staff.

Consumption Abroad

Malaysia started out as an importer of higher education due to the limited supply of higher education in the country, perceived advantages of obtaining a foreign degree and or the desire to study solely in another language, usually English[3] (The Observatory 28th April 2006, 2). There is no available time series data on the export and import of education services, much less at the different levels of education. In 1990, the number of Malaysian students studying overseas was reported to be 73,000 (Tan 2002, 126). Import of education was reported to be RM2 billion in 1990 and this accounted for 15.9% of the total service deficit (Sieh et al 2000, 85). This increased to RM2.2 billion in 1996 before falling slightly to RM2 billion in 2000 (Malaysia 2006, 526). In 2005, an import of RM3.6 billion was reported. Despite the increase in import value, the number of students has fallen substantially from 117,297 in 2000 to 56,609 in 2005 (Table 4). It is possible that the increase in import value may be due to increases in fees. Data from the Institute of International Education shows that the majority of the students studying in the USA are at the undergraduate level (67%), followed by post-graduate level (25%). Other levels of education constitute a mere 8% (www.atlas.iienetwork.org Accessed 3 December 2006).

Although there is no data available for earlier years, the depreciation of the Ringgit during the AFC in 1997 dampened significantly the demand for overseas education. Import-substitution accelerated as the Ringgit fell from an average of RM2.5 to USD1 before the crisis to RM3.8 to USD1 in 1998. It was not only a fall in terms of outward-bound private students, but government-sponsored students were also affected as the government reduced the scholarships for overseas study. In 1997, the government sponsored 30 percent of Malaysian students studying overseas. The number of students studying in the UK fell down by 41% from 1996/97 to 1999/2000

[3] From 1974, the medium of instruction in education at the tertiary level was changed from English to the national language, Bahasa Malaysia.

and decreased further by another 3% between 2003/04 to 2004/05 when it fell from 11,800 to 11,475 (The Observatory 28th April 2006, 2). In the US, it fell by almost 50% between 1997/98 and 2000/01and again by another 27% between 2000/01 and 2004/05 from 7,795 to 6,142. Apart from the foreign exchange, developments in the US post-September 11 may be another contributory factor as well as the emergence of regional competitors such as Singapore.

TABLE 4. Number of Malaysian Students Overseas, 2000-2005

NO.	COUNTRY	2000	2001	2002	2003	2004	2005
1	United States of America	31,360	28,700	7,395	7,611	5,519	6,411
2	Saudi Arabia	-	-	127	125	125	132
3	Australia	16,491	15,121	15,700	15,448	15,434	15,909
4	Canada	1,194	1,130	231	231	196	230
5	Indonesia	1,720	1,616	1,337	1,225	1,607	2,444
6	Jordan	3,350	1,512	361	361	310	444
7	Egypt	7,369	7,068	4,664	4,330	5,768	6,256
8	New Zealand	1,407	1,214	995	918	1,011	1,338
9	UK & Eire	54,406	47,365	11,970	11,860	11,041	15,189
10	Other Countries	-	-	-	-	2,268	8,256
TOTAL		**117,297**	**103,726**	**42,780**	**42,109**	**43,279**	**56,609**

SOURCE: MOHE 2006

In contrast, the total enrollment in PHEIs more than doubled from 127,423 in 1995 to 261,043 in 2000.[4] This grew further to 258,825 in 2005. While it cannot be ascertained as to how many in this number have substituted a local education for an overseas education, the development of PHEIs have certainly widened access in higher education in Malaysia. In the mid-1980s, only 12% of the 17-23 age group had access to higher education in Malaysia and this increased to 23% in 2000 and further increased to 29.9% by the end of 2006 (Ismail 2007, 2). The government aims to increase this to 40% by 2010.

The rapid expansion of the PHEIs in the country as well as their growth in student enrollment led to an increasing emphasis on the promotion of Malaysia as center of educational excellence for foreign students. In turn, the number of foreign students enrolled in PHEIs grew from 13,472 in 2001 to 52,000 in 2006/07, the majority of whom are from China, South-east Asia, especially Indonesia and the Middle East (New Straits Times June 14 2007). The government aims to have at least 100,000 foreign students in Malaysia by 2010.

Relevance, cost, and quality, are the key drivers of demand. The demand for relevance has for example pressed the PHEIs to be responsive to the needs of their prospective students. INTI International University College (INTI-UC), for example, has offered new programs that provide internship as well the inclusion of

[4] This includes those that are registered at the certificate and diploma levels and the data cannot be compared with the data in Table 3.

Employability Skills Workshop (ESW) in their programs to enhance the employability of their graduates in view of the competitive job market and the number of unemployed graduates in the country (New Sunday Times, June 17 2007).

A three-year degree program in Malaysia is estimated to cost between RM60,000 to RM90,000 in 2005, including tuition fees and living expenses (Challenger 2006b, 317). Completion of a three-year program in Malaysia under the 3+0 foreign degree program can save a student from A$15,000 to A$94,500, depending on the field of study (Table 5). A foreign branch campus administrator estimated that the cost of living in Malaysia is 30-40% lower than in the mother campus while the fees may be 20-40% lower depending on the exchange rates as the fees are stipulated in Ringgit for the Malaysian campus (interview, 14 June 2007). Completing a degree in an Australian branch campus in Malaysia can cost USD31,770 as opposed to costing USD87,189 in the Australian mother campus (Challenger 2006a, 214).

Basic standards and the criteria for quality are developed in LAN based on international and national best practices in consultation with the stakeholders and the professional bodies. Before 2005/06, all programs and courses taught in PHEIs, including branch campuses have to be assessed by LAN, with the exception of the University of Nottingham. The government adopted the Malaysian Quality Framework (MQF) as the platform for Quality Assurance in Malaysia in December 2005. The MQF is a description of the national education system, including all qualifications and learning achievement in higher education. The MQF also facilitates the articulation of equivalency among those qualifications. In July 2007, the Cabinet has approved the Malaysian Qualifications Agency (MQA) that will merge LAN with the Quality Assurance Division (QAD) of the MOHE for public providers and will manage and approve qualifications awarded to all Malaysian institutions.

The availability of quality assurance in the form of LAN accreditation has enabled local private universities to sell their own homegrown programs to foreign students as the programs are taught in English while studying in Malaysia offers significant cost savings. For example, the MMU, which is selling their own home grown programs, has a student population of 21,000 in 2007, of which 3,800 are foreign (interview 11th June 2007).

Establishing a Commercial Presence: Foreign Equity vs. Transnational Programs

In the education sector, commercial presence can take place in either the form of institution mobility or program mobility. In the case of the former, foreign equity is restricted to 49% under the NEP of Malaysia (interview MOHE, 3 July 2007). This is not deemed to be a restrictive factor to trade based on the response of the branch campus of two foreign universities in Malaysia. One even mentioned that the foreign partner would prefer to hold less equity as there is less risk for the foreign partner. Since the foreign partner holds the brand name of the university, academic control in the running of the academic programs of the branch campus remains in the hands of the foreign partner.

TABLE 5. Tuition Fees (RM) - Bachelor's Degree Programs

	Paths of Study			
	Entire Bachelor Degree in Malaysia via			Split-Degree Arrangement
Areas of study	**Path (i) Private Colleges' 3+0 Foreign Degree Programmed (RM)**	**Path (ii) Foreign University Branch Campuses' Degree Programmed (RM)**	**Path (iii) Malaysian Private Universities' Degree Programmed (RM)**	**Path (iv) Private Colleges' Twining Degree Programmed (e.g.: 2 yrs in Malaysia + 1 yr in Australia) (RM & AUD)**
Business	RM35,000 – 45,000 (3 yrs)	RM51,000 – 76,000 (3 yrs)	RM30,000 – 39,000 (3 yrs)	RM36,000 + A$15,000 (2+1 yrs)
Engineering	RM45,000 – 46,500 (3yrs for UK degree)	RM80,000 – 104,000 (4 yrs for Aust. Degree 3 yrs for UK degree)	RM46,000 – 64,000 (4 yrs for Malaysian degree)	RM46,500 + A$17,000 (3+1 yrs)
IT	RM33,000 - 50,000 (3 yrs)	RM72,000 – 82,000 (3 yrs)	RM33,000 - 43,000 (3 yrs)	RM40,000 + A$17,000 (2+1 yrs)
Medicine	-	RM325,000 (5 yrs)	RM228,000 – 270,000 (5 yrs)	RM120,000 + A$94,500 (21/2 + 3 yrs)
Hospitality & Tourism	68,000 (3 yrs)	-	RM30,000 - 48,000 (3 yrs)	RM36,000 + A$15,000 (2 + 1 yrs)
Music	RM54,000 (3 yrs)	-	RM72,000 (3yrs)	RM32,000 + US$36,500 (2+2 yrs in USA)

SOURCE: Challenger 2006, Education Guide Malaysia, 10th Edition.

Other forms of institutional arrangements, through which commercial presence takes place encompasses the whole range of program mobility that has emerged in the country (Table 2). With the variety of program mobility that is available, import-substitution and export promotion can still occur when the PHEI has no foreign equity, as the private colleges may be completely owned by local corporations.

One of the main attractions for both local and foreign students is the use of English in a foreign-linked program as this enables them to obtain a foreign degree in

a lower-cost environment. It also provides students with an alternative means of entering a foreign country (in the case of the twinning programs) or for work opportunities (Tan 2002, 184). The investment of the PHEIs in foreign-linked programs are therefore closely related with the demand of both local and foreign students for an affordable foreign degree, leading to both import-substitution as well as export promotion.

Since 2002, colleges that have been upgraded to the university status have been mandated to develop their own programs, as they are now able to confer their own degrees. Thus far, University College Sedaya International (UCSI) is the first university college that has phased out its foreign-linked programs and has replaced these with their own programs that are developed together with foreign consultants (interview 20 June 2007). The Ministry has extended the original five-year time frame to ten years for other university colleges to do the same. As more university colleges rise to this challenge, the international recognition of locally-developed programs will determine the future inflows of foreign students into the country.

Movement of Natural Persons

The rapid growth in PHEIs has created a large demand for academic staff, especially those with PhD qualifications. As can be seen from Table 6, the bulk of the staff, be it Malaysian or foreign, that is hired at PHEIs have a first and second degree and there are less with PhDs. It is interesting to note that the development of PHEIs have not caused a substantial shift of staff from the public universities to the private universities, indicating that the pay structure in the PHEIs and the working hours may not be better than that offered at the public universities. PHEIs have to minimize staff cost as their main source of revenue, namely the tuition fees have to be approved by the MOHE. It appears that local and foreign academic staffs are offered the same pay, although certain highly specialized fields may offer a relatively higher pay due to the lack of local experts. Branch campuses can afford to pay more as they charge higher fees than their local counterparts. Thus while PHEIs may have to depend on foreign expertise for some fields, local staff may be more cost-efficient for them.

While hiring foreign staff was more problematic in the early days as the private operators have to prove that local expertise is not available, it appears that this is less of a problem in recent times. Nevertheless, although the number of foreign staff has increased from 519 to 1,011 from 2001 to 2005 (Table 6), the percentage of foreign staff to the total number of academic staff in the PHEIs remains at around 6-8%.

TABLE 6. Academic Staff in PHEIs, according to their Qualifications

QUALIFICATION	2001	2002	2003	2004	2005
MALAYSIANS					
Doctorate	235	540	589	679	1,059
Masters	2,016	3,551	4,241	5,268	4,830
Bachelor's Degree	5,108	6,974	6,868	6,592	5,684
Diploma	1,050	2,211	1,525	1,051	852
TOTAL	**8,409**	**13,276**	**13,223**	**13,590**	**12,425**

FOREIGN STAFF					
Doctorate	127	227	279	351	279
Masters	273	368	503	690	514
Bachelor's Degree	102	257	162	161	203
Diploma	17	264	14	19	15
TOTAL	**519 (6%)**	**1,116 (8%)**	**958 (7%)**	**1,221 (8%)**	**1,011 (8%)**

Note: Number in parenthesis indicates the number of foreign staff as a percentage of total number of academic staffs.
SOURCE: MOHE 2006.

III. Literature Review

While higher education normally refers to post-secondary education at sub-degree and university degree levels, the literature review will confine itself to the degree and university level following the focus of the study.

In WTO (1998: 2), the growth in international trade in the education sector was highlighted with the value of the global market of this sector estimated at US$27 billion in 1995. A broad typology of the modes of international service delivery in education services can be seen in Table 7 below. Of the four modes of supply, consumption abroad and commercial presence are the modes with the most data while cross border supply of services and the presence of natural persons have the least information.

TABLE 7. Modes of Trade in Education Services

Modes of Trade	**Education Services**
Cross border trade	Distance education, e-learning, virtual universities
Consumption abroad	Students traveling abroad to study
Commercial Presence	Foreign campuses or foreigners partnering with local providers in the provision of twinning/franchise programs
Presence of natural persons	Lecturers/ researchers traveling temporarily abroad to teach or to conduct research

Source: WTO, 1998

Commitments of education services in the General Agreement on Trade in services (GATS) show that although most countries have a more open trade environment than suggested by their GATS schedules, quite a number are unwilling to bind their policies. Only 44 of the WTO members have made commitments to education and only 21 of these have included commitments to higher education (see for example, WTO 1998, 10, Knight 2002, 7 and Calderon and Tangas 2004, 3). Malaysia has not made any commitments in education services in the Uruguay Round. The current requests and offers will only become solid commitments at the

end of the Doha Round. There are also negotiations taking place outside of GATS framework, in bilateral agreements or negotiations that are currently taking place.

In general, the nature of barriers in services differs from barriers in goods. Since services are often delivered face to face and the transaction typically occurs behind the border, the relevant trade restrictions are behind the door, non-price regulatory restrictions that do not necessarily apply to foreign service suppliers alone (Dee, 2004, 3). For services, there are two types of trade restrictions, namely restrictions on market access and derogations from national treatment. The former refers to measures that restrict competition and activity without discriminating between domestic and foreign suppliers while the latter refers to measures that treat foreigners less favourably than domestic service providers. It should be noted that measures that restrict trade in services might be part of a broader domestic regulatory regime that is designed to address market failures or to meet legitimate social policy objectives. Hence not all measures that restrict trade are protective in nature, especially in education where measures such as quality assurance and accreditation are essential to protect the interests of the consumer and the integrity of the respective sector. Inefficiencies in the implementation of rules, regulations and procedures may also hinder trade and investment as for example shown in the time needed to apply for visas as well as the coordination of policies between the different government agencies that are involved in the regulation of a particular sector.

The regulation of transnational education and the motives behind the regulations are explored in Mcburnie and Ziguras (2001, 1). The motivations differ in the case of the three countries studied. While Hong Kong emphasizes on consumer protection, Australia's regulations focus on the protection of the local system and by extension, the reputation of Australian higher education (which affects Australia's exports in this sector). Malaysia's regulations, on the other hand, try to balance between its trade needs and its nation-building agenda by including specific issues in the curriculum content. Moreover, Lee (2004, 45) asserted that contrary to the global trend towards a gradual reduction of the role of the state, Malaysia has expanded the role of the state in higher education. Reforms in higher education (both public and private) in Malaysia, including changes in its regulatory structure are instead part of the government's efforts to be a provider, regulator as well as protector of higher education in the country.

Based on the negotiation proposals of Australia, New Zealand, and the United States, reports of non-governmental organizations and intergovernmental bodies and the WTO, Knight (2002, 15) identified key barriers to trade by the mode of supply, as shown in Table 8. Since the list includes some measures that are used for consumer protection such as accreditation and recognition credentials, it is not surprising that the listed barriers are seen by some as key elements of a public education system that need to be maintained while others view them as impediments as noted by Knight. Furthermore, the list does not distinguish between measures that are restrictions on market access or derogations from national treatment.

TABLE 8. Barriers To Trade By Mode Of Supply

Modes of Trade	**Barriers**
Cross border trade	• Inappropriate restrictions on electronic transmission of course materials; • Economic needs test on suppliers of these services; • Lack of opportunity to qualify as degree granting institution; • Required to use local partners; • Denial of permission to enter into and exit from joint ventures with local or non-local partners on voluntary basis; • Excessive fees/taxes imposed on licensing or royalty payments; • New barriers, electronic or legal for use of Internet to deliver education services • Restrictions on use/import of educational materials
Consumption abroad	• Visa requirements and costs; • Foreign currency and exchange requirements; • Recognition of prior qualifications from other countries; • Quotas on number of international students in total and at a particular institution; • Restrictions on employment while studying; • Recognition of new qualification by other countries
Commercial Presence	• Inability to obtain national licenses to grant qualification; • Limit on direct investment by education providers (equity ceilings); • Nationality requirements; • Restrictions on recruitment of foreign teachers; • Government monopolies; • High subsidization of local institutions; • Difficulty in obtaining authorization to establish facilities; • Economic needs test on suppliers of these services; • Prohibition of higher education, adult education and training service offered by foreign entities; • Measures requiring the use of local partner; • Difficulty to gain permission to enter into and exit from joint ventures with local or non-local partners on voluntary basis; • Tax treatment that discriminates against foreign suppliers; • Foreign partners are treated less favorably than other organizations; • Excessive fees/taxes are imposed on licensing or royalty payments; • Rules for twining arrangements
Presence of natural persons	• Immigration requirements; • Nationality or residence requirements; • Needs test; • Recognition credentials;

	• Minimum requirements for local hiring are disproportionately high; • Personnel have difficulty obtaining authorization to enter or leave the country; • Quotas on number of temporary staff; • Repatriation of earnings is subject to excessively costly fees and/or taxes for currency conversion; • Employment rules; • Restrictions on use/import of educational materials to be used by foreign teacher/scholar

Source: Knight 2002

In terms of empirical work, the APEC Group on Services (GOS) conducted a survey in July 2000 on the measures that inhibit trade and investment in education in the APEC economies. The study covered all four sectors in education services as defined in the United States classification, that is primary, secondary, higher education and other education and training services and four modes of supply. The policy measures covered include measures that inhibit trade and investment, measures that promote trade and investment, quality assurance as well as transparency. Interestingly, the survey was directed at the government officials of member economies who are the regulators of education services and not the service providers. Table 9 summarizes the key measures that inhibit trade and investment by modes of supply used in the study.

The survey findings reveal higher education is affected mainly by measures applying to distance or electronic delivery in Mode 1, the imposition of visa requirements, access to employment and foreign exchange requirements in Mode 2, foreign equity limits and required forms of relationships in Mode 3 and visa requirements for staff under Mode 4.

TABLE 9. Summary of Barriers in APEC Economies

Modes of Trade	**Barriers**
Cross border trade	• Requirements to authorize payments of fees for education services; • Measures affecting: - import or export of educational material; - import or export of distance material; - access to the provision of services via electronic media
Consumption abroad	• From the perspective of the host economy: - visa entry requirements and costs; - quotas on international students; - rules on sectors in which foreign students are not allowed to enroll; - rules on student access to employment in the host

	economy; - foreign currency requirements for foreign students; - extent of recognition of prior educational qualifications; - recognition of qualifications issued in other economies; • From the perspective of the home economy: - requirements for students to obtain exit visas from home economy; - home economy rules on access to foreign exchange
Commercial Presence	• requirements for foreign providers to satisfy an economic needs test; • limits on foreign equity; • requirements on forms of commercial relationships; • measures specifying the legal structure of providers; • nationality or residence requirements for permanent staff; • special tax obligations
Presence of natural persons	• quotas on the number of temporary staff; • other measures affecting entry or stay of foreign staff; • labor market measures applied to visiting staff; • nationality or residence requirements

Source: APEC 2000

In Malaysia, Sieh et al (2000) studied the impact of changes brought by GATS on three service sub-sectors, namely, education and training, transportation, and professional and business services. Based on their survey of 12 Higher Institutions of Education (HIEs), 10 technical and training institutions and 10 professional associations and regulators, they found that the HIEs were concerned with liberalization as they were worried that intense competition with liberalization will retard their growth given that they were still developing their competitive advantage at that time. Tan (2002), on the other hand, focused on how globalization and privatization has affected the development of private higher education in the country, again based on interviews with selected key players in this sector, including students. Her book also outlined the shift of private education from meeting excess domestic demand towards increasing exports from the early 1980s to the later part of the 1990s. While these two studies discuss the trend towards increasing exports in private HIEs, the link between trade and investment barriers and exports has yet to be explored. Issues pertaining to policy coordination are also not covered in either of the two empirical studies that have been conducted. There is therefore a research gap here that needs to be explored. This research gap is also worth exploring as trade and investment links in the service sector and especially in higher transnational education are not the same as that in the goods sector.

IV. Methodology

Due to the paucity of published data, this study will conduct both structured as well as semi-structured interviews with the private service suppliers in Malaysia. Private providers are targeted for three main reasons. First, existing data shows that foreign students are found predominantly in private HIEs rather than public HIEs. In 2002, the percentage of foreign students in private HIES were 82%, while 18% were found in public HIEs (Malaysia 2003, 361). Furthermore, foreign students in public HIEs are sometimes admitted under government-to-government arrangements. Second, it follows then that the target on the export of education services will be led by the private providers while public providers have to fulfill Malaysia's agenda on nation-building through education. Third, in the recently concluded Trade in Service Agreement (TIS) for the ASEAN-China Comprehensive Economic Partnership Agreement, other higher education services provided by privately funded higher educational institutions excluding private higher education institutions with government equity or that receive government assistance (CPC 92390) is offered in this package of commitments (ASEAN Secretariat, undated 11). Identifying the trade and investment barriers as well policy coordination problems will assist in the liberalization of this sector.

Apart from the private service providers, officers from the Ministry of Higher Education and the industry association in Malaysia will also be interviewed to seek their views on these issues.

4.1 Design of Questionnaire

The structured questionnaire is designed by checking the regulations in Malaysia against the barriers in Tables 2 and 3 and the literature surveyed. The Acts used are: (1) Lembaga Akreditasi Negara Act 1996 (Act 556),
(2) Private Higher Educational Institutional Act 1996,
(3) Universities and University Colleges Act 1971 (Act 30), and
(4) For the immigration laws, we used the website http://www.imi.gov.my/

The questionnaire is shown in Appendix 3.

4.2 Sample of Respondents

The list of private higher education institutes (PHIEs) in Malaysia that are allowed to confer their own degrees were obtained from the Ministry of Higher Education (MOHE) as shown in Appendix 1. We have chosen to survey only these institutions as these are the ones that are more likely to attract genuine students. Since there are only 27 of them in the whole of Malaysia, the questionnaire in Appendix 1 was sent by e-mail to all, followed up by phone calls. Semi-structured interviews were also conducted with the Ministry of Higher Education, the trade association as well as five PHEIs in the sector. To date, eight of the 27 PHEIs listed in Appendix 1 (or 30%) have responded to the survey and their responses will be discussed in the following section. Some the providers were not willing to respond as they have few international students (for example, UTAR) or they were afraid that it would

adversely affect their license or were not willing to spend time to respond to the survey.

4.3 Limitations of study

Due to the lack of secondary data, this study is very much exploratory in nature. As noted in the section above, the chosen sample is very small compared to the number of PHEIs that are given the license to recruit foreign students (more than 200 in 2005). The sample is also non-random and purposive in nature. Further the number of actual respondents is only eight out of the 27 institutions sampled. The findings reported in the following section therefore face the afore-mentioned constraints.

V. Results of Survey and Interviews

This section will report the findings of the survey response as well as the semi-structured interviews.

Cross border supply

The survey questionnaire as well as the findings from interviews indicates that regulation on course materials does not restrict trade and investment in education services (Appendix 4). The PHEIs can create their own distance learning as well as e-learning programs subject to the infrastructure capacity of the universities (access to e-portals, internet connectivity throughout the campus, etc.).

Distance education providers conduct courses using a mixture of face-to-face methods and e-learning portals. Students are required to meet a certain number of face-to-face of contact hours for some tutorials. Examinations are also conducted face-to-face at a proposed venue. Thus the distance learning systems are only able to attract students within the proximity of the main campus. International students therefore have to be in Malaysia for the duration of their programs as it is financially infeasible for them to fly in and out of Malaysia just to attend few hours of classes each week in Malaysia (interview, MMU, 21 June 2007).

The establishments of education resources as well as the legal compliance of all electronic media were not deemed to be barriers as most private colleges have their physical (and virtual) resource centers such as the library in the main campus and the government allows all forms of media usage, provided that the contents are legal.

The main regulatory barrier is the optional establishment of regional centers, as this would incur considerable financial costs to the providers. One solution to this problem is to establish partnership with foreign universities. For example, the Multimedia University is in the process of establishing partnership with the Syrian Virtual University (interview, MMU, 11 June 2007).

However, non-regulatory problems faced by operators appear to be more pressing, namely infrastructure support in terms of the broadband speed. The

Malaysian server is congested and it is beyond the jurisdiction of private institutions to improve the server. This is a notable barrier to trade because the mode of course presentation is limited as the Internet server does not support live audio or video streaming, making the distance learning a less interactive (interview, MMU 21 June 2007). The second barrier is the maturity of the students who have no working experience. Students who are fresh from schools are not independent in their learning and hence prefer the traditional mode of learning through face-to-face classes and are not ready for the more independent form of learning through the Internet. These findings concur with what Ziguras found in 2001.

Consumption abroad

Restrictions on employment while studying are not a trade barrier in PHEI (Appendix 4). Foreign students are only allowed to work 20 hours during school holidays and have limited employment opportunities.[5] PHEIs generally discourage their students to work part-time as the students may find difficulty in balancing the time between their studies and work. The long process that they have to go through before being allowed to work also deters them from trying to seek for employment. The survey found that 75 percent of the respondents perceive that this regulation does not hinder foreign students from seeking higher education in Malaysia.

Consumption abroad inevitably involves the immigration department of the home country. In Malaysia, students are required to obtain a student visa before they are able to commence their studies. The requirement for a student visa does not restrict trade and investment according to 50 percent of the respondents (Appendix 4). MMU did raise the special case of problems encountered in getting visas for spouses of foreign undergraduate students who may be married at a younger age than other countries (interview, MMU 11 June 2007). Overall, the rules and regulations are well defined and generally foreign students will have the assistance of the private college to manage their visa applications and the issuance of their students' pass. While the regulation does not discourage foreign students from pursuing studies in Malaysia, the barrier lies in the time taken to obtain a visa. The actual process has improved over time as it takes an average of two weeks to a month to obtain a visa (interview Sunway 21 May 2007). This nevertheless is considerably longer than the four days reported for Singapore to process a student's visa.

However, the implementation of the e-pass system (announced April 2007 by MOHE) that was created to establish a database of foreign students in the country has added another administrative layer for the PHEIs. Previously, PHEIs have to complete a form and liaise with the immigration department only for the students' visas. Now the PHEIs have to complete the form (hard copy), and (again) key-in the same details into the e-pass system while waiting for the consent from MOHE before getting approval from the immigration department. The time taken for the entire process has lengthened from two to four weeks to more than 2 months (interview, Sunway 21st May 2007). While the system was created to facilitate the entry of foreign students into the country as well as to ensure that only genuine students can obtain visas thereby curbing any potential abuse of student visas, the lengthening of

[5] Students are allowed to work in menial jobs (such as petrol kiosk attendant) but not as cashiers or entertainers.

the time taken to obtain a visa is deemed to be a barrier to trade as time is the essence for these students.

Respondents have, however, commended the efforts taken by the government in promoting higher education in Malaysia. 75 percent agreed that government initiatives taken to promote higher education in Malaysia are effective. Within this 75 percent, almost 40 percent agreed with some caveats, as there are some mitigating factors at work. For example, although incentives such as the MATRADE incentives and other allowances were awarded to private colleges during education fairs, 62.5 percent of the respondents considered the amount awarded to be insufficient. The move by the government introduce Education Promotion Officers (EPO)[6] is another example of the initiatives taken to promote Malaysian education. However, it is unclear if the EPOs are well versed in the relative strengths of the PHEIs in the country (interview, MAPCU, 20 June 2007). The entry of public universities in the market for international undergraduate students[7] has caused uneasiness on the part of the private operators who fear that public universities may be promoted over the private operators.

The most important barrier to trade is a non-regulatory issue as the survey results show that more than half (62.5 percent) of the respondents noted that the recognition of a Malaysian degree is still lacking (Appendix 4). Hence, there is room for improvement in enhancing the recognition of Malaysian degrees if Malaysia is to be an education hub by 2010. This is even more important when the university colleges shift from conferring degrees from foreign universities toward conferring their own degrees. Some PHEIs have taken the route of awarding joint degrees as a means of overcoming the problem of recognition.[8]

Apart from the reputation of the degree / certificate offered, the reputation of the country also plays a very vital role in attracting foreign students. Bad reputation may deter international students from selecting Malaysia as their choice for higher education. Through interviews conducted by this research, one of the most important criteria that international students placed before going abroad is their safety. Foreign students gather information not only through the university websites but also often through their alumni and newspapers at home. A good recommendation from former graduates will slowly snowball the influx of foreign students from that particular country. Hence, reports of harassment by RELA (People's Volunteer Corps) and the immigration department when international students were mistaken to be illegal foreign workers can negatively affect the image of Malaysia as the preferred destination for higher education (NST 24/05/07). Nevertheless, this problem has been resolved in April 2007 when the government introduced the identity card system for foreign students. This move is greatly applauded by PHEIs as it facilitates the mobility of students outside their respective campuses (interview, MAPCU 20 June 2007).

[6] Malaysia has currently four EPOs, namely in Beijing, Hanoi, Dubai and Indonesia. The function of the EPO is to promote Higher Education in Malaysia.

[7] One of the oldest public universities in the country, University of Malaya was reported to have started to recruit international undergraduate students in an effort to boost its image on a global scale (The Star, Monday 2 July 2007, N6).

[8] Sunway University College, for example, is offering Joint Honors Degrees with the Lancaster University of the UK.

Foreign Investment (Commercial Presence)

PHEIs establish a foreign presence in the country through their foreign-linked programs or through the establishment of branch campuses. With the exception of the Nottingham University, branch campuses also had to have their programs accredited by LAN prior to 2005/06. Since then, branch campuses that are accredited by their home Quality Assurance Agency and are offering the same accredited programs in Malaysia are exempted from accreditation by LAN (interview, MOHE 3 July 2007). However, foreign-linked as well as programs developed in Malaysia still have to go through program approval, including the accreditation process by LAN.

Appendix 4 shows that the regulations affecting this process are not deemed as barriers by a majority of the respondents, with the exception of the procedure for registering an institution as well as accreditation by LAN. Registering a PHEI requires the institution to comply with the requirements of a few agencies besides MOHE. 62.5 per cent of the respondents found following all the necessary requirements to be a barrier to investment.

In the case of accreditation by LAN, the main problem faced by PHEIs is the duration of the accreditation process which depends on:

i) The type of course offered – the accreditation process might take longer if the course requires highly specialized expertise that is not readily available as under the LAN requirement approval from industrial experts is needed for assessing courses and programs. Finding the necessary experts to form the panel for assessment will take time in these instances (interview, MAPCU, 20 June 2007),

ii) The reputation of the institutions – Once the institutions have established their credibility, the process may be faster. It can be as fast as 3 months (interview, MMU, 11 June 2007). Established universities have a department to deal with the requirements of LAN.

iii) Duration for full accreditation – Full accreditation can only commence after the first cohort of students is in their final year. This means for a 3-year degree, the accreditation process starts only in the second year. Therefore, the full accreditation process may take a few years for new programs.

A lengthy accreditation process constitutes a high opportunity cost for PHEIs. Since accreditation by LAN is a form of quality assurance by the government, the courses offered without accreditation are not attractive in terms of international recognition. International students (especially government-sponsored students) will not enroll into the non-accredited programs. PHEIs face difficulties in promoting new programs to international students since it will only be accredited after 2 years of their coursework. It is financially irrational for a student to pay a high amount of money only to get a non-accredited degree.

In terms of incentives, 62.5 percent of the respondents believe that there should be more incentives provided to increase their competitiveness against other countries. In fact, apart from LAN accreditation, the one common complaint is the inadequacy of financial support from the government, especially when compared with

the financial support for public universities. Although Appendix 5 lists the incentives provided by the government, it is unclear how many PHEIs are aware of these incentives and know how to access these incentives as there is no data on the number of PHEIs who have applied for and nor the number that have been awarded these incentives.

Movement of Natural Persons

Obtaining a permit to teach in PHEIs is not a problem according to the results from the survey. 87.5 percent of the respondents do not find this regulation a barrier (Appendix 4). The number of foreign staff has increased as shown in Table 6 even when the employment requires an economic needs test. 50 percent of the respondents agree that economic needs test were conducted not only to assess the need for expertise, but also for financial purposes.

The regulation on work permit is also not a trade barrier. The main impeding factor is the processing time. Respondents expect faster processing time from the government. Most of respondents do not have any quotas on the hiring of foreign academics. Therefore, as opposed to the problems faced by operators in the early days when they have to prove the lack of local expertise, the market is now more open for foreign expertise.

Apart from faster processing time for teaching and work permits, one of the problems faced by private operator is the provision of an attractive salary package for the foreign experts. While foreign and local staffs receive the same salary, extra incentives and benefits are offered (example: housing and transportation allowances) to the foreign staff. These practices incur additional costs for the private operators and hence foreign staffs are not necessarily desired unless there is no local expertise available, with the exception of branch campuses. In this case, the mother campus determines the criteria for hiring and the salary schemes as well.

VI. Conclusion

The shortage of supply and the emergence of both program and institutional mobility in private higher education have encouraged PHEIs to grow in Malaysia. Since various ministries and agencies in the country govern the service sector, the development of the different sub-sectors in services is under the jurisdiction of the respective ministries or agencies, including their trade and investment policies. Consequently, the trade and investment policies in private higher education are formulated, facilitated, regulated and enforced by the Ministry of Higher Education (MOHE) in Malaysia. These policies are formulated in consultation with the relevant stakeholders and also in view of the international best practices. At the policy level, coordination within the Ministry appears to be less of a problem since a consultative process is in place.

However, inter-ministry problems may emerge. In Mode 1, it was found that the main barrier to trade is found in non-regulatory issues such as the preference of

the students for the more traditional mode of learning. Policy coordination problems emerge as distance and e-learning is dependent on policy decisions from other ministries such as the Ministry of Energy, Water and Communication to improve the infrastructure support that is needed to support long-distance and e-learning.

Nevertheless, the implementation of PHEI policies may also encounter several problems in coordination despite the consultative process taken for the formulation of policies. As shown by the survey response, the main problem encountered in Mode 2 is the students' visas, which also serves to illustrate the kind of coordination problems that can emerge. Prior to the implementation of the e-pass system, PHEIs forwarded their offers to the immigration department for the issuance of visas. The immigration department then has to check back with MOHE to verify if the foreign students have been offered in an approved program from an approved institution that has the permission to recruit foreign students. The emergence of visa abuse due to lack of coordination between the immigration department and MOHE has led to the establishment of the e-pass system that appears to slow down the processing time. Better coordination is needed to ensure that the processing time is shortened to facilitate the entry of foreign students into the country. Problems of coordination between MOHE and the immigration department have also affected the Malaysian Edu-Tourism (METOUR) project. This project was conceived to enable foreign students to enter the country as tourists and to participate in some short courses at the PHEIs. It is hoped that the exposure to the PHEI in Malaysia will serve to attract the student tourists to consider studying in the country. However, unresolved visa problems have discouraged the PHEIs from further participation in this project (interview, MAPCU 20 June 2007).

To a certain extent, some of the implementation problems are due to the shortage of staff at the enforcement side of the Private Higher Education Management sector. Since there are only approximately 40 odd officers that are overseeing over 500 PHEIs, the effectiveness of enforcement is highly constrained. The choices are therefore to increase the number of officers and/or to encourage the industry to rationalize.

In the case of Mode 3, the study found that unlike the case of goods, investment in education services is less dependent on foreign equity. Instead, the mobility of programs has led to the emergence of a large variety of foreign-linked programs in the country that have no links with foreign equity investment. Foreign equity thus plays a less important role in trade in education services. The accreditation problems encountered may be attributed to the large number of players as well as the variety of programs and institutional capabilities of different players as not all PHEIs are equally equipped to meet the demands of LAN. For example, foreign branches have the quality assurance of their home institution, while established private universities like the MMU have a department that attends to the accreditation needs. Small players that are not conferring degrees may have less capacity to meet the accreditation measures of LAN. As of December 2006, 839 programs have been fully accredited and 5865 has been awarded provisional accreditation. However, another 1,600 programs are still unaccredited (Sunday Star 6 May 2007). Although the reasons for the large number of unaccredited programs are not known, clearly the system of accreditation needs further improvements.

While it is hoped that some of the current problems encountered in LAN accreditation will be resolved with the implementation of the MQF and the establishment of the MQA, it remains to be seen whether this will be so. The impending replacement of foreign-linked degrees with home grown degrees by the private colleges that have been conferred university status adds to the pressure of having internationally recognized qualifications if Malaysia is to attain its vision of being an educational hub.

Mode 4's main problem appears similar to that of students' visas, namely processing time to obtain visas and work permits. Shortening the entry time will facilitate the entry of foreign lecturers although cost considerations may be a more natural barrier to trade in this mode.

Ultimately, the potential of Malaysia to be an educational hub will depend on the growth of the most of the PHEIs in the country from mere teaching institutions to be world-class universities that have high caliber faculty who are also researchers.[9] Although the government has progressively opened up research grants for the PHEIs, increasing access for research and the provision of time for research by the PHEIs will contribute toward the further development of PHEIs in this area.

[9] It should be noted that research might be less of a problem in branch campuses such as Monash and Nottingham follow the same criteria as their mother campuses for promotion purposes.

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APPENDIX 1. List of Private Higher Education Institutions in Malaysia
Year of Establishment, 2005

No.	PHEIs	Year of Establishment
1	Universiti Teknologi Petronas (UTP)	2000
2	Universiti Tenaga Nasional (UNITEN)	1999
3	Universiti Multimedia (MMU)	1999
4	Universiti Industri Selangor (UNISEL)	2001
5	Universiti Sains dan Teknologi Malaysia (MUST)	2000
6	Universiti Terbuka Malaysia (UNITEM)	2001
7	Universiti Tunku Abdul Rahman (UTAR)	2002
8	Universiti Tun Abdul Razak (UNITAR)	2000
9	International Medical University (IMU)	2001
10	Institut Perubatan, Sains dan Teknologi Asia (AIMST)	2001
11	Universiti Kuala Lumpur (UniKL)	2002
12	Kolej Universiti Teknologi dan Pengurusan Malaysia (KUTPM)	2002
13	Kolej Universiti Infrastruktur Kuala Lumpur (KLiUC)	2003
14	Kolej Universiti Teknologi Kreatif Limkokwing (LUCCT)	2003
15	Kolej Universiti Sunway (SyUC)	2004
16	Kolej Universiti Antarabangsa Sedaya (UCSI)	2003
17	Kolej Universiti Teknologi Antarabangsa Twintech (IUCTT)	2003
18	Asia Pacific University College of Technology & Innovation (Asia Pacific UCTI)	2004
19	Kolej Universiti Islam Antarabangsa Selangor (KUIS)	2004
20	Kolej Universiti HELP (HUC)	2004
21	Binary University College of Management & Entrepreneurship (BUCME)	2004
22	Kolej Universiti Sains Perubatan Cyberjaya (CUCMS)	2005
23	University of Nottingham in Malaysia (UNiM)	2000
24	Monash University Malaysia (MUM)	2000
25	FTMS DeMonfort University, Campus Malaysia (DMU)	2001
26	Curtin University of Technology Sarawak, Campus Lutong (CUTS)	2000
27	Swinburne University of Technology, Campus Sarawak (SUT)	2004

SOURCE: MOHE 2006

APPENDIX 2. List of Some Private Colleges in Malaysia that Conduct "3+0" Programs in Collaboration with the Respective Joint Partner Foreign Universities

Name of PHEI	Awarding Body
Asia Pacific Institute of Information Technology	Satffordshire Univ., UK
*Binary University College	Univ. of Sunderland, UK Univ. of Northumbria at Newcastle, UK
Disted College Stamford	Deakin Univ., Aust
*HELP University College	Charles Stuart Univ., Aust Univ. of East London, UK
International College of Music	Univ. of Westminster London, UK
INTI College Malaysia	Coventry Univ., UK Univ. of Bradford, UK Univ. of Hertfordshire, UK
INTI College, Sarawak Campus	Univ. of Wollonggong, Aust Univ. of Hertfordshire, UK
INTI College, Subang Jaya	Coventry Univ., UK Univ. of Hertfordshire, UK
KBU International College	Nottingham Trent Univ., UK Anglia Ruskin Univ., UK
KDU College	Murdoch Univ., Aust Univ. of Northumbria, UK
*Limkokwing University College of Creative Technology	Curtin Univ. of Tech., Aust Swinburne Univ. of Tech., Aust
Metropolitan College	RMIT Univ., Aust Curtin Univ. of Tech., Aust
Nilai International College	La Trobe Univ., Melbourne, Aust Oxford Brookes Univ., UK
IPG College	Anglia Ruskin University, UK
SAL College	Edith Cowan Univ., Aust
SIT International College	Univ. of South Australia, Aust Southern New Hampshire Univ., USA
Stamford College	Univ. of East London, UK
*Sunway University College	Victoria Univ., Aust
Taylor's College	University of South Australia, Aust Univ. of The West of England, Bristol, UK Univ. of Toulouse, France RMIT Univ., Aust

Note: *Upgraded from a private college to become University status from year 2003-2004

SOURCE: Challenger 2006, Education Guide Malaysia, 10th Edition.

APPENDIX 3: The Survey Questionnaire.

Code : _____

QUESTIONNAIRE

The objectives of this survey are to identify barriers to trade and investment as well as policy coordination problems in private higher education in Malaysia. We would appreciate your full cooperation. There are a total of 17 pages. All information provided will be held in confidence by the researchers.

Please respond by clicking the appropriate box or by filling in the required information.

Profile of Respondent

A. Name of Institution :
Address :

Year of Establishment :
Main Programmes :

Total enrolment of students in 2006 :
Total enrolment of foreign student in 2006:
Fax. No. :
Tel. No. :

B. Name of Respondent :
Designation :

NOTE: This questionnaire has four parts from Part I to Part IV. Each part contains two sections. Section (a) deals with the identification of trade and investment barriers and policy coordination problems while Section (b) deals with the ranking of the relative importance of the different barriers, from your perspectives.

C. IDENTIFICATION OF BARRIER(S) TO TRADE AND INVESTMENT AS WELL AS POLICY COORDINATION PROBLEMS

Part I (a): Measures affecting the cross border supply of education services

Cross border supply – Neither the education provider nor the student moves; the education provider remains in one economy and the student in another; the service itself is traded, e.g., commercial education and training plans sent via the internet; distance education courses.

Please tick where appropriate
Is your institution involved in Distance Education? Yes ☐ No ☐

(**If No, please proceed to Part II**)

Note: Most of the questions are based on the laws and acts governing private higher education in Malaysia

1. **<u>To what extent do the regulations on the preparation of course materials restrict trade and investment in education services in your institute.</u>**

(Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive, 4 = quite restrictive, 5 = completely restrictive)

<u>Rate : 1</u>

<u>If rating is above 3, please rank the following reasons:</u>
(RANK in order of importance, with 1 = least important and 5 most important)

* Please assign only ONE value ONCE for each reason given:

	RANK
Regulation and related procedures are unclear	1
Regulation and related procedures requires institute to deal with many government agencies	1
Government agencies involved are not coordinated	1
Cost of implementation of the regulation and related procedures is too high	1
Others (please specify):	1

2. **<u>Extent to which the regulations on the procedures regarding management of students' academic work restrict trade and investment in education services in your institute.</u>**

(Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive, 4 = quite restrictive, 5 = completely restrictive)

<u>Rate : 1</u>

<u>If rating is above 3, please rank the following reasons:</u>
(RANK in order of importance, with 1 = least important and 5 most important)

* Please assign only ONE value ONCE for each reason given:

	RANK
Regulation and related procedures are unclear	1
Regulation and related procedures requires institute to deal with many government agencies	1
Government agencies involved are not coordinated	1
Cost of implementation of the regulation and related procedures is too high	1
Others (please specify):	1

3. **Extent to which the regulations on the establishment of education resources (e.g library) restrict trade and investment in education services in your institute.**

(Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive, 4 = quite restrictive, 5 = completely restrictive)

Rate : 1

4. **Extent to which the requirement for legal compliance of all the electronic media used for the presentation on course materials restricts trade and investment in education services in your institute.**

(Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive, 4 = quite restrictive, 5 = completely restrictive)

Rate : 1

If rating is above 3, please rank the following reasons:
(RANK in order of importance, with 1 = least important and 5 most important)

* Please assign only ONE value ONCE for each reason given:

	RANK
Legal requirements are unclear	1
Legal requirements requires institute to deal with many government agencies	1
Government agencies involved are not coordinated	1
Cost of implementation of legal requirements too high	1
Others (please specify):	1

5. **Extent to which the regulation on premises required restricts trade and investment in education services in your institute.**

(Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive, 4 = quite restrictive, 5 = completely restrictive)

Rate : 1

If rating is above 3, please rank the following reasons:
(RANK in order of importance, with 1 = least important and 5 most important)

* Please assign only ONE value ONCE for each reason given:

	RANK
Regulation on premises required is unclear	1
Regulation on premises required requires institute to deal with many government agencies	1

Government agencies involved are not coordinated	1
Cost of implementation of the regulation on the premises required is too high	1
Others (please specify):	1

6. Extent to which the requirement for the establishment of regional centre restrict trade and investment in education services in your institute.

Rate : 1

If rating is above 3, please rank the following reasons:
(RANK in order of importance, with 1 = least important and 5 most important)

* Please assign only ONE value ONCE for each reason given:

	RANK
Requirement for the establishment of regional centres is unclear	1
Establishment of regional centres requires institute to deal with many government agencies	1
Government agencies involved are not coordinated	1
Cost of establishing regional centres is too high	1
Others (please specify):	1

Part I (b): Ranking of importance of barriers in cross border supply in education services

(RANK in order of importance the following issues as barriers in trade and investment in education services, with 1 = least important and 7 = most important)

** Please assign only ONE value ONCE for each barrier given*:

	RANK
Regulations on the preparation of course materials restrict trade and investment in education services	1
Regulations on the procedures regarding management of	1

students' academic work	
Regulations on the establishment of education resources (e.g library)	1
The requirement for legal compliance of all the electronic media used for the presentation on course materials	1
Regulation on premises required	1
The requirement for the establishment of regional center	1
Others (please specify):	1

Part II (a): Measures affecting consumption abroad of education services

Consumption abroad – the student travels from their home economy to the economy of the service provider to obtain the education or training service.

1. **To what extent does the regulation on student employment restrict trade and investment in education services in your institute.**

   (Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive, 4 = quite restrictive, 5 = completely restrictive)

   Rate : 1

2. **To what extent does the requirement for a student visa restrict trade and investment in education services in your institute.**

   (Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive, 4 = quite restrictive, 5 = completely restrictive)

   Rate : 1

   If rating is above 3, please rank the following reasons:
   (RANK in order of importance, with 1 = least important and 5 most important)

* Please assign only ONE value ONCE for each reason given:

	RANK
Procedure for applying student visa is unclear	1
Procedure for applying student visa requires students and institute to deal with many government agencies	1
Government agencies involved are not coordinated	1
Cost of student visa is too high	1
Others (please specify):	1

3. **Are there any financial deposits required for foreign students?**

Yes ☐ No ☐

4. **Are the government initiatives taken to promote higher education in Malaysia effective?**

Yes ☐ No ☐

5. **Has the government provided any form of incentives / support for attracting international students to your institute?**

Yes ☐ No ☐

6. **Is the international recognition of Malaysian degrees a problem in attracting foreign students?**

Yes ☐ No ☐

Part II (b): Ranking of importance of barriers in consumption abroad in education services

(RANK in order of importance the following issues as barriers to trade and investment in education services, with 1 = least important and 7 = most important)

	RANK
Regulation on student employment	1
Requirement for a student visa	1
Financial deposits required for foreign students	1
Lack of government initiatives for promoting higher education in Malaysia.	1
Lack of government provision of incentives / support for attracting international students	1
International recognition of Malaysian degrees	1
Others (please specify):	1

Part III (a): Measures affecting foreign investment of education services

Foreign Investment – Foreign investment in education services may be provided by establishing a commercial presence in another economy, e.g direct investment in the host economy by establishing an offshore school or campus, or a twinning programme.

1. **<u>To what extent does the requirement for programme approval and renewal of approval restrict trade and investment in education services in your institute.</u>**

(Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive , 4 = quite restrictive, 5 = completely restrictive)

<u>Rate : 1</u>

<u>If rating is above 3, please rank the following reasons:</u>
(RANK in order of importance, with 1 = least important and 6 most important)

- Please assign only ONE value ONCE for each reason given:

	RANK
Procedure for applying programme approval is unclear	1
Procedure for applying programme approval requires your institute to deal with many government agencies	1
Government agencies involved are not coordinated	1
Cost for programme approval is too high	1
Duration for approval of new programme is too long.	1
Others (please specify):	1

2. **<u>To what extent does the procedure for registering an institution restrict trade and investment in education in your institute.</u>**

(Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive , 4 = quite restrictive, 5 = completely restrictive)

<u>Rate : 1</u>

<u>If rating is above 3, please rank the following reasons:</u>
(RANK in order of importance, with 1 = least important and 5 most important)

* Please assign only ONE value ONCE for each reason given:

	RANK
Procedure for registering institution is unclear	1
Procedure for registering institution requires institute to deal with many government agencies	1
Government agencies involved are not coordinated	1

Cost of registering institution is too high	1
Others (please specify):	1

3. **To what extent do the fees required for conducting and changing courses / programs restrict trade and investment in education services in your institute.**

(Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive , 4 = quite restrictive, 5 = completely restrictive)

Rank : 1

4. **To what extent do the fees required for accreditation restrict trade and investment in education services in your institute.**

(Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive , 4 = quite restrictive, 5 = completely restrictive)

Rank : 1

5. **To what extent does the requirement for local incorporation of company restrict trade and investment in education services in your institute.**

(Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive , 4 = quite restrictive, 5 = completely restrictive)

Rate : 1

If rating is above 3, please rank the following reasons.
(RANK in order of importance, with 1 = least important and 5 most important)

* Please assign only ONE value ONCE for each reason given:

	RANK
Procedure for local incorporation of company is unclear	1
Procedure for local incorporation of company requires institute to deal with many government agencies	1
Government agencies involved are not coordinated	1
Cost of local incorporation of company is too high	1
Others (please specify):	1

6. **Are restrictions on foreign equity a barrier to trade and investment in your institute?**

Yes ☐ No ☐

7. <u>To what extent does provisional accreditation restrict trade and investment in education services in your institute?</u>

(Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive , 4 = quite restrictive, 5 = completely restrictive)

<u>Rate : 1</u>

<u>If rating is above 3, please rank the following reasons:</u>
(RANK in order of importance, with 1 = least important and 5 most important)

* Please assign only ONE value ONCE for each reason given:

	RANK
Requirements for Provisional Accreditation are unclear	1
Provisional accreditation requires institute to deal with many government agencies	1
Government agencies involved are not coordinated	1
Opportunity cost of provisional accreditation is too high	1
Others (please specify):	1

8. <u>To what extent does the requirement for accreditation by LAN (Lembaga Akreditasi Negara) restrict trade and investment in education services in your institute.</u>

(Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive , 4 = quite restrictive, 5 = completely restrictive)

<u>Rate : 1</u>

<u>If rating is above 3, please rank the following reasons:</u>
(RANK in order of importance, with 1 = least important and 5 most important)

* Please assign only ONE value ONCE for each reason given:

	RANK
Procedure for accreditation by LAN is unclear	1
Procedure for accreditation by LAN requires institute to deal with many government agencies	1
Government agencies involved are not coordinated	1
Cost of implementation of accreditation by LAN is too high	1
Others (please specify):	1

9. <u>Are education suppliers subjected to “economic needs test”?</u>

Yes ☐ No ☐

10. <u>Has the government provided any form of incentive / loans / support for attracting foreign commercial presence?</u>

Yes ☐ No ☐

Part III (b): Ranking of importance of barriers in commercial presence in education services

(RANK the following issues in order of importance, with 1 = least important and 11 = most important)

	RANK
Requirement for programme approval	1
Procedure for registering institution	1
Fees for conducting /changing courses / programs	1
Fees for accreditation	1
Requirement for local incorporation of company	1
Foreign equity restrictions	1
Provisional accreditation status	1
Accreditation by LAN	1
Education suppliers subjected to "economic needs test"	1
Lack of government support / incentive	1
Others (please specify):	1

Part IV (a): Measures affecting the movement of natural persons

Movement of natural persons – the foreign educator travels to Malaysia to supply the education service for the student in that economy, e.g visiting lecturers.

1. <u>To what extent does the requirement for a permit to teach restrict trade and investment in education services in your institute?</u>

(Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive , 4 = quite restrictive, 5 = completely restrictive)

Rate : 1

If rating is above 3, please rank the following reasons:
(RANK in order of importance, with 1 = least important and 5 most important)

* Please assign only ONE value ONCE for each reason given:

	RANK
Procedure for applying a permit to teach is unclear	1
Procedure for applying a permit to teach requires individual / institute to deal with many government agencies	1
Government agencies involved are not coordinated	1
Cost of teaching permit is too high	1
Others (please specify):	1

3. Is there any requirement for an economic needs test for the employment of foreign academics?

Yes ☐ No ☐

4. To what extent does the requirement for a work permit in Malaysia restrict trade and investment in education services in your institute?

(Please Rate 1 = does not restrict at all, 2 = somewhat restricts, 3 = fairly restrictive , 4 = quite restrictive, 5 = completely restrictive)

Rate : 1

If rating is above 3, please rank the following reasons:
(RANK in order of importance, with 1 = least important and 5 most important)

* Please assign only ONE value ONCE for each reason given:

	RANK
Procedure for applying a work permit is unclear	1
Procedure for applying a work permit requires individual / institute to deal with many government agencies	1
Government agencies involved are not coordinated	1
Cost of work permit is too high	1
Others (please specify):	1

5. Are there any quotas imposed on the employment of foreign academics in your institute?

Yes ☐ No ☐

Part IV (b): Ranking of importance of barriers in movement of natural persons in education services

(RANK the following issues in order of importance, with 1 = least important and 6 most important)

** Please assign only ONE value ONCE per barrier*

	RANK
Issuance of permit to teach	1
Fee for permit to teach	1
Economic needs test requirements	1
Requirement for a work permit	1
Quota imposed on the employment of foreign academics	1
Others (please specify):	1

Please remember to **save** and **send** it back to Cchizz@yahoo.com within two weeks after receiving the questionnaire

Thank you for your cooperation in answering this questionnaire.

APPENDIX 4. Summary of Survey Responses

	Regulations / Issues	Is the regulation perceived as a barrier?	Comments
• **Measures affecting the cross-border supply of education services**			
1.	Regulations on the preparation of course materials	No / Yes	Unable to distinguish. 50 % respondents say "yes" and 50 % says "no". The regulation and procedures in governing distance education is still vague.
2.	Management of students' academic work	No / Yes	Unable to distinguish. 50 % respondents say "yes" and 50 % says "no".
3.	Establishment of education resources	No	Most private colleges have their physical resource center (library) in the main campus.
4.	Legal compliance of all electronic media	No	Government allows all forms of media usage provided the contents are legal.
5.	Regulation on premises	No / Yes	Unable to distinguish. 50 % respondents responded "yes" and 50 % responded "no". The usage of premises – for administrative purposes, records room, etc. was established by the main campus.
6.	Requirement for establishment of regional center	No / Yes	Unable to distinguish. 50 % respondents responded "yes" and 50 % responded "no". However, it is not financially feasible (and defy the purpose of distance education) to have regional centres internationally.
• The most important barrier is the optional establishment of regional centers; • Other issues: The infrastructure support (broadband) is insufficient and the lack of independence of students in Malaysia.			
• **Measures affecting consumption abroad of education services**			
1.	On student employment	No	75.0 % perceive it to be not a barrier
2.	Student visa	No / Yes	50.0 % perceive it to be not a barrier
3.	Financial Deposits	No	No comments
4.	Government initiatives in promoting higher education in Malaysia are perceived to be effective	No	25.0 % of the respondents do not agree that government initiatives are effective. 37.5 % agreed completely while another 37.5 % agreed but with conditions.
4.	Provision of government incentives / support for attracting international students.	Yes	62.5 % of the respondents find the provision of incentives and support to be insufficient.
5.	The recognition of Malaysian degrees	Yes	62.5 % of the respondents perceive that the recognition of Malaysian degrees is a problem for attracting foreign students
• The most important barrier is the international recognition of Malaysian degrees			

• **Measures affecting foreign investment of education services**			
1.	Requirement for program approval	No	62.5 % of the respondents consider the need for program approval is not a barrier.
2	Procedure for registering an institute	Yes	62.5 % of the respondents consider this issue a barrier.
3.	Fee required for conducting and changing courses / programs	No	87.5 % consider the fees to be not restrictive to trade in education services
4.	Fee required for accreditation	No	87.5 % consider the fees to be not restrictive to trade
5.	Requirement for local incorporation of company	No	10% consider this to be not a barrier
6.	Restrictions on foreign equity	No	Not a barrier (as explained in section 2.3.3)
7.	Provisional accreditation issues	No	62.5 % do not consider this issue a barrier.
8.	Accreditation required by LAN	No / Yes	50 % of respondents found to be a barrier, especially the duration of approval
9.	Education suppliers are subjected to economic needs test	No	No comments
10.	Government incentives and support for attracting foreign commercial presence	Yes	62.5 % of the respondents would like more incentive / support from the government.
• The most important regulatory barrier is LAN accreditation; • Financial support was raised as a non-regulatory barrier.			
• **Measures affecting movement of natural persons**			
1.	Requirement for a permit to teach	No	No comments
2.	Requirement for a work permit	No / Yes	Only 50 % respondents consider this requirement as a barrier. General comment: Approval for work permit should be shortened.
3.	Economic needs test requirement	No	No comments
4.	Quota imposed on foreign academics	No	No comments
• The most important regulatory barrier is the requirement for work permit			

APPENDIX 5. Incentives for PHEIs

1. Tax Incentives for Private Higher Education Institutions

	ELIGIBILITY	TAX INCENTIVES
1.	IPTS that provides technical or vocational courses and also science courses in selected fields: - biotechnology - medical and health sciences - molecular biology - material sciences and technology - food sciences and technology Existing IPTS providing the above courses that undertake new investments to upgrade their training equipment or expand their training capacities also qualify for this incentive	Investment Tax Allowance of 100% for 10 years offset against 70% of statutory income for each year of assessment
2.	Multimedia Faculties in Institutions of Higher Learning: Tax incentives accorded to MSC companies extended to multimedia faculties which provide courses in media, computer, information technology, telecommunications, communications and contents related to data, voice, graphics and images	Pioneer Status with 100% tax exemption for a period of 10 years or Investment Tax Allowance of 100% for 5 years offset against 100% of statutory income for each year of assessment
3.	Companies involved in the export of educational services	i. Tax exemption on income equivalent to 50% of the value of the increased export of higher education ii. Double dedication for expanses incurred in the promotion of export of higher education
4.	Any person who owns buildings used for industrial, technical or vocational training approved by the Minster of Finance Any company who owns buildings used for a school or an educational institution approved by the Minister of Education	Expenses incurred in constructing or purchasing the building are eligible for Industrial Building Allowance of 10% for 10 years

5.	Computers and information technology assets including software acquired by IPTS	Expenses incurred eligible for Accelerated Capital Allowance ie: Initial allowance of 20% and annual allowance of 40%
6.	IPTS, approved technical and vocational training institutions, private language centers	Exemption of Import Duty, Sales tax and Excise Duty on all educational equipment including laboratory, workshop, studio and language laboratory equipment
7.	Non-resident franchisers providing franchised education programs approved by Ministry of Education	Tax exemption on royalty income paid by educational institutions to non-resident franchisers
8.	Incentive for lecturers providing accreditation of Franchised Education Programs	Fees or honorarium received from LAN by lecturers/experts who provide services in the validation, moderation or accreditation process to ensure franchised education programs are the same quality as those of franchiser institutions, are exempted from income tax
9.	Companies that do not contribute to HRDF, but provide training for their employees	Companies that incurred expenses for approved training of its employees are eligible for Double Deduction. The training should be at approved training institutions
10.	Deduction for pre-employment training	Training expenses incurred before the commencement of business qualify for single deduction. The institution must prove that they will employ the trainees
11.	Deduction for non-employee training	Expenses incurred in providing practical training to residents who are non employees of the institution qualify for single deduction
12.	IPTS that has incurred expenses for the development and compliance of new courses	Expenses incurred for the development and compliance of new courses qualify for single deduction amortized for 3 years

2. Tax Incentives for Contributors to Education Sector

NO.	SUBJECT	INCENTIVE
1.	A company or an individual incurring expenditure in the provision of services, public amenities and contributions to a charity or community project pertaining to education approved by Minister of Finance [Sec. 34(6)(h) ITA 1967]	Single deduction is given for the expenses incurred. Provided no further deduction of the same amount to be allowed under Sec 44(6) ITA.
2.	Library: A company or an individual incurring expenditure in the: i. Provision of library facilities which are accessible to the public; ii. Contributions to public libraries and libraries of schools and institutions of higher education. [Sec. 34(6)(g) ITA 1967]	Single deduction is given for the expanses incurred. Amount allowed cannot exceed RM100,000 per year of assessment.
3.	Scholarship: A company incurring expenditure in the provision of scholarship to a student for a diploma or degree course or equivalent of a diploma or degree program undertaken at a recognized higher educational institution in Malaysia. [Sec. 34(1) ITA 1967]	Single deduction is given for the expenses incurred. Provided that the student: i. full time education; ii. has no means of his own; and iii. total monthly income of parents/guardian not exceed RM5,000
4.	Research: A company or individual contributing in cash to an approved research institution. [Sec. 34(1) ITA 1967]	Double deduction for expenses incurred. Provided no deduction of the same amount be claimed under Sec 33, 34 and 34A ITA 1967.
5.	Research: Payment made for the use of services of: i. an approved research institute or approved research company approved by Minister. ii. a research and development company or contract research and development company which is defined under section 2 PIA 1986 [Sec. 34B(1) ITA 1967]	Double deduction for expenses incurred. Provided no deduction of the same amount be claimed under Sec 33, 34 and 34A ITA 1967.

3. General Incentives

NO.	INCENTIVES
1.	**Investment Tax Allowance (ITA)** Companies that establish technical or vocational training institutions are eligible for an ITA of 100% for 10 (ten) years. This allowance can be offset against 70% of statutory income for each year assessment. (Application should be submitted to MIDA)
2.	**Special Industrial Building Allowance (IBA)** Companies that incur expenditure on buildings used for approved industrial, technical or vocational training can claim a special annual Industrial Building Allowance (IBA) of 10% for ten (10) years. (Claims should be submitted to the Inland Revenue Board (IRB))
3.	**Tax Exemption on Educational Equipment** Approved PHEIs are eligible for import duty, sales tax and excise duty exemptions on educational equipment including laboratory equipment, workshop equipment, studio and language laboratory. PHEIs can enjoy full exemption from:- a. Import duty and sales tax on imported items b. Sales tax on local items (Application should be submitted to MIDA)

SOURCE: MOHE 2007