



SUBMISSION

ISSUES FOR CONSIDERATION IN THE AUSTRALIA & MALAYSIA FTA SCOPING STUDY

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SUMMARY OF KEY ISSUES

ISSUES AFFECTING CONSUMPTION ABROAD

1. Issuing of student visas to Malaysian students
2. Work rights for Australian international students in Malaysia
3. Work rights for Malaysian international students in Australia
4. Limits on removal of funds from Malaysia
5. Professional recognition of qualifications

ISSUES AFFECTING CROSS-BORDER SUPPLY

6. Restrictions on funds transfer

ISSUES AFFECTING PRESENCE OF NATURAL PERSONS

7. Difficulties in obtaining work permits
8. Restrictions on the employment of expatriate/foreign personnel
9. Licensing of foreign teaching professionals

ISSUES AFFECTING COMMERCIAL PRESENCE

10. Registration and authorisation of education service providers
11. Restrictions on number of foreign institutions
12. Student quotas for foreign campuses
13. Twinning arrangements
14. Permission to award Malaysian degrees
15. Restrictions on international secondary schools in Malaysia



16. Ownership restrictions

BACKGROUND TO THE SUBMISSION

IDP Education Australia (IDP) is pleased to provide this submission to the Department of Foreign Affairs and Trade (DFAT) towards the scoping study into a possible free trade agreement (FTA) between Australia and Malaysia.

About IDP

Established in 1969, IDP has played a key role in supporting the dynamic success of Australian universities in international education. IDP is a not-for profit company owned by 38 Australian universities and is the single largest overseas representative of Australian education and training. Representing all sectors of the Australian education industry, IDP provides a broad range of services through a network of 90 offices with activities in some 50 countries.

IDP is committed to supporting the future growth and development of the Australian international education industry as well as our other core business areas which include development services and examination services.

We believe that given the strong competitive forces in the global education markets, Australia needs a concerted approach across a broad range of government initiatives including our approach to quality.

IDP's extensive global network is a direct result of the company's long-standing commitment to the opening-up and development of foreign markets for Australian international education. IDP's activity in the Malaysian market is a prime example of this commitment. IDP has been active in Malaysia since the early 1970s and has developed its Malaysian presence over time - currently standing at five offices in Kuala Lumpur, Johor Bahru, Kuching, Penang and Subang Jaya



Since 2000 alone, IDP has recruited over 11,000 Malaysian students to study with Australian educational providers. It is this commitment and experience which enables IDP to provide the following submission.

INTRODUCTION

Australia's trade relationship with Malaysia is an extremely valuable one with two-way trade between the countries currently standing at around \$8 billion¹, thus making Malaysia Australia's third largest ASEAN trading partner. Trade in services, which has grown consistently over the last decade, was worth \$1.57 billion in 2003. Converse to the balance of trade in goods, Australia exported \$912 million in services to Malaysia, while importing \$655 million from Malaysia during the same period. Education related exports have, for some time, been Australia's single largest service export to Malaysia growing from \$280 million in 1998-99 to over \$400 million in 2003². As Australia's third largest student market for education services³, the outcomes of any trade negotiations between Australia and Malaysia will have a significant impact on the health of the Australian international education industry and in turn, on the overall health of Australia's trade exports to Malaysia.

In this context, the aim of this submission is to highlight issues of concern related to the trade in education services between Australia and Malaysia, with particular focus on

¹Source: DFAT website www.dfat.gov.au/malaysia/fta/fs.html

²Source: Australian Bureau of Statistics. It is important to note that Malaysia's educational service exports to Australia were minimal by comparison, at \$13 million in 2002-03.

³Onshore and offshore combined. Source: DEST. AEI - International Education Network.

current and potential market barriers to the export of Australian educational services to Malaysia. Specific recommendations have been put forward where appropriate. Some broader issues related to the liberalisation of trade in education services between the two countries are also highlighted for consideration in any FTA covering education services between the two nations.

In the interest of presenting the current issues and market barriers in a coherent format, the four 'modes of supply' of services - *consumption abroad*, *cross-border*, *presence of natural persons* and *commercial presence* - identified by the General Agreement on Trade in Services (GATS) have been employed as a framework for their discussion.

ISSUES AFFECTING CONSUMPTION ABROAD

Issuing of student visas to Malaysian students

Speed of processing has been raised as an issue. However it is recognised that the recent introduction of the eVisa for students from assessment level 1 countries (including Malaysia) will speed up processing times significantly. DIMIA expects a 5-10 day turnaround and if this is achieved it will go some way to alleviating this issue.

Work rights for Australian international students in Malaysia

International students with student visas are currently not permitted to work in Malaysia. While the flow of Australian students to study in Malaysia has to-date been very small, the granting of some level of work rights to Australian students studying in Malaysia is long overdue.

The ability to partially finance their overseas studies while in Malaysia would undoubtedly act as an incentive to Australian students considering a period of

study in Malaysia. The Malaysian Government would appear to have an interest in allowing this to happen in order to reduce the imbalance in student flows between the two countries. Such a move would also deepen cultural ties with one of Australia's key trading partners.

Work rights for Malaysian international students in Australia

As with all international students studying in Australia, Malaysian students are currently allowed to engage in twenty hours of paid employment per week. While this allows Malaysian students in Australia to partially finance the cost of their studies, the ability to gain some form of Australian work experience after graduation could act as a significant incentive in the Malaysian student market where employment prospects are of paramount importance.

The recent slowing of growth in student numbers from Malaysia, in part driven by the recent appreciation of the Australian dollar against the Ringgit, makes the value-add of additional work rights for Malaysian students an issue for consideration now more than at any time in the past.

Limits on removal of funds from Malaysia

Outbound domestic students studying abroad are not permitted to take more than RM10,000 out of the country. This restriction is limiting for Malaysian students seeking to live and study in Australia.

Professional recognition of qualifications

The recognition of qualifications is a pervasive and complex issue arising whenever liberalisation of the trade in education is discussed. Given that the number of Australian students studying in Malaysian institutions is currently very small while the number of Malaysian students enrolled with onshore Australian providers alone totalled some 20,000 in 2003, the recognition of qualifications provided by Australian institutions is of concern.

The Malaysian Government currently restricts the number of institutions whose foreign degrees are recognised for public sector employment. Australian institutions not on this 'list' find it very difficult to become listed. Given the large size of Malaysia's public sector, this is a significant issue. The Australian Government, in any future negotiations with the Malaysian Government, should endeavour to obtain a situation for Australian institutions where the recognition of their qualifications is not decided somewhat arbitrarily by artificial quotas for recognition, but rather by their fitness-for-purpose.

In addition to Malaysian Government restrictions on recognition of Australian qualifications, a number of professional bodies in Malaysia exert strong control over the recognition of overseas qualifications. Individual national professional bodies may have agendas which are not completely congruent with the notion of free trade. Given this possibility, it is argued that the recognition of Australian qualifications in Malaysia be determined at a governmental level, thus somewhat simplifying what is currently a complex situation for Australian providers.

ISSUES AFFECTING CROSS-BORDER SUPPLY

According to recent IDP⁴ statistics, half of all Malaysian students enrolled with Australian providers are engaged in some form of transnational education (either by distance or through Malaysia-based campus of an Australian provider). This is an increasing trend and is forecast by IDP's 2003 Global Student Mobility 2025 research to continue to increase. Given the increasing importance of distance education in the Malaysian student market, the issue of qualification recognition in this area is of correspondingly increasing importance. As discussed above, a more equitable and transparent means of determining the recognition of qualifications would allow a greater number of Australian providers to service Malaysian demand for quality distance education.

Restrictions on funds transfer

Foreign providers are required to obtain authorisation for the cross-border transfer of fees and/or payments for education services. This has the potential to restrict

⁴IDP Education Australia Timely Statistics, Semester 1 2004.

opportunities for students to pay for education services provided through cross border means.

ISSUES AFFECTING PRESENCE OF NATURAL PERSONS

Difficulties in obtaining work permits

Foreign academic professionals frequently encounter difficulties in obtaining work permits for the purpose of teaching in Malaysia. Exporters in other sectors have also complained that the procedures for obtaining work permits are time-consuming and burdensome⁵.

Restrictions on the employment of expatriate/foreign personnel

The difficulty in obtaining work permits may in part be due to the Malaysian Government's policy of restricting the number of expatriate personnel employed by both foreign and domestic operations based in Malaysia. Any new foreign-invested project is allotted a certain number of 'key posts' which may be filled by expatriate personnel indefinitely. Beyond these automatic allowances, a provider must generally demonstrate that there is a shortage of qualified Malaysian candidates and that a Malaysian citizen is being trained to fill the position in the future. No such restrictions exist for Malaysian operations in Australia.

There are also additional restrictions on foreign academic professionals taking up long-term academic positions in Malaysian public institutions. Foreign researchers undertaking research in Malaysia are required to inform the Malaysian Government of their activities and to involve a local researcher in the project to support knowledge transfer. While the notion of knowledge transfer is indeed noble, the highly specialised nature of some research may mean that, in some cases, the enforced inclusion of local researchers where none may be suitably qualified leads

⁵Source: Malaysia Country Commercial Guide 2003. See strategis.ic.gc.ca

to Australian researchers looking to other destinations where such restrictions do not exist.

Licensing of foreign teaching professionals

Foreign professionals teaching face-to-face in a twinning arrangement or joint program with a local institution require a local license to teach even though they are licensed to teach the particular course of study in Australia. It is recommended that any FTA between Australia and Malaysia address the issue of licensing. This might involve some mutually agreed common minimum standards or requirements for licensing between the two countries such that teaching staff from either nation could have their teaching privileges recognised rather than having to re-apply for permission to teach.

ISSUES AFFECTING COMMERCIAL PRESENCE

Finally, it is the barriers inhibiting the commercial presence of Australian educational providers in Malaysia that perhaps require the closest level of consideration in any possible FTA involving trade in education between Malaysia and Australia. This is especially true when taking into account the already mentioned fact that half of all Malaysian students enrolled with Australian providers were not studying onshore in Australia.

Registration and authorisation of education service providers

Both foreign and domestic education service providers must register and obtain authorisation to supply education services in Malaysia. Institutions must provide separate documentation for each course of study including detailed information concerning teachers, facilities, management systems and rationale for providing the course – this is frequently a very lengthy and time-consuming process. Higher education institutions, in particular, are licensed to run particular programs. Once a

license is granted, there is no scope to vary the program without going through the lengthy approval process again.

Restrictions on number of foreign institutions

The number of foreign educational institutions permitted to establish a campus in Malaysia is restricted by government. Foreign providers must currently be invited to establish a presence. This is clearly an artificial restriction on access to the market and also allows the Malaysian Government to control not only how many foreign providers operate in the market but also the type of providers operating.

Student quotas for foreign campuses

Malaysian Government regulations prescribe the maximum number of students that a foreign provider with an offshore campus in Malaysia is permitted to enrol. Foreign providers establishing an offshore campus also have an obligation to enrol 10% foreign students. The former of these two quotas is a particular barrier to market access in that students who may have elected to enrol with an Australian provider may not be able to do so if the institution in question has met its prescribed quota. It is thus recommended that all such quotas for foreign institutions be addressed in future FTA-related discussions between Australia and Malaysia.

Twinning arrangements

Foreign providers involved in twinning arrangements with a local partner are required to deliver a course in 2 + 1 format for five years before being permitted to deliver it in 3 + 0 format. In many cases, there may be no practical reason for Australian providers being prevented from delivering a course in 3 + 0 format before five years have passed. This requirement locks Australian providers into a five year relationship with a local provider, when the Australian provider may be better equipped to provide the course in entirety. This approach may also unfairly reward local institutions who may gain business through association with an Australian institution.

Permission to award Malaysian degrees

Only Malaysian institutions are permitted to award Malaysian degrees. Foreign providers supplying education services (solely or in partnership) may only award the degree of the foreign institution. This point has obvious relevance to the issue of recognition of qualifications. By only permitting degrees entirely completed in Malaysian institutions the status of 'Malaysian degrees' the status of degrees obtained from Australian providers are thus placed at a relative disadvantage when it comes to effective recognition in Malaysia. Australian providers, having satisfied all the conditions for operating in Malaysia, should at the very least be granted the option of awarding Malaysian degrees.

Restrictions on international secondary schools in Malaysia

Domestic Malaysian students are not permitted to enrol in international secondary schools in Malaysia. While the Malaysian Government views education as a vital tool in the cultural education of the nation's youth, it would perhaps be fairer if Australian secondary providers were permitted to recruit domestic Malaysian students subject to the meeting of various cultural and academic criteria.

Ownership restrictions

Finally, one of the most significant barriers impeding supply via a commercial presence in Indonesia is the requirement that branch campuses of foreign-owned institutions have a majority Malaysian ownership. For a variety of reasons Australian providers should, in the interest of greater trade liberalisation, be permitted to set up in the Malaysian market with full ownership.