



Trade in Health Services: Modes of Supply and Regulatory Challenges

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Globalisation of Health Services

- Modern global connectivity and mobility
 - "The death of distance" (Cairncross), "the world is flat" (Friedman)
- Changing demographic trends
- New international market players
 - Improvement in health care provision and health outcomes in many developing countries
- Liberalisation of services trade
 - Cluster with sectors, but social and public health policy objectives remain a major consideration
- Lack of a reliable estimate of volume of trade
 - Potential for improvement, BPM5 Category 2.2.1 for Mode 2, FATS for Mode 3
- Reality, presenting both challenges and opportunities




What Makes Health Services Special?

- Health services directly related to well-being
- Equity of access a key issue in public financing
 - Large public investment necessary for access by the poor
- Externalities in the provision of health services
- Aspects of opening up health services to global competition:
 - Impact on public services; crowding-out nationals, two-tier system, suboptimal allocation of public resources – or upgrade of skills/technology transfer/ FOREX/ specialisation/ increased efficiency?
 - Internal or external brain drain - or brain circulation?
 - Regional inequalities in access to health care – or improved access through technology/global mobility of health professionals?
- Regulations (including professional) as barriers to trade



Why Regulate?

- Market failure
 - Breyer (1982), Kahn (1988), Findlay and Kim (2001)
 - Market power √?
 - Information asymmetry √
 - Externalities √
- Distributive goals √?



Studies on Trade in Health Services (TIHS)

- The WHO/World Bank volume
 - C. Blouin, N. Drager and R. Smith (eds) (2006), *International Trade in Health Services and the GATS: Current Issues and Debates*
- A body of literature focussed on nurses
 - Eg Kingma, M. (2006), *Nurses on the Move: Migration and the Global Health Care Economy*; Pittman, P., L. H. Alken and J. Buchan (2007) "International Migration of Nurses: Introduction" *Health Services Research* 42(3p2): 1275-1280 etc
- Studies conducted by the presenter:
 - APEC Project C11.17/20021 "The costs and benefits of health services trade liberalisation: the case study of Australia, Singapore and Malaysia"; publication: A. Sidorenko (2003), "Regulatory impediments to the international trade in health services", in *Regulation and Market Access*, A. Sidorenko and C. Findlay (eds), Asia Pacific Press, ANU Canberra
 - *Movement of Workers in ASEAN: the Health Care and IT Sectors* AADCP – REPSF Project No: 04/007 (completed in 2005) (ANU-ASEAN team), Publication: C. Manning and A. Sidorenko (2007), "The Regulation of Professional Migration - Insights from the Health and IT Sectors in ASEAN". *World Economy*, 30(7), pp. 1084-1115



Modes of Trade in Health Services

- Mode I - cross-border (telehealth);
- Mode II - consumption abroad (patients travel);
- Mode III - commercial presence (by health services providers/ hospitals);
- Mode IV - movement of natural persons (medical practitioners, nurses, etc).



Scope of GATS Coverage

- Governmental services carve out
 - Article I.3 GATS
 - Services provided *in the exercise of governmental authority* are excluded from the scope of GATS;
 - Services that are supplied neither on a commercial basis, nor in competition with one or more service suppliers
 - To prevent ambiguity, WTO members making commitments in health services often specify that public services are excluded



Definition of Health Services Sector: GATS

- MTN.GNS/W/120 or CPC (central product classification) code
- 1. BUSINESS SERVICES
 - A. Professional Services
 - h. Medical and dental services 9312
 - j. Services provided by midwives, nurses, physiotherapists and para-medical personnel 93191,
- 8. HEALTH RELATED AND SOCIAL SERVICES
 - (other than those listed under 1.A.h-j.)
 - A. Hospital services 9311
 - B. Other Human Health Services 9319 (other than 93191)



Health Insurance Sector: GATS

- 7. FINANCIAL SERVICES
 - A. All insurance and insurance-related services 812**
 - a. Life, accident and health insurance services 8121
 - b. Non-life insurance services 8129



Disciplines for Domestic Regulation

- Measures related to qualification and licensing requirements/procedures and technical standards do not constitute unnecessary barriers to trade (Article VI.4):
 - (a) based on objective and transparent criteria, such as competence and the ability to supply the service;
 - (b) not more burdensome than necessary to ensure the quality of the service;
 - (c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.



Major Policy Factors: National Health Systems

- Legislative framework for provision of health care and health insurance;
- Bodies and government departments responsible for health care regulation;
- Relative share of public and private finance of health care;
- Structure and availability of health insurance (public and private) and its regulation;
- Industry self-regulation.



Policies Impacting Mode I (cross-border)

- Legal status of cross-border telehealth
- Privacy protocols and consumer protection
- Technical standards
- Regulatory issues
 - Qualification and local licensing requirement for medical consultation/ diagnostic via ICTs;
- Other issues
 - Availability of professional indemnity insurance for cross-jurisdictional practices;
 - Limits to benefits payable for teleconsultations by private and public insurance funds;
 - Auxiliary services (e.g. health information, medical prescriptions, CME/distance learning, e-commerce etc)



Policies Impacting Mode II (consumption abroad)

Receiving country

- Measures to promote health tourism;
- Immigration and/or forex restrictions;
- Other issues
 - implications for public sector (duality/ crowding out);
 - public health risks and ecological sustainability.
- **Sending country**
 - Portability of health insurance
 - Benefits package
 - Consumer protection



Policies Impacting Mode III (commercial presence)

- Investment climate
- Tax policy
- Limits on form of establishment and ongoing operations
- Applicable standards
- Other issues
 - National treatment in health insurance coverage
 - Implications for access to health care and regional equality



Policies Impacting Mode IV (movement of natural persons)

- Registration and licensing requirements
- Recognition of education and training, MRAs
- Varying standards/ clinical practices
- Limitations on type of employment; ENTs
- Limitations on geographic mobility within the host country
- Other issues:
 - Social impact of increased mobility including access to health care and regional distribution
 - Underutilisation of skills in the host country, professional shortages in home country
 - Language and cultural barriers, social vulnerability of migrant workers



Motivation for the ASEAN Mode IV Study

- Increased mobility of health professionals internationally, including intra-ASEAN
- Healthcare services as one of the priority sectors for ASEAN economic integration
 - ASEAN Framework Agreement for the Integration of Priority Sectors. Vientiane, November 2004
- Potential benefits from increased temporary movement of health professionals within ASEAN
 - Excess demand in some members, excess supply in others



Regulatory Barriers to intra-ASEAN Mobility of Health Professionals

- **Explicit barriers**
 - Visa regimes, quotas on foreign providers, ENT, minimum wage requirement etc - covered in the report;
 - Handled within GATS/AFAS horizontal/sectoral schedule
 - Malaysia is the only ASEAN member that included professionals as a separate category
- **Implicit barriers**
 - Qualification and licensing requirements and procedures
 - GATS Article VI:4
 - Examples of severe barriers: Citizenship requirement for medical professionals (Philippines, Indonesia); residency requirement (Thailand);



Implicit Barriers: Mode IV Health Professionals

- Formulated on the grounds of consumer protection
 - Asymmetric information between doctors and patients;
 - More stringent regulations for doctors than for nurses
 - Social and distributional factors; political economy (restricted entry to medical profession)
- Limited recognition or non-recognition of foreign qualifications and experience for doctors and, up until 2007, nurses
 - Host country Medical Council/Nursing Board/ MOH maintain a list of recognized degrees, assess foreign qualifications and skills, administer a registration/licensure tests and issue temporary practice certificates/ registrations
- Pre-employment ENT is common to hire a foreign medical practitioner
 - Eg Malaysia - foreign specialists allowed in large (>100 beds) private hospitals and public w <2 spec;
- Language proficiency requirement (e.g. Thailand)
- Citizenship and/or residency requirement (e.g. Philippines, Indonesia/ Thailand)



Regional Facilitation Initiatives

- ASEAN Mutual Recognition Arrangement on Nursing Services
 - 12th ASEAN Summit, Cebu, the Philippines, 8 December 2006
- APEC GOS project on "Skills Standardization for the Nursing Profession" (ongoing)
- Western Pacific and South East Asian Region (WPSEAR) Common Competencies for Registered Nurses, 2006
 - 27 countries including Australia, NZ, China, Korea, most of ASEAN and Pacific Islands
- Bilateral agreements
 - ANZ CER (Trans-Tasman MMR); NZ-Singapore CEP, etc



Lessons from the ASEAN Experience

- Movement of health service providers is impeded by various regulatory measures including qualification and licensing requirements and procedures;
- Some of these measures would fail the "minimum necessity" test if such a test was applied
- Regional agreements are taking lead in facilitating Mode IV trade in health services;
- Liberalisation is more advanced in nursing than in professional medical services;
- Further work is required on professional standards
 - E.g. in multi-jurisdictional members and in regional fora
- Data collection has to be improved to quantify impacts of increased mobility of health professionals on a health care sector, a national economy and globally



Concluding Remarks

- Regulatory challenges exist in all modes of supply
- Liberalisation of private health sector under WTO/GATS has been cautious. There is a scope to contribute to the development of Article VI(4) disciplines for qualifications and licensing requirements and procedures
- Actual state of trade in health services requires international cooperation between regulatory/professional bodies to ensure quality of service and consumer protection in cross-jurisdictional setting



Thank You!

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