Trade in Health Services: Modes of Supply and Regulatory Challenges

Alexandra Sidorenko
CAMACERH
The Australian National University

First World Health Professions Conference on Regulation (WHPCR)
The Role and Future of Health Professions Regulation
Centre International de Conférence de Genève (CICG)
Geneva, Switzerland, 17-18 May 2008

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
  - Market power
  - Information asymmetry
  - Externalities
  - Distributive goals

Studies on Trade in Health Services (TIHS)

- The WHO/World Bank volume
  - C. Blouin, H. Drager and R. Smith (eds) (2006), International Trade in Health Services and the GATS: Current Issues and Debates
- A body of literature focused on nurses
- Studies conducted by the presenter:
  - APEC Project CTI 17/2002 "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" Asia Pacific Press, ANU, Canberra
  - Studies conducted by the presenter:
  - APEC Project CTI 17/2002 "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" Asia Pacific Press, ANU, Canberra

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 9319
- 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
- Limits on type of employment; ENTs
- Limits on geographic mobility within the host country
- Other issues:
  - Social impact of increased mobility including access to health care and regional distribution
  - Underutilization 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
- Pre-employment ENT is common to hire a foreign medical practitioner
  - Eg Malaysia - foreign specialists allowed in large (>100 beds) private hospitals and public <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 healthcare 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!

http://www.acerh.edu.au