An Exploratory Study of A Potential Framework for Mutual recognition Agreement (MRA)

(Kajian Penelitian Kerangka yang Berpotensi untuk Perjanjian Pengikhtirafan Bersama)

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ABSTRACT

The pursuit for higher degrees is accelerating in the country. With mushrooming foreign and local graduates from non-university and university status institutions, it is critical to explore the types of qualification awarded and the existing platform for recognition and accreditation purposes. The objectives of this study are: (i) to gather information with regard to current policies and practices pertaining to recognition and accreditation systems of the higher education sector, with specific reference to Malaysia and China (ii) to review the existing policy between accreditation and recognition agencies/providers and (iii) to recommend best practices, guidelines and strategies for practical implementation in Malaysia. The methodology pursued in Malaysia and China involved inspection of documents and purposive interviews. The research was implemented from May 2009 to November 2009. The results of the research revealed that though the worldview of mutual recognition agreement is to liberalise the education sector, the authentic situations prevailing in the country require the purposive liberalization of the education sector, with periodic reviews for its appropriateness and relevance for the needs of the country (provisional and conditional), thereby ensuring regulatory, review and quality sustainability. The customized regulatory framework would be a prerequisite (conditional), with due attention be given to either implicit or explicit conditions in the recognition of academic degrees. In deliberating the mutual recognition agreement with jurisdiction including those which are more educationally advanced, selective emerging ‘niche’ areas and/or supportive (conditional) have been proposed. Finally, to
strengthen the existing regulatory framework, innovative provision in this legal framework is recommended.

**Keywords:** Purposive liberalization, regulatory, innovation sustainability, legality

**ABSTAK**

Usaha untuk memperoleh kelayakan ijazah tinggi memecut di negara ini. Dengan pertambahan graduan kelulusan luar negara dan dalam negara dari institusi bertaraf universiti dan bukan universiti, adalah kritikal untuk menyiasat jenis kelayakan yang dianugerahkan dan dasar yang sedia ada untuk tujuan pengiktirafan dan akreditasi. Tujuan kajian ini adalah: (i) untuk mengumpul maklumat berkenaan dengan dasar yang sedia ada dan amalan berkaitan sistem pengiktirafan dan akreditasi sektor pendidikan tinggi dengan merujuk secara spesifik kepada Malaysia dan China (ii) untuk menyemak dasar yang sedia ada di antara agensi/ badan pengiktirafan dan akreditasi dan (iii) untuk mencadangkan amalan baik, panduan dan strategi untuk pelaksanaan praktikal di Malaysia. Kaedah penyelidikan yang diusahakan di Malaysia dan China melibatkan penelitian dokumen dan temu bual purposif. Penyelidikan telah dijalankan dari Mei 2009 hingga November 2009. Dapatan kajian menunjukkan bahawa walaupun perspektif global terhadap persetujuan pengiktirafan bersama adalah untuk meliberalisasi sektor pendidikan, situasi autentik dalam negara memerlukan liberalisasi purposif sektor pendidikan, dengan penyemakan berkala bagi tujuan kesesuaian dan relevan untuk memenuhi keperluan negara( sementara dan bersyarat), dan seterusnya memastikan kelestarian pengawalan, penyemakan dan kualiti. Kerangka pengawalan mengikut pelanggan akan menjadi prasyarat (bersyarat) dengan mempertimbangkan syarat implisit atau explisit dalam pengiktirafan kelayakan akademik. Dalam memperdebatkan persetujuan pengiktirafan bersama dengan yang lebih maju dalam pendidikan, pemilihan bidang “niche” yang muncul dan/atau menyokong (“bersyarat’) telah diusulkan. Akhirnya, untuk memantapkan kerangka pengawalan yang sedia ada, peruntukan inovasi dalam kerangka perundangan dicadangkan.

**Kata Kunci:** liberalisasi purposif; pengawalan; inovasi; kelestarian; perundangan

**INTRODUCTION**

The pursuit for higher degrees is accelerating in the country. The spurring economy has provided increasing job opportunities in new areas with the onslaught of technology. Higher degree programmes are provided by
various agencies that can be categorized as non-university status institutions namely private universities and university colleges. The university status institutions category is inclusive of private universities, private university colleges and foreign university branch campuses. Institutions in both categories are non-government aided and fully-funded by the private sector. However, these institutions are under the jurisdiction of the Private Higher Educational Institutions (PHEIs), Ministry of Higher Education since the early 1980s. On the other hand, government institutions comprise of universities, polytechnics and community colleges and are operating on a similar mission to provide higher degree programmes for the development of professional, skilled and semi-skilled human capital. With mushrooming private and government non-university and university status institutions, it is worthwhile to explore the types of qualification awarded and existing platform for recognition and accreditation purposes. To-date, Malaysia has agreement with some other countries (Canada, New Zealand, Brunei and others) through government-to-government agreement and agreement with foreign quality agencies.

**Universities and Colleges in Malaysia**

The private colleges provided pre-university programmes (internal and external qualifications). The internal examinations are self-designed certificate and diploma qualifications that can be used for credit transfer to higher degree programmes depending on the agreement between the institution and the recognizing institution. Collaboration between local and foreign institutions leads to the award of external degrees, external professional and semi-professional examinations.

Private universities and university colleges offer foundation courses, diploma and degree programmes. Collaboration with partner universities operates on twinning programmes of partial fulfillment of the degree on a sharing basis or complete fulfillment locally. The establishment of branch campuses of foreign universities has enabled the local and international students to pursue tertiary education with acquisition of foreign degrees or post-graduate degrees from reputed foreign universities. In June 2007, a total of 16 University statuses, 16 University College status, 4 foreign branch campus and 485 non-university status have been registered (IPTS Management Sector, Ministry of Higher Education 2007). Students have
the option to pursue the courses on a full-time basis or part-time study or
distance learning mode. The externally accredited programmes can be
pursued at reasonable local costs. The problem of financing students in
foreign countries can be a burden to parents as the currency exchange
between countries fluctuates thereby stirring an unpredictable future
educational expense.

The primary objective of the government universities is to provide
opportunities to the local students to pursue a variety of higher education
programmes. These universities are wholly owned by the government
and operate in a framework of attaining the government’s mission to
produce a competitive human capital with a challenging edge. To-date,
there are 20 fully-fledged universities which are further divided into three
groups namely four identified research universities, four comprehensive
universities and 12 focused universities. Post-graduate programmes at
Masters Level or doctoral level are offered to qualified and competent
candidates to engage in lifelong learning ventures.

Objectives of The Study
The objectives of this study are:
1. To gather information with regard to current policies and practices
   pertaining to recognition and accreditation systems of the higher
   education sector in the global context and with specific reference to
   Malaysia.
2. To review the existing policy with regard to mutual recognition and
   accreditation of qualifications between accreditation and recognition
   agencies as well as between providers.
3. To recommend best practices, guidelines and strategies for practical
   implementation in Malaysia.

Research Questions
Therefore, the following research questions were formulated to accomplish
the objectives and to seek answers to the following statements:
(i) What is the current policy which will be investigated in the following
terms:
   • Legal framework
   • Key players
• Formal and informal arrangement between institutions (MOU’s, MOA’s etc.)
• Strategic plans

(ii) What are the current reviews of the existing policy between accreditation and recognition agencies/providers in Malaysia and China which will be investigated in the following terms:
• Legal framework
• Mutual arrangements (MOU’s and MOA’s etc.)
• Strategic plans between Malaysia and China?

(iii) To recommend best practices, guidelines and strategies for practical implementation in Malaysia.

Definition of Terms

1. Qualifying examination bodies: this term refers to examination bodies of professional associations which set the course syllabi/curricula, conduct examinations and confer qualifications selected to their specific skill or trade. (Malaysian Qualification Agency, March 2009)

2. Academic examination bodies: this term refers to institutions or organizations of international standing and qualifications are awarded to those who have passed the examination. (Malaysian Qualification Agency, March 2009)

3. Accreditation: this is a formal recognition that the certificates, diplomas or degrees awarded by higher education institutions are in accordance with the set standards. (Malaysian Qualification Agency, March 2009)

4. Provisional accreditation: this is initial process that will help higher education providers to achieve the accreditation by enhancing the standard and quality set in provisional accreditation evaluation. (MQA, March 2009)

5. Recognition of educational qualifications: is defined as those “qualifications issued by an officially accredited institution and is recognized by relevant authorities for the purpose of further study and/or general employment” (DEEWR, April 2008).
Significance of the Study
The results of the study will be significant when viewed from the following perspectives

1. **Formulation of policy:**
   To ensure that the higher degree programmes are benchmarked for mutual recognition and accreditation of qualifications between accreditation and recognition agencies as well as between providers internationally. This is in view of the increasing demand for knowledge workers, which is expected to grow at an average rate of 2.5 per cent per annum (Ninth Malaysia Plan 2006). The Ninth Malaysia Plan (2006 – 2010) in the futuristic human capital investment will provide more opportunities and access to quality education, training and lifelong learning at all levels. With the accelerating number of higher educational institutions being established, the formulation of policy for recognition and accreditation is significant for producing a globally competitive workforce.

2. **Internationalisation:**
   Graduates need not wait and hope to seek employment from government agencies or private sectors. Having equipped with knowledge and skills, graduates trained should be able to be independently self-employed or to secure positions in the job market both locally and internationally. Mutual agreements and facilitated credit transfer would pave pathways for student mobility, staff mobility and human capital transfer. These initiatives would ensure that the graduates are on the same playing field. This would elevate the demand of the local workforce on to a common international platform.

3. **Product-based**
   The findings of this study will be significant in recommending:
   i. A framework to provide policy input for the development of a framework for mutual qualification and recognition of qualifications.
   ii. To recommend best practices, guidelines and strategies for practical implementation in Malaysia.
LITERATURE REVIEW

Introduction
In this section, recognition and accreditation of higher degree programmes that are implemented currently both internationally and locally would be reviewed. It is essential to explore whether there is a differentiating line between recognition and accreditation of higher degree programmes. Accreditation refers to formal recognition of certificates, diplomas or degrees awarded by higher education institutions which are in accordance with the set standards. But however, the set standards may be stipulated by local agencies and how can this be made transformed without hassle to acquire international accreditation. Recognition of higher degree programmes are solely for the purpose of employment in the government public sector.

Recognition of Higher Degree Programmes
In order to define recognition, first, it would be worthwhile to introduce “The Lisbon Recognition Convention”:

*The Lisbon Recognition Convention is an international convention of the Council of Europe elaborated together with the UNESCO. The Convention has been signed by 47 member states of the Council of Europe and some non-member states namely Australia, New Zealand and USA. The convention stipulates that degrees and periods of study must be recognized unless substantial differences can be proved by the institution that is charged with the recognition. Students and graduates are guaranteed fair procedures under the Convention... it was signed in 1997 and entered into force in 1999.*

(Wikipedia, March 2009)

According to The Lisbon Convention, Recognition is defined as “a formal acknowledgment by a competent authority of the value of a foreign higher education qualification” and a competent recognition authority is defined as “a body officially charged with making binding decisions on the recognition of foreign qualifications.” (DEEWR, April 2008) in the context of academic mobility, many of these competent authorities have recommendations rather than binding decisions and the decisions are
made typically by autonomous institutions. As a result, "the recognition of an overseas qualification means in principle acceptance by relevant authorities of a recognized qualification awarded in another country, and granting the foreign award holder the same rights as a person possessing a national qualification." In this definition, the foreign qualification is assumed to be recognized in the home country. In fact, recognition of a foreign qualification provides basis and support for employment and further study in other foreign territories.

The Lisbon convention is an important instrument for the Bologna Process which "aims at creating the "European higher education area" by making academic degree standards and quality assurance standards more comparable and compatible throughout Europe". (Wikipedia, March 2009). In fact, the Lisbon recognition convention on recognition of academic qualifications, which is prepared jointly by The Council of Europe and Europe Region of UNESCO, is a substantial part of the Bologna process. (Wikipedia, March 2009).

Because the Lisbon recognition convention has been adopted by a majority of European countries and some other non-European countries as the most effective recognition convention (Australian Government-Department of Education, Employment & workplace Relations (DEEWR), April 2008) it seems that the definition of recognition is the same in these countries as it is defined in Lisbon recognition convention. As an instance, Sweden - one of the countries that ratified the Lisbon recognition convention - defines recognition as a term which "is used to describe the process where a qualification taken in another country is evaluated for use in Sweden." (Karlsson, 2008) in Sweden there are two types of recognition:

- Professional recognition for the purpose of employment
- Academic recognition for the purpose of further study

In a study undertaken by DEEWR, recognition of educational qualifications is again defined as those "qualifications issued by an officially accredited institution and is recognized by relevant authorities for the purpose of further study and/or general employment" (DEEWR, April 2008). The study probes recognition of higher education qualifications in
An Exploratory Study of A Potential Framework for Mutual recognition Agreement (MrA)

the Asia-Pacific region. Eighteen participating countries in this study are Australia, Brunei, Cook Islands, India, Japan, Republic of Korea, Lebanon, Laos, Malaysia, New Zealand, Oman, Pakistan, Qatar, Samoa, Thailand, Tonga, Turkey and Vanuatu. Regarding these countries, there are some obstacles to recognition in such diverse region, namely the Asia-Pacific. In this study these obstacles are known as:

- differences in the structure of education
- differences in regulation and quality assurance processes
- differences and perceived differences in educational outcomes

Development of European Union Qualification Framework makes other regions such as Asia-Pacific to follow these frameworks for benchmarking qualifications. It is stated that in this region, the progress is really slow and many of the countries in the region “do not develop a National Qualifications Framework as the basis for qualifications recognition.” (DEEWR, April 2008, Page 3)

What is a NQF:

A Qualifications Framework is an instrument for the development, classification and recognition of skills, knowledge and competencies along a continuum of agreed levels. It is a way of structuring existing and new qualifications, which are defined by learning outcomes, i.e. clear statements of what the learner must know or be able to do whether learned in a classroom, on-the-job, or less formally. The Qualifications Framework indicates the comparability of different qualifications and how one can progress from one level to another, within and across occupations or industrial sectors and even across vocational and academic fields if the NQF is designed to include both vocational and academic qualifications in a single framework).

(Tuck, 2007)

Qualification framework in Bologna Process includes three cycles of higher education qualification. These cycles are defined in terms of qualifications and ECTS credits. ECTS stands for European Credit Transfer and Accumulation System. These cycles are:
• first cycle: 180-240 ECTS credits, usually awarding Bachelor's degree (3 years)
• Second cycle: 90-120 ECTS credits (a minimum of 60 on 2nd cycle level). Usually awarding Master’s degree (2 years)
• Third cycle: doctoral degree. No ECTS (3 years).

(Wikipedia, March 2009)

One academic year corresponds to 60 ECTS-credits that are equivalent to 1,500-1,800 hours of study. The new model comes closer to the North American and Japanese systems. It gives greater weight to practical training and to intensive research projects. The way credits are measured reflects how hard a student has worked. The new evaluation methods reflect not only a student’s performance on exams, but also his or her lab experiments, presentations, hours spent on study, innovation capacities, and so forth.

(Wikipedia, March 2009)

European countries have adopted this framework and some of them changed their own frameworks with some negligible differences. For example in Sweden the structure of qualification is illustrated in the excerpt of Appendix 1 below:

Three types of NQF are identified in Asia-Pacific region:
• Complete qualifications framework
• Complete but not yet Unified qualifications framework
• Partial frameworks

Australia, New Zealand and Malaysia are reported as the countries with complete qualifications framework (DEEWR, April 2008).

Malaysia now has the MQF which has eight levels of qualifications in three national higher education sectors and is supported by lifelong education pathways. The sectors are (a) Skills; (b) Vocational and Technical; and (c) Higher Education. Levels 1 to 3 are Skills Certificates awarded by the Skills Sectors. Higher
An Exploratory Study of A Potential Framework for Mutual recognition Agreement (MRA)

Education and Vocational and Technical Certificates are at Level 3. Meanwhile, Diploma and Advanced Diploma are at Levels 4 and 5. Bachelors Degree is at Level 6, Masters Degree at Level 7 and Doctoral Degree at Level 8.

(DEEWR, April 2008)

Appendix I: Structure of qualifications

The structure of higher education qualification in Malaysia consists of eight levels which is attached as Appendix B.

It seems that although there is a growing interest and demand for recognition of higher educational qualification in the countries but the process is slow. Some countries do not have systematic processes for recognizing foreign higher education qualifications between countries. (DEEWR, April 2008)

Although the Bologna Process is useful to expand the analysis and evaluate the strategies to facilitate recognition, it would not be a good solution for the existing obstacles and problems of other countries,
because the regional contexts are different. However, the Bologna process provides some insights and implications to be used in other regions and the countries can adopt these insights according to their contextual situations. (DEEWR, April 2008, page 12)

The emphasis in the Asia-Pacific region should be on promoting awareness of the benefits of mobility and increasing the transparency of education systems, qualifications, and recognition processes rather than seeking to emulate the process of reform of national education systems and regulatory processes currently underway in Europe (DEEWR, April 2008, page 4)

DEEWR (2008) has suggested three main recommendations for Asia-Pacific region to promote their recognition of higher educational qualifications:
1. Promote regional awareness and cooperation
2. Establish National Information Centers
3. Support the development of National Qualifications Frameworks

Each recommendation is accompanied by the objectives and some suggested activities till the countries of the region get able to achieve a unified framework and bilateral as well as multilateral agreement (Malaysia has bilateral and multilateral agreements through some international networks (DEEWR, April 2008, page 28) to facilitate the mobility of students and the acceptance of qualifications. (DEEWR, April 2008, page 34)

METHODOLOGY

Design

A multiple-site, multiple case study approach was used to explore the current policies and practices pertaining to recognition and accreditation systems of the higher education sector with specific reference to Malaysia and China. The duration of the study was a six-month period, with a qualitative approach of data collection involving semi-structured interviews and inspection of documents. Though some recommendations and suggestions from the Ministry of Higher Education, Malaysia was considered in selecting the country with the intended vision of a potential
mutual recognition agreement, the researchers decided to observe certain criteria in the selected country such as current policies of mutual recognition agreements, review of existing policies in terms of legal framework, mutual arrangements and strategic plans.

The participants interviewed were randomly selected from different relevant organisations which were directly or indirectly involved in the recognition and accreditation process to determine the baseline practice. Inspection of documents (education policy documents, foreign policy documents, etc) served as a useful source of information for triangulation of data. The researchers explored the current status of recognition and accreditation process from a varied participants’ perspective which led to a realistic information source, thereby facilitating a consolidated formulation of policy. A summary of the methodology pursuit in Malaysia is summarized as in Table 1 and methodology pursuit in China is summarized in Table 2.

**Data**

Qualitative data was gathered in both the countries. Data consists of interviews and inspection of documents. The verbatim statements of the respondents during interviews was written and compiled. The researchers also take note of personal viewpoints and opinions of the occurrences. The field notes was written in a neat form to facilitate the analysis and for easy referencing. For accuracy and reliability, transcriptions was reviewed by the researchers and the respondent until there was 100% agreement. The reliability was ascertained by comparing the data sources with other data sources (e.g. policy document and legal documents).

Table 1 and Table 2 is a summary of the types of data that was collected during the study.

**Time Line**

The research was done from May 18, 2009 to November 16, 2009.

**Analysis of Data**

The qualitative data was transcribed, coded (manifest and latent coding), interpreted, synthesized, rationalised and a practical plan of action for nation-building was proposed for a developing Malaysia.
### Table 1: Methodology Pursuit in Malaysia

<table>
<thead>
<tr>
<th>Methods</th>
<th>Areas to be Investigated</th>
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<tbody>
<tr>
<td>Inspection of documents</td>
<td>• Malaysian Qualification Agency</td>
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<td></td>
<td>• Literature Review of Mutual Recognition Agreement</td>
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<td>• Legal Documents</td>
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<td>• Journal Publications</td>
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<td>• Economic Reports</td>
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<td>Purposive Interviews</td>
<td>• Officials from Malaysian Qualification Agency</td>
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<td>• Officials from Malaysian International Trade and Industry</td>
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### Table 2: Methodology Pursuit in China

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<th>Methods</th>
<th>Areas to be Investigated</th>
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<tbody>
<tr>
<td>Inspection of documents</td>
<td>• Shanghai Education Evaluation Institute</td>
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<td>• Yunnan Higher Education Evaluation Office</td>
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<td>• Educational Policy</td>
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<td>• Foreign education policy</td>
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<td></td>
<td>• Goals of recognition and accreditation (policy document)</td>
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<tr>
<td>Purposive Interviews</td>
<td>• Officials in Shanghai Education Evaluation Institute</td>
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<td></td>
<td>• Officials in Yunnan Higher Education Evaluation Office</td>
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<td></td>
<td>• Education policy makers in the Ministry of Education, China</td>
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<td></td>
<td>• Education official in the embassy</td>
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<td></td>
<td>• Leaders of Higher Education Institutions (Peking University)</td>
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**Results and Findings**

Review of international agreements:

**Washington Accord**
- Recognition mechanism among English-speaking countries of Australia, Canada, Ireland, New Zealand, UK and USA.
- Specifically for professional degrees (i.e. basic engineering education) and not academic qualifications.

**Dublin Accord**
- Accreditation Board for Engineering and Technology (ABET) will represent the United States initially but other accreditations may eventually join the accord.
- Basis of agreement is substantially equivalent means for recognizing the educational base qualifications to meet expected outcomes for engineering technicians according to exemplifying academic qualifications.

**Sydney Accord**
- Agreement between the bodies responsible for accrediting professional engineering degree programs in each of the signatory countries (Australia, Hong Kong China, Canada, Ireland, New Zealand, South Africa and United Kingdom).
- Recognizes the substantial equivalency of programs accredited by those bodies, and recommends that graduates of accredited programs in any of the signatory countries be recognized by the other countries as having met the academic requirements for entry to the practice of engineering.
- The Sydney Accord covers Engineering technology.

**Lisbon Recognition Convention**
- Aims at creating European higher education area by making academic degree standards and quality assurance standards more comparable and compatible in European higher education.
- Recognition is defined as a term to describe the “process where a qualification taken in another country is evaluated for use in another country”.

105
• Ultimate goal is to have a "universal university".
• 2 types of recognition:
  – Professional recognition for the purpose of employment.
  – Academic recognition for the purpose of further study.
• The basic framework is defined in terms of ECTS (European Credit Transfer & Accumulation System)
Bilateral Agreements

- 25 years after the establishment of Sino-Malaysian diplomatic relations, the foreign ministers of both countries signed The Joint Statement of Framework for The Future Bilateral Cooperation in 1999, agreeing to establish friendly cooperation relations in all dimension, good neighborhood and mutual trust.
- The series of agreements signed by the Malaysia and China during visit of Malaysian Prime Minister Datuk Seri Abdullah Ahmad Badawi are:-
  - MOU between the Government of the Republic China and the Government of Malaysia on cooperation in the field of Foreign affairs and International Relations Education. (Li Yi Ping, 2006)
  - Memorandum of Cooperation between China Mayor Association and Malaysia China Business Council. (Li Yi Ping, 2006)
  - Most of literatures study the education services from the view of multilateral trade liberalization and rarely from the RTA's.
  - Although the commitments of education services of under GATS are relatively lower than other services, there are a lot of researchers on this field, especially on higher education services.
  - establishment of Sino-Malaysian diplomatic relations, the foreign ministers of both countries signed The Joint Statement of Framework for The Future Bilateral Cooperation in 1999, agreeing to establish friendly cooperation relations in all dimension, good neighborhood and mutual trust. (Li Yi Ping, 2006)
  - Due to the diversity of trade liberalization, especially the complex nature of education services, more attention should be given to the development of RTA's and trade in education services.
  - Different trade partners provide different market opportunities; the policy makers of the education should recognize potential impacts before signing an agreement.
  - Education has taken a relatively low priority in the major bilateral/regional trade agreements and the same may be true for GATS.
The GATS include three major aspects:
1. General rules to regulate member government trade policy.
2. Specific commitments made by member governments on access to their domestic markets by foreign suppliers in areas such as education services.
3. Additional sector-specific detail and follow-up activities as ministerial decisions or annexes such as financial services and telecommunication.

GATS divides trade into four models:
1. Cross-border supply
2. Consumption abroad
3. Commercial presence

Economics
According to the TIS Agreement, China has made the commitments to open up new markets to ASEAN countries in 26 sub sectors of fine service sectors, which were construction, environmental protection, transportation, sports and commerce on the basis of WTO commitments.

ASEAN members promised to open their markets to CHINA in finance, telecommunication, education, tourism, construction and medical treatment.

China and ASEAN countries have strengthened frequent exchanges in sectors of education, transport, energy, culture and medical services.

Both countries feel the urge to maintain peace and stability in East Asia, while cooperating for the implementation of economic co-operation and development in this region and with other countries.

High growth rate the China has sustained has laid solid foundation for the economic and trade relations between the two sides.

The huge market scale and potentiality of sustained development China enjoys furnish various opportunities for the rapidly expanding bilateral economic and trade relationship between two countries.
The two countries signed over 10 economic and trade co-operation agreement such as:
- The Agreement on Avoidance of Double Taxation, Trade –
- Agreement
- Agreement on Investment Protection
- Shipping Agreement
- Air Transport Agreement
- MOU on Aviation Cooperation.

Both countries set up Joint Committee of Economy and Trade.

1992, Scientific and Technological Agreement was signed and the joint committee of Science and Technology was set up.

2002, a bilateral business council was established.

The establishment of agencies and institutions has become important bilateral institutional arrangement for the negotiations and communications between both countries. (Li Yi Ping, 2006)

The structural differences and continual optimization formed certain complementarity.

Although of the volume in Sino-Malaysian trade, resource products take up large portion, with very low actual tariffs, the China-ASEAN Free Trade Area would greatly reduce the management costs, at the same time, the increase in the need led by China’s economic development, the trade and other economic relations will be further strengthened.

Thus product competition between the two countries will to some extent escalate, which involves both parties to elevate each enterprises' competitiveness, while under open market situation.

1991-2002, Malaysia had been in favorable balance of trade for 12 consecutive years, the sum of trade surplus amounted to USD 18.393 billion. (Li Yi Ping, 2006)

For the Chinese side, the trade deficit it suffered had been too large; means Chinese enterprises should increase product competitiveness, trying their best to exploit the Malaysian market while the Malaysian market is to be more open.
**Rationale for MRA-Malaysia-China**

<table>
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<tr>
<th>Strategies</th>
<th>Aspects</th>
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<tr>
<td>Strategy 1</td>
<td>Universities seek cooperation with foreign colleges.</td>
</tr>
<tr>
<td>Strategy 2</td>
<td>Evident growth rate of enrollment of Sino-foreign cooperation. (Uwe Brandengurg &amp; Zhu Jia-ni 2007).</td>
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<tr>
<td>Strategy 3</td>
<td>Hardware and software construction is enriched as colleges and universities have no longer some kind of educational institution accessories which is increasingly important for college education (Lin Jin-hui &amp; Liu Zhi-Ping 2007).</td>
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<tr>
<td>Strategy 4</td>
<td>Require massive professional lecturers with more experience and higher education</td>
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<tr>
<td>Strategy 5</td>
<td>The Sino-foreign cooperation has escaped the stage of escaping student and scholars.</td>
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</tbody>
</table>

China’s rules for Education Services are:

**I   China**

- Contractual service suppliers shall acquire a bachelor’s degree or above.
- Receive appropriate professional titles or certificates.
- Or have at least two year professional work experience.

(Source: ASEAN-China agreement on trade in services—first package of commitments)

China commitments on education services in WTO involve all sectors of education services, only excluding:

- Military
- Police
- Party school education.

Identification of Higher Education Institutions in Asian Ranking

The higher education institutions in comparison with the Asian ranking is evident in Chart 1.
Table 3: Mapping strategies for MRA

<table>
<thead>
<tr>
<th>Aspects</th>
<th>Explanation</th>
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</table>
| Education Service Market Specific Commitments in ASEAN TIS Agreement | More open than the other ASEAN members  
Include higher education which:  
1. Provided by privately funded higher education institutions.  
2. Exclude private higher education institutions with government equity or that receive government assistance. |
| Cross-border Supply Commitment  | Unbound for limitation on market access except:  
- Franchise & Twinning Arrangements (between foreign based institutions and Malaysian based educational institutions).  
Unbound for limitation on national treatment  
- Only through joint venture with foreign  
- Ownership not exceeding 49 percent.  
- Subject to an economic needs test as well as  
- Unbound for limitation on national treatment.  
- Has not made a commitment on education  
- Services in WTO.  
- Made commitment on education services in China-ASEAN FTA  
- Malaysia current policy of educational hub of Southeast Asia has been pursued. |
Identification of HEI's in Asia ranking
Identification of prerequisites
Prerequisites for Studying in China

Table 4: Comparison of pre-requisites

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<thead>
<tr>
<th>Country</th>
<th>Prerequisites</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>Required to take HSK Test (Chinese Proficiency Test)</td>
</tr>
<tr>
<td></td>
<td>After at least 6 semesters awarded for regular study at Austrian university</td>
</tr>
<tr>
<td>Country</td>
<td>Requirement</td>
</tr>
<tr>
<td>---------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>HSK Test (Chinese Proficiency Test)</td>
<td>✓</td>
</tr>
<tr>
<td>Specific requirement determined by admitting institution in China</td>
<td>✓</td>
</tr>
<tr>
<td>Relevant previous study and proposed research</td>
<td>✓</td>
</tr>
<tr>
<td>Excellent academic results and participate in entrance examination</td>
<td>✓</td>
</tr>
</tbody>
</table>

An Exploratory Study of A Potential Framework for Mutual recognition Agreement (MrA)
<table>
<thead>
<tr>
<th>Country</th>
<th>Country</th>
<th>Prerequisites</th>
<th>Certificate/ Degree</th>
<th>Bachelor Degree</th>
<th>Bachelor Degree</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Intermediate</td>
<td>Masters Degree</td>
<td>Doctorate</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Higher Education</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Qualification:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Diploma/ Bachelor</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>degree</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Austria</td>
<td>Austria</td>
<td>Study credits and examinations</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Complete a Chinese bachelor program by a final diploma</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Supplementary examination</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Written thesis</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ireland</td>
<td>Ireland</td>
<td>Specific requirement determined by admitting institutions in Ireland</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Achieve outstanding results and completed excellent research work/dissertation</td>
<td></td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Thailand</td>
<td>Thailand</td>
<td>Specific requirement determined by admitting institutions in Thailand</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Excellent study record</td>
<td></td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Relevant previous study and proposed research</td>
<td></td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Denmark</td>
<td>Denmark</td>
<td>The Study Test of Danish as a Foreign Language or The Danish Test 2 or some programs to pass The Danish Test 3</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proficiency in English</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Applicants hold a qualification comparable to Danish qualifying examination</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
An Exploratory Study of A Potential Framework for Mutual recognition Agreement (MRA)

| Recognized Bachelor degree of good standard or equivalent | ✓ | ✓ |
| Specific requirement determined by admitting institutions in Denmark | ✓ | ✓ |
| Proof of proficiency in Danish if the program is taught in Danish | ✓ |
| Completed Bachelor qualifications and 1 year at postgraduate level | ✓ |
| Relevant previous and proposed research | ✓ |
| Require a Candidates/Master's degree of equivalent (comparable to Danish 2 years) | ✓ |
| Candidates/Master's degree | ✓ |

SUMMARY, RECOMMENDATIONS AND CONCLUSION

Summary of Legal Interpretation in MRA.

Similarities between Conditional Agreement and Provisional Agreement:
- A binding contract

Differentiating Conditional Agreement and Provisional Agreement:
- A conditional agreement is a formal contract, which differentiates from a provisional agreement which is an informal contract in a conditional agreement, there is no contract at all until the condition is fulfilled, whereas in a provisional agreement, the acceptor desires that the arrangement should be put into a more formal shape but does not relieve either party from his liability
- In a conditional agreement, if the conditional agreement does not materialise by a certain date, the contract is off, which differentiates from a provisional agreement that the acceptor desires that the arrangement be put into a more formal shape but does not relieve either party from his liability

113
In a conditional agreement, both parties have impliedly promised not to prevent the condition from materialising, which differentiates from the envisaged formal contract which does not materialise, and would reflect the terms of the prior provisional agreement in which case it may have little more than an evidential value.

In a conditional agreement, the one party has promised to use his best endeavours to secure that it does materialise.

In a conditional agreement, if the condition fails to materialise, both parties may be discharged.

In a conditional agreement, if the condition is for the benefit of one party alone, it could be waived by that party.

A conditional agreement is one that depends on or containing a condition or conditions, which significantly differentiates between a provisional agreement that is provided for or serving for the time being.

Summary of Findings
Summary of Interpretation of Legal documents pertaining to MRA

Agreement On Mutual Recognition of Higher Education Degrees Between the Government of Malaysia and the Government of the People's Republic of China

- Clarification MRA - MOU
  Agreement on Mutual Recognition of Higher Education Degrees between the Government of Malaysia and the Government of The People's Republic of China, shall recognise the benefit of establishing mechanisms for mutual recognition of academic degrees and other qualifications in order to promote co-operation in education and to improve students' mobility between Malaysia and China. The Government of Malaysia and the Government of the People's Republic of China hereinafter referred to as both sides, have agreed:

- Clarification
  - "Academic degrees": Refer to degrees which are not offered by professional boards.
  - "Other qualifications": Higher School Certificates (Matriculation, Foundation, A-Level, Malaysian Higher School Certificate, Diploma.

This Agreement aims to facilitate the mutual recognition of higher education qualifications awarded to students in Malaysia and in China by their higher education awarding bodies. The Ministry of Higher Education of Malaysia (MoHE) and the Ministry of Education of the People's Republic of China (MoE) will each designate an appropriate body to provide information on recognition and to make concrete recommendations in accordance with their current regulations and practices.

- Clarification
  - higher education qualifications: means a certificate, diploma, advanced diploma or degree or its equivalent awarded by a higher educational institution and higher education provider upon completion of a programme but does not include a certificate of attendance.

- Evidence: Draft of National Higher Education Bill 2009
1. This Agreement aims to facilitate the mutual recognition of higher education qualifications awarded to students in Malaysia and in China by their higher education awarding bodies. The Ministry of Higher Education of Malaysia (MoHE) and the Ministry of Education of the People’s Republic of China (MoE) will each designate an appropriate body to provide information on recognition and to make concrete recommendations in accordance with their current regulations and practices.
   - Clarification
     ➢ appropriate body: MQA
   - Evidence:
     ➢ The Role of MQA:
       • to implement the Malaysian Qualifications Framework (MQF) as a basis for quality assurance of higher education
       • as the reference point for the criteria and standards for national qualifications (Malaysian Qualifications Agency: http://www.lan.gov.my/eng/introduction.cfm MQA In Brief)

2. Both designated bodies should advise higher education institutions in their countries on the provision of higher education and the comparability of qualifications from both systems with the aim of facilitating academic mobility and co-operation.
   Clarification
   ➢ Both designated bodies:
     • Malaysia: designated body refers to MQA (source: MQA, Malaysia, 2009)
     • China: designated bodies comprises of four education authorities in the self-governing cities of Beijing, Shanghai, Chongqing and Tianjin (source: MOE, China, 2009)
3. Recognising the fundamental changes to the higher education institutions in China in recent years, the designated body in Malaysia, in conjunction with the designated body in China, will make available in Malaysia information on currently recognised higher education institutions in China.

- Clarification
  - designated body in Malaysia: refers to MQA
  - Designated body in China: refers to the four education authorities in the self-governing cities of Beijing, Shanghai, Chongqing and Tianjin

4. Recognising the important and continual changes to higher education institutions in Malaysia in recent years, the China's designated body, in conjunction with the designated body in Malaysia, will make available in China information on currently recognised higher education institutions in Malaysia.

- Clarification
  - Similar clarification of terms designated body as per objective 3

5. With regard to paragraphs 3 and 4 of this section, both parties will provide lists of the currently recognised Malaysian higher education institutions with degree-awarding powers for Bachelor, Master and Doctorate degrees, and the higher education institutions with degree-awarding powers for Bachelor, Master and Doctorate degrees in China. This information will be maintained and updated regularly by the two designated bodies.

- Clarification
  - Similar clarification of terms designated body as per objectives 3 & 4

1. This Agreement relates to all the higher education institutions with degree awarding powers currently recognised by the Government of Malaysia, and all Chinese higher education institutions currently recognised by the Government of the People’s Republic of China. The term higher education institutions in Malaysia refers to the universities and university colleges.
Clarification

➢ **Higher education institutions**: refers to the universities and university college (as per latest National Higher Education Bill, 2009)

2. Both **designated bodies** will inform each other through diplomatic channels of the latest list of recognised higher education institutions and awarding bodies, and provide information on different award titles which are recognised on both sides.

Clarification

➢ **Designated bodies** refers to:
   - Malaysia: Malaysian Qualification Framework
   - China: refers to the four education authorities in the self-governing cities of Beijing, Shanghai, Chongqing and Tianjin

3. Both Governments respect the autonomy of higher education institutions in Malaysia and higher education institutions in China for admission to higher education programmes in accordance with any relevant regulations.

• No ambiguity

1. The recommendations of designated bodies are given as advice on the **comparability of academic degrees** from both sides based on comparative studies of relevant academic material in Malaysia and China.

• Clarification **comparability of academic degrees**:

2. A summary of the **Malaysian Qualifications Framework** is attached at annex 1.

   • Clarification

   ➢ **Malaysian Qualifications Framework**: an explanation or description of the national education system that is understood at the international level, which clarifies all qualifications and academic achievement in higher education (post secondary) and how these qualifications are meaningfully linked.
3. A summary of China’s Academic Qualifications Frameworks is attached at annex 2.
   - Clarification
     ➢ QA Framework Annex 2

1. Holders with prerequisite university entry qualifications (University Entrance Examination-Gao Kao) shall be considered eligible to enter into programmes leading to Bachelor Degrees in Malaysia in a manner paralleling their entry into programmes leading to Bachelor Degrees in China, subject to the specific requirements of the admitting institution, including the manner in which their programmes are organised.
   - Clarification
     ➢ University Entrance Examination-Gao Kao:
   - Evidence:
     ➢ subject to the specific requirements… : (* this is an implicit conditional mutual recognition.)

2. Those Chinese Bachelor degree holders who have achieved outstanding results and completed excellent research work/ dissertations should be considered for admission to further studies leading to doctorate degrees, subject to the specific requirements of the admitting institution.
   - Clarification
     ➢ subject to the specific requirements… : (* this is an implicit conditional mutual recognition.)
     ➢ 3. Holders of Bachelor degrees from recognised Chinese higher education institutions should be considered eligible to enter postgraduate studies in Malaysia, subject to specific requirements determined by the admitting institution.
   - Clarification
     ➢ subject to specific requirements… : (* this is an implicit conditional mutual recognition.)

4. Holders of Masters Degrees from recognised Chinese higher education institutions should be considered eligible to pursue doctorate
studies in Malaysia subject to the relevance of previous studies and the proposed research, subject to the specific requirements of the admitting institution.

- Clarification
  - subject to the specific requirements of the admitting institution:
    (* this is an implicit conditional mutual recognition.)

5. **Holders of Higher School Certificates** (Matriculation, Foundation, A-Level, Malaysian Higher School Certificate, Diploma) from recognised Malaysia’s awarding bodies should be considered eligible to enter into programmes leading to Bachelor Degrees in China in a manner paralleling their entry into programmes leading to Bachelor degrees in Malaysia, subject to the specific requirements of the admitting institution, including the manner in which their programmes are organised.

- Clarification
  - Holders of Higher School Certificates: Matriculation, Foundation, A-Level, Malaysian Higher School Certificate, Diploma
  - subject to the specific requirements of …: (*this is an implicit conditional mutual recognition.)

6. Holders of Bachelor Degrees from recognised Malaysian higher education institutions with excellent academic results should be considered for admission to further studies leading to Doctoral Programmes in the People’s Republic of China in accordance with the regulations concerning doctorate degrees in higher education institutions.

- Clarification
  - in accordance with the regulations concerning… :
  - (this is an implicit conditional mutual recognition.)

7. Holders of Masters Degrees from recognised Malaysian higher education institutions should be considered eligible to enter doctorate programmes in relevant subjects in the People’s Republic of China subject to the relevance of previous studies and the proposed research, subject to the specific requirements of the admitting institution.

- No ambiguity
8. Malaysian higher education institutions retain the right to determine the grades and examination results required for all courses of study according to their own regulations.
   - No ambiguity

9. Chinese higher education institutions retain the right to determine the grades and examination results required for all courses of study according to their own regulations.
   - No ambiguity

**Expert Committee**
- Clarification
  - Expert Committee: refers to MoHE, MQA, Academic Representative from HEI, Programme Consultants, Coordinators from HEIs
  
  Evidence: (according to workshop output, 2009)

**RECOMMENDATIONS**

<table>
<thead>
<tr>
<th>WORLD VIEW OF MUTUAL RECOGNITION AGREEMENT</th>
<th>PROPOSED VIEW FOR MUTUAL RECOGNITION AGREEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liberalize the education sector</td>
<td>• Purposive liberalization of the education sector.</td>
</tr>
<tr>
<td></td>
<td>• Reviewed periodically for its appropriateness and relevance for the needs of the partner countries (provisional and conditional)</td>
</tr>
<tr>
<td></td>
<td>• The contents of this document, if scrutinized closely, reveal quality control mechanism, monitoring, regulatory and review mechanism. This appears in the form of explicit statements or implicit meanings arising from statements in the legal documents.</td>
</tr>
</tbody>
</table>
| Regulatory framework as a prerequisite | • Customized regulatory framework as a prerequisite (conditional)  
| | • Due attention being given to either implicit or explicit conditions in the recognition of academic degrees.  
| | • There is no provision for recognition of professional qualifications in this legal document.  
| Mutual recognition agreement with jurisdiction including those which are more educationally advanced | • "Needs analysis" for human resource development of participating countries.  
| | • Selective sectors proposed are emerging "niche" areas and/or supportive. (conditional)  
| To strengthen the existing regulatory framework | • Innovative provisions for quality regulatory control, monitoring and review to ensure continual and escalating quality benchmark.  
| | • All initiatives in drafting this particular mutual recognition agreement should eventually converge with the nation’s long term strategic plan and higher education policy for the development of a resourceful domestic human capital.  
| To strengthen the existing regulatory framework (cont.) | • Mutual recognition agreement though may be generic in nature; nevertheless there is a need for supplementary mutual recognition agreements.  
| | • Supplementary mutual recognition agreements are proposed innovative legal documents which are recommended and would serve as significant "follow-up" between responsible qualification agencies in partner countries.  
| | • "Follow-up" mutual recognition agreements can cater to address issues of necessary provision and possible deficits that may arise in the recognition process per se. In view of this, an innovation recommended is a periodic supplementary mutual recognition. Periodic supplementary agreement would be appropriate and relevant to cope with the ever changing global demands and dynamic changes in the development of local human capital.
An Exploratory Study of A Potential Framework for Mutual recognition Agreement (MrA)

To strengthen the existing regulatory framework (cont.)

• Periodic supplementary mutual recognition agreement is recommended to incorporate features of review for the purpose of improvement based on a action research model. This has to be a consultative process with the various agencies involved in the strategic planning for eventual human capital development, stakeholders and employers. Emerging “niche” areas can be identified and extrapolated for long term purposes.

• The steering of the implementation process for mutual recognition is critical and an exemplary practice model which is “tailor-made” for the partner country has to be designed. This is the proposed next stage for research.

The above recommendations were made during the period of research from May 2009 – November 2009. The time constraint and the limited funding did not permit for further endeavour of the research. Thus, issues that prevailed after the stipulated period of time were not documented herewith.

REFERENCES

ASEAN-China agreement on trade in services – first package of commitments

IPTS Management Sector, Ministry of Higher Education. 2007.


Ministry of Foreign Affairs of PRC, December 15, 2005

Ministry of Higher Education 2007


The Institution of Engineering and Technology, Hong Kong, http://www.iee.org.hk/inetdownload/73.pdf


