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MARCH 2022

THE MALAYSIA DEVELOPMENT EXPERIENCE SERIES

Deep-Dive on **Malaysia's Higher Education Services Trade**



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Abbreviations

AANZFTA	ASEAN-Australia New Zealand Free Trade Agreement
ACTIS	ASEAN-China Trade in Services Agreement
AKFTA	ASEAN-Republic of Korea Free Trade Agreement
AFAS 10	ASEAN Framework Agreement on Services (10 th package)
ASEAN	Association of Southeast Asian Nations
AUS	Australia
CCM	Companies Commission of Malaysia
CGPA	Cumulative Grade Point Average
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
EMGS	Education Malaysia Global Services
GATS	General Agreement on Trade in Services (Revised offers, 2005)
GPA	Grade Point Average
HEI	Higher Education Institution
IBC	International Branch Campuses
IS	International Students
MAFTA	Malaysia-Australia Free Trade Agreement
MAPCU	Malaysian Association of Private Colleges and Universities
MICECA	Malaysia-India Comprehensive Economic Cooperation Agreement
MJEPA	Malaysia-Japan Economic Partnership Agreement
MNZFTA	Malaysia-New Zealand Free Trade Agreement
MOE	Ministry of Education
MOHA	Ministry of Home Affairs
MOHE	Ministry of Higher Education
MPCEPA	Malaysia-Pakistan Comprehensive Economic Partnership Agreement
MQA	Malaysian Qualifications Agency
MQF	Malaysian Qualifications Framework
MUM	Monash University Malaysia
NAPEI	National Association of Private Educational Institutions
OBEOS	Outcome Based Education Online System
ODL	Open and Distance Learning
OECD	Organisation for Economic Cooperation and Development
SETARA	Rating System for Malaysian Higher Education Institutions
RUMC	University College Dublin Malaysia Campus
SWA	self-accreditation
STEM	Science, technology, engineering, and mathematics
TVET	Technical and vocational education and training
UC	University College
UEC	Unified Examination Certificate
UK	United Kingdom
USA	United States of America
USMC	University of Southampton Malaysia
VCCPU	Vice-Chancellors' Council for Private Universities



Executive Summary



The higher education sector in Malaysia has expanded in terms of the number of institutions and student population. This expansion was due to liberalization measures that allowed private and foreign participation in the sector. Liberalization measures have also led to the establishments of international branch campuses.

The quality of local universities as measured by global rankings has improved in recent years. Prior to 2016, no Malaysian university was included in the Times Higher Education World University Rankings. But, in 2016, four Malaysian universities appeared in the ranking, and 18 had appeared by 2021.

Consequently, since 2012, Malaysia has become a net exporter of students. The improvement in the quality of local universities and the establishment of foreign branch campuses contributed to more local students choosing to study in Malaysia, and at the same time attracted more foreign students.

Similarly, the number of foreign faculty members at universities has also risen. Along with the expansion in foreign student population, universities have hired an increasing number of foreign lecturers and professors.

The expansion and internationalization of the higher education sector bodes well for Malaysia's next stage of development. As Malaysia transitions to a high-income economy, to remain competitive, economic growth will have to be fueled by technology and innovation. R&D produced by qualified domestic and foreign faculty, as well as the skills transferred to students, will be crucial to support a knowledge-based economy.

The objectives of this paper are two-fold: First, it aims to document the pattern of trade in higher education services in Malaysia; Second, it aims to analyze the main factors that constrain trade in the sector. The paper relies on a combination of quantitative, qualitative, and institutional research methods.

Trade flows in the higher education sector in Malaysia can be classified according to the four modes of services trade: Cross-border trade (Mode 1), Consumption abroad (Mode 2), Commercial presence (Mode 3), Temporary presence of natural persons (Mode 4).

The COVID-19 pandemic has changed the pattern of trade in higher education services. The increase in distance learning since the onset

of the pandemic increased trade flow under Mode 1 (Cross-border trade). In contrast, international travel restrictions have led to a decline in trade flow under Mode 2 (consumption abroad).

Due to restrictions in public universities, the majority of foreign students and faculty are found in private universities, affecting Mode 2 and Mode 4. First, there is a 5% cap on international students' enrollment in public universities (Mode 2). Second, foreign faculty at Malaysian universities cannot have long-term contracts (Mode 4).

Despite recent liberalization measures, trade in the higher education sector is subject to numerous restrictions and limitations. In particular, there remains restrictions and limitations that affect trade flows under Mode 2, Mode 3, and Mode 4. Under Mode 3, there is a requirement for commercial presence in Malaysia. The limit on international students' enrollment at public universities affects Mode 2, and the absence of long-term contracts for foreign faculty affect Mode 4.

Additionally, there are domestic challenges that higher education institutions (HEIs) face. First, the regulatory framework appears to be cumbersome with repetitive procedures and a lack of flexibility for well-established institutions.

Second, the increase in market competition and the COVID-19 pandemic have put pressure on private HEIs' finances. Before the pandemic, many private universities were already in difficult financial situations. This was exacerbated by the pandemic, and has led to some institutions exiting the market.

Third, although more Malaysian universities are now included in the global ranking, unemployment among graduates remains relatively high. The high unemployment rate among graduates has a negative impact on Malaysian universities' global ranking, since it is one of the indicators considered. This in turn affects their attractiveness vis-à-vis foreign students. Furthermore, this might indicate a mismatch between the skills acquired by graduates and the ones firms are looking for.

Furthermore, international students and foreign faculty members are subject to immigration

and visa rules that are very strict, and rigid compared to high-income countries. For instance, foreign student passes must be renewed annually and cannot be extended beyond the normal duration of a degree program, even if the student repeated some courses. Whereas it is common for foreign students in high-income countries to receive a multi-year visa that can be extended. For foreign faculty, the visa might not necessarily match the duration of their contracts, and visas for spouses are often delayed or denied.

Policy reforms ought to focus on easing the regulatory burden on institutions. The administrative burden in part can be attributed to the lack of effective coordination between the various agencies tasked to oversee institutions of higher education, leading to unnecessary long processes and the need to provide repetitive information.

Policy reforms ought to also focus on easing the immigration process for international students and faculty members. Student visas that span the duration of the study program, and work visas that span the duration of foreign faculty contracts, would provide more flexibility and stability to foreign students and faculty members.

Enhanced digitalization in the higher education sector will increase efficiency. Increasing digitalization of processes in the various regulatory agencies, as well as operations at universities will be crucial to increase efficiency in the sector across all four modes.

Systematic data collection and analysis will be crucial to inform policy reform. For instance, data on employment outcome when international students return to their home countries. Data on foreign students' admission to more prestigious postgraduate programs in the UK, US, and AUS can be used to offer specific training programs in Malaysia geared at preparing international student for postgraduate programs in the UK, US, and AUS.

A coordinating council with decision-making powers, comprised of the various regulatory agencies and representatives from HEIs institutions can be put in place to coordinate and pilot these suggested policy reforms. A summary of policy suggestions are presented in **Table 1**.

Table 1: Summary of Policy Suggestions

	Suggestions	Modes of Delivery
A	Coordination Council (MOHE, MQA, Immigration, EMGS, MAPCU, NAPEI, VCCPU) Functions to improve coordination, streamline policies and regulations, review processes, and act as an appeal mechanism for conflict resolution.	Modes 1, 2, 3, 4
	Tasks	
1	Review and resolve administrative burdens affecting international students, including the conditions to work during the semester and semester breaks.	Mode 2
2	Review and resolve administrative burdens affecting foreign faculty members.	Mode 4
3	Review, update, and streamline regulations to improve efficiency and reduce time and uncertainties.	All modes
4	Conduct regulatory impact assessment before deciding on new regulations that can affect any of the modes of trade.	All modes
5	Consider giving self-accreditation (SWA) for specific disciplines or faculty instead of SWA status for the institution, a concept similar to QS or the university ranking for dedicated disciplines.	All modes
6	Review the composition of panel of assessors.	Modes 1 and 3
B	Enhance Digitalization	
1	Centralized database on the general information of private HEIs.	All modes
2	Centralized database of information pertaining to foreign students and faculty members.	Mode 2
3	Digitalize immigration approval process for foreign students and faculty.	Modes 2 and 4
4	Private HEIs to invest in digitalized systems that can increase efficiency and reduce time spent on the preparations for accreditation and its maintenance.	Mode 2
C	Specific Suggestions	
1	List the criteria used for inviting self-accreditation on the website, to increase transparency.	Modes 1 and 3
2	Fix the duration taken for approval of self-accreditation to be completed, which is not stated on the website.	Modes 1 and 3
3	MOHE to review the conditions for approval and extensions of licenses to private HEIs, for example financial sustainability, and record of managing quality to reduce the number of private institutions for better enforcement. The conditions should be made transparent.	Modes 1 and 3



CHAPTER 1

Introduction

1. **Malaysia's higher education sector expanded rapidly in the late 1990s, with the number of institutions peaking in 2001 and the number of international students peaking in 2017.** Since 2007, the Government's objective has been to transform Malaysia into a regional and global hub for higher education, with the sector serving as a new driver of economic growth and as a source of export revenue. One of the objectives in the 2015-2025 Malaysia Education Blueprint for Higher Education is to attract 250,000 international students by 2025. To enable the expansion, the government has implemented measures to open it up to private and foreign participation, resulting in an increase in the number of domestic and foreign private institutions. With private institutions not subject to the 5% quota on international students in public institutions, the enrollment of international students has risen with the growth of these institutions. The Ministry of Education (MOE) projects that the private higher education institutions will likely contribute about RM25.7 billion to GDP by 2025 and RM33.5 billion by 2030. Due to increased competition in recent years, driving down profitability, the number of institutions has not risen.
2. **Following improvements in the quality of local universities and the establishment of branches of international campuses in Malaysia, the country has become a net receiver of foreign students.** Since 2012, Malaysia has received more international students than it sends abroad. The increase in the number of educational institutions has resulted in increased competition, motivating many to enhance the quality of their degree programs to improve their rankings. For instance, only four Malaysian universities appeared in Times Higher Education (THE) World University Rankings in 2016, compared to 18 in 2021. Additionally, the government has implemented liberalization measures to incentivize foreign universities to establish branch campuses in Malaysia. These developments have led to a greater proportion of domestic students remaining in Malaysia to study while at the same time attracting foreign students due to cheaper costs compared to top destinations such as the USA, UK, and Australia. Consequently, the majority of foreign students in Malaysia are from developing countries, with the top 10 sending countries in 2020 being China, Indonesia, Bangladesh, Yemen, Pakistan, Nigeria, India, Egypt, Sri Lanka, and Iraq.
3. **Enhanced trade in the higher education sector, and the expansion of the sector, bodes well for Malaysia's next phase of economic development.** In the past, Malaysia's economic transformation was partly fueled by labor-intensive, low-cost manufacturing. However, as an upper-middle-income country, innovation and technological progress are paramount to escaping the middle-income trap and making a swift and successful transition to a high-income economy (Gill and Kharas 2007). In turn, higher cognitive and more complex skills are required to fuel a technology-driven and innovation-based economy, which is becoming more evident in Malaysia (World Bank 2019). An examination of the top 10 most common occupations in terms of contribution to employment in 2001 and 2017 reveals that three of the four new occupations in the top 10 in 2017 involve the production or dissemination of knowledge (teaching professionals; science and engineering associate professionals; and business and administration associate professionals). However, the emerging evidence seems to suggest that the supply of the skills required for these knowledge-based occupations remains limited, as indicated by employers' difficulty in finding workers with the skills needed for these occupations. Enhancing trade in the higher education can help to close the gap by attracting qualified foreign faculty members to produce high-quality R&D and prepare students for the labor market.
4. **Increase in trade/internationalization in the higher education sector also has several intangible benefits.** Beyond the generation of revenue, some of the positive aspects of internationalization include improved academic quality, and more internationally oriented students and staff. The internationalization of the higher education sector can also foster "international characteristics" in students that are desirable in a global economy, such as second language competency, flexibility of thinking, tolerance, and greater respect for others (Hayden and Williams 2003; Chan and Dimmock 2008).
5. **The objectives of this paper are to document the pattern of trade in higher education services in Malaysia and to analyze the main factors that constrain trade in this sector.** First, the paper aims to document Malaysia's higher education landscape and the pattern of trade in each of the four

modes of services trade. Second, it seeks to identify key policy challenges and constraints affecting this sector. The paper employs a combination of quantitative, qualitative, and institutional research methods. The quantitative research relies on data from the Ministry of Education, the Ministry of Higher Education, and the World Bank. The qualitative research relied on a review of existing literature as well as interviews with international students, local and international faculty members, international officers, quality officers, human resource officers, international marketing officers from private HEIs, international recruitment agents, and associations. The institutional research consisted of a review of the relevant Acts governing the higher education sector.

- 6. International students seem to derive value from their education in Malaysia; however, they point to the lack of limited interaction with local students.** Chong (2019) conducted a quantitative study that investigate factors influencing international students' perceived value and satisfaction at private HEIs. A total of 503 respondents participated in the survey, representing 13 private universities in the Klang Valley. More than 90% of respondents indicated being satisfied with their studies and living conditions in Malaysia. However, the majority of respondents highlighted the lack of cross-cultural and social interaction between local and foreign students, which is one of the desirable outcomes of internationalization.
- 7. The paper finds that despite numerous liberalization measures, a number of remaining restrictions and limitations continue to impact trade in the sector.** With the signing of several trade agreements, some of the restrictions on foreign and private participation in the higher education sector have been removed. For instance, 100% foreign equity ownership is now allowed in the sector.¹ However, some limitations remain, coupled with domestic constraints that affect trade flows.
- 8. In particular, there remains restrictions and limitations that affect trade flows under Mode 2, Mode 3, and Mode 4.** Under Mode 3, there is a requirement for commercial presence in Malaysia. Under Mode 4, there is a cap on the percentage of foreign lecturers employed in an educational institution. Plus, at public institutions, foreign faculty members do not have access to long-term contracts and international students' enrollment is capped at 5%, limiting flows under both Mode 2 and Mode 4.
- 9. The paper finds that the most significant policy challenges likely relate to domestic constraints.** Over recent years, Malaysia's higher education sector has been subject to numerous liberalization measures that have driven its expansion. However, there remains several domestic constraints that impede on cross-border trade in the sector, including in particular a cumbersome and rigid regulatory framework and immigration rules. Increased competition in the sector has also put pressure on private HEIs' finances, which has been exacerbated by COVID-19.
- 10. Under the current framework, institutions must commit significant resources to comply with all the regulatory requirements.** First, at present, several different agencies are tasked with regulating and overseeing higher education institutions, with a lack of coordination and differences in interpretation and decision-making procedures between them. Second, many administrative processes, including the accreditation process, are cumbersome, involving repetitive procedures, with a lack of flexibility for well-established institutions. Furthermore, some licenses and permits, including the license to recruit international students, must be renewed annually, with no provisions for institutions that have established track records in successfully hosting foreign students to obtain a multi-year license.
- 11. Furthermore, compared to high-income countries (aspirational comparators), the immigration regime to which international students and faculty members are subject appears to be excessively stringent.** Firstly, student visas/passes are only valid for a single year and must be renewed annually, subject to the student maintaining good standing in terms of attendance and GPA. Marginally failing

¹ See <https://www.mida.gov.my/industries/services/education-services/>

to meet the minimum requirements for good standing, even with valid reasons, can lead to a student's pass being revoked. In addition, student visas cannot be extended beyond the stated minimum duration of a degree program. Foreign students are permitted to seek employment only during holidays and semester breaks of more than seven days; limited to a maximum of 20 hours a week; and only with certain prescribed employers, including restaurants, petrol kiosks, mini-markets, and hotels. In comparison, it is common for foreign students in high-income countries to receive multi-year visas and be allowed to work part-time throughout the duration of their degree programs.² Furthermore, visas for foreign faculty members do not always match the proposed duration of their employment contract, while obtaining dependent visas for spouses and children can be a complicated and time-consuming process.

12. **With these constraints, policy reforms should focus on easing the domestic regulatory and administrative burdens across all four modes.** For instance, pertaining to the accreditation process, the administrative burden could be reduced by waiving requirements to resubmit the same information repeatedly, such as when licenses are renewed. For well-established institutions with good track records and reputations, the self-accreditation process could be made more flexible, with increased transparency in the rules and requirements to enable a greater number of HEIs to meet the requirements. Furthermore, the license to recruit international students should be valid for multiple years, especially for institutions that have successfully recruited and managed foreign students for more than five years. To ensure quality standards and to guard against abuse pertaining to hosting foreign students, HEIs could be made subject to audits. If an institution is found to be non-compliant, it could be placed on probation or have its license to recruit foreign students suspended until it completes the necessary remedial actions.
13. **To attract foreign students and faculty members and to enhance trade in the higher education sector, it is crucial to ease the visa and immigration processes and rules.** If Malaysia is to fulfil its aspirations of becoming a regional hub for higher education, reforms will need to be implemented to make the immigration process and rules more flexible and accommodating. For instance, student visas/ passes could be issued for the same duration as that given to domestic students' degree programs. If there are concerns that students might drop out and still be able to leave and re-enter the country, the requirement for re-entry could include proof of good standing at the university in which the student is enrolled. Similarly, visas should be issued to foreign faculty members for the suggested period of their employment contracts, with the process to obtain visas for spouses and dependent children eased, including spousal work permits. And foreign faculty members ought to be able to have long-term contracts with universities.
14. **Furthermore, measures to enhance the digitalization of administrative processes at the regulatory agencies and at HEIs could increase efficiency, with the potential to reduce the burden associated with excessive documentation requirements.** For example, a centralized database to which HEIs could submit general information related to eligibility that is unlikely to change from year to year would reduce the need to resubmit the same information repeatedly, reducing unnecessary delays. With a centralized database, the need to submit the same information to multiple institutions could be eliminated. This database could also be used to monitor and evaluate visa and contract renewals for staff and faculty (*Mode 2 and 4*). Furthermore, digitalizing the immigration process could enable foreign students and faculty to track their application status, thereby improving transparency and accountability (*Modes 2 and 4*).
15. **It is also crucial that agencies and universities systematically collect more data to better inform policy reforms and guide universities in how to improve their programs.** Universities ought to systematically collect data pertaining to foreign graduates to better assess the quality of the education they offer, as well as how and where to make changes.

² For instance, the UK, US, Korea, Rep., Australia etc.



CHAPTER 2

Malaysia's Higher Education System



Malaysia's higher education sector is characterized by different types of institutions

- 16. In Malaysia, government expenditure on higher education is relatively high compared to that of other high-middle-income and regional peers and comparable to aspirational peers.** In 2016, government spending on tertiary education was estimated at 1.1% of GDP, compared to a weighted average of 0.7% of GDP for all upper-middle-income countries and 1.1% of GDP among OECD countries. The same figure was estimated to stand at 1% in Hong Kong SAR, China (2018) and Singapore (2013), and 0.6% of GDP in both Indonesia (2016) and in Thailand (2015).³
- 17. Malaysia's higher education system is ranked 31st among the 50 participating countries in the U21 Ranking of National Higher Education Systems.** Malaysia's higher education system ranks higher than Thailand and Indonesia, but lower than Singapore, China, and several aspirational high-income countries. Of the four variables considered in the ranking – resources, environment, connectivity, and output – Malaysia is ranked 6th in total expenditure on tertiary education (as a share of GDP). Despite allocating a great amount of financial resources for higher education, Malaysia ranks low (45th) in terms of output, due in part to the relatively high unemployment rate among college graduates in the country.
- 18. Several factors contribute to the relatively high graduate unemployment rate.** Based on the National Graduate Tracer Study in 2018, 22.4% of graduates in Malaysia were unemployed six months after their graduation. The factors contributing to this include a lack of English language proficiency, communication skills, technical and professional skills, graduates asking for unrealistic salaries/

³ World Bank Staff calculation based on WDI series *Current education expenditure, tertiary (% of total expenditure in tertiary public institutions)* (SE.XPD.CTER.ZS) and *Government expenditure on education, total (% of GDP)* (SE.XPD.TOTL.GD.ZS).

benefits, choosy about job and company, poor character, attitude, and personality (Jobstreet.com, 2015; Fernandez-Chung & Leong 2018; Lee, 2020). Other contributory factors include, for example,

- (1) skill-mismatch where employers' priority is skills and experience while HEIs focused on academic attainment;
- (2) low take up rate for STEM when more employers are employing graduate in this field; and
- (3) more jobs available for TVET graduates, but only 9% of students enrolled in polytechnics (Yeo, 2019).

Lee (2020) also suggested that the economy generates low-skill and low-wage jobs which made graduates over-qualified to fill the position. For instance, in 2017, there were 1.4 million job vacancies in Malaysia, but 86.9% of those vacancies were for low-skilled jobs only requiring primary education, and were not suitable for college and university graduates.

19. With regards to employability of local and foreign trained graduates, there seems to be no remarkable difference between the two groups. The evidence suggests that employers hire local and foreign trained graduates at the same rate. However, foreign trained graduates tend to receive a higher remuneration, potentially due to English language competency. A recent study conducted by *Jobstreet* concludes that foreign graduates in Malaysia earn about 12% more than local graduates in the private sector. The difference in skills between the two groups seems to be language proficiency and soft skills such as communication.

20. Malaysia's higher education system consists of a range of different types of institutions, including public and private institutions, polytechnics, TVET and community colleges. In total, Malaysia has 20 public universities, with numerous HEIs (see **Table 2**). The number of private HEIs has increased steadily over the years, from 354 in 1996 to a peak of 706 in 2001 (Tham 2019), before declining to 389 in 2021, likely due to lower profitability as a result of increased competition in the sector.⁴ While enrollment has expanded in universities and colleges, it remains limited in TVET colleges, perhaps due to cultural reasons that perceive TVET as a less attractive pathway than university education. The advent of the COVID-19 pandemic in 2020 led to a small decline in the total number of colleges, reportedly due to the Ministry of Higher Education (MOHE) closing down some institutions with dormant licenses (Interview, A2).

21. Four different types of private HEIs operate in Malaysia, as follows:

- (1) universities that are permitted to conduct home-grown programs and to award home-grown degrees;
- (2) university-colleges that have established a good track record in conducting transnational programs completely in Malaysia and that are permitted to confer degrees in designated disciplines;
- (3) private colleges, that are not allowed to confer degrees and that instead conduct transnational programs, under which the degree is conferred by partner universities; and
- (4) branch campuses that are operated by locally incorporated companies, in which the home (foreign) universities have some level of equity.

While the majority of private HEIs are for profit, there are several not-for-profit universities, with some, such as Sunway University, highly ranked among private HEIs.⁵

4 <https://themalaysianreserve.com/2021/05/17/private-universities-colleges-risk-permanent-closure/>

5 Not-for-profit HEIs include Sunway University, Southern University College, New Era University College, Han Chiang University College of Communication

Table 2 : Number of Private HEIs in Malaysia, 2015-2021

Types of Private HEIs	2015	2016	2017	2018	2019	2020	2021*
University	63	54	53	53	53	48	48
UC	38	32	37	38	37	34	35
Colleges	402	400	380	380	347	300	296
IBC	10	10	10	10	10	10	10
Total	513	496	480	481	447	392	389

Notes: UC: University College, IBC: International Branch Campuses, * as at August 31, 2021.

Source: 2015-2019: MOE 2020 (Way Forward for Private Higher Education Institutions: Education as an Industry: 2020-2025); 2020-2021: extracted from MOHE website.

22. The share of total enrollment varies considerably between the four different types of private HEIs. Data for the period from 2015 to 2020 show that private universities contributed to the highest proportion of total student enrollment (50%), followed by colleges (32%), university colleges (14%), and IBC (4%).

23. The business models of the private HEIs also vary considerably between institutions, affecting their financial standing and the quality of their programs (see Table 3). There are also wide gaps in terms of their achievements in terms of the ratings conducted by MOHE. In 2018/19, according to the national SETARA Rating System for Higher Education Institutions in Malaysia, three out of eight of all Malaysian higher educational institutions (including both public and private) that received a *highly competitive* rating (six stars) were private HEIs, with another 22 HEIs obtaining a *very competitive* rating (five stars).⁶ The diversity is said to provide greater access for Malaysian and international students (Interview, A2).

Table 3 : Business Models of Private HEIs in Malaysia

Institutions owned by listed companies with dispersed ownership	Institutions set up by State Islamic Religious Councils
Institutions owned by political parties	Fully owned foreign branch campuses
Institutions set up by government-linked companies	Individual and family-owned businesses
Small businesses	State-owned institutions
Institutions owned by philanthropists	Foreign branch campuses with local partner

Source: MOE 2020

⁶ <https://www.mohe.gov.my/hebahan/pengumuman/keputusan-penarafan-ipt-malaysia-2018-2019>



Malaysia has become a net receiver of foreign students due to the provision of affordable quality-assured programs and the establishment of international branch campuses

24. In general, trade in services can be categorized into four modes, with these modes also applying to trade in higher education services. The four modes of trade in services are:

- (i) cross-border trade (*Mode 1*);
- (ii) consumption abroad (*Mode 2*),
- (iii) commercial presence (*Mode 3*), and
- (iv) temporary presence of natural persons (*Mode 4*).

The manner in which these modes apply to trade in higher education services can be seen in **Table 4**, below.

Table 4 : Modes of Trade in Education Services

Modes of Trade	Types of Education Services
Mode 1: Cross-border trade	Distance education, virtual education institutions, education software, corporate training through ICT delivery
Mode 2: Consumption abroad	A student travels to another country to enroll in a school for a course of study/degree program
Mode 3: Commercial Presence	Local university or satellite campuses, language training companies, private training companies (e.g., Microsoft, etc.)
Mode 4: Temporary Presence of natural persons	Lecturers/researchers travelling temporarily abroad to teach or to conduct research

Source: Tham, S.Y. 2010

25. Under Mode 1 (Cross-border trade), 11 Malaysian institutions have been approved to offer online and distance learning (ODL), all of which accept international students (see Table 5). In 2019, about 10% of students at Open University Malaysia and Wawasan Open University were foreign, with the figure standing at 27% at Asia e University (AeU) (AeU Annual Report, 2019). The latter was established in 2007, as a Malaysian initiative to promote e-education among the 34 countries participating in the Asia Cooperation Dialogue. These universities offer blended or hybrid learning, with learning centers in Malaysia, enabling international students to benefit from face-to-face (F2F) contact and guidance. The other ODL institutions included in Table 5 offer dual-mode programs, with both conventional-mode and ODL learning, with most local students preferring hybrid rather than purely online learning.⁷ There is no available data related to the number of Malaysian students studying through online programs offered by foreign universities outside the country that have no physical presence in Malaysia.

Table 5 : ODL Institutions, as at 2020

Name of Institution	ODL/Conventional Modes
Open University Malaysia (OUM)	ODL
Wawasan Open University (WOU)	
GlobalNxt University	
Asia E-University	
SEGi University	Dual Modes (ODL and Conventional)
Veritas University College	
MAHSA University	
UNITAR International University	
Universiti Tun Abdul Razak (UNIRAZAK)	
Al-Madinah International University (MEDIU)	
Genovasi University College	

Source: MOE 2020

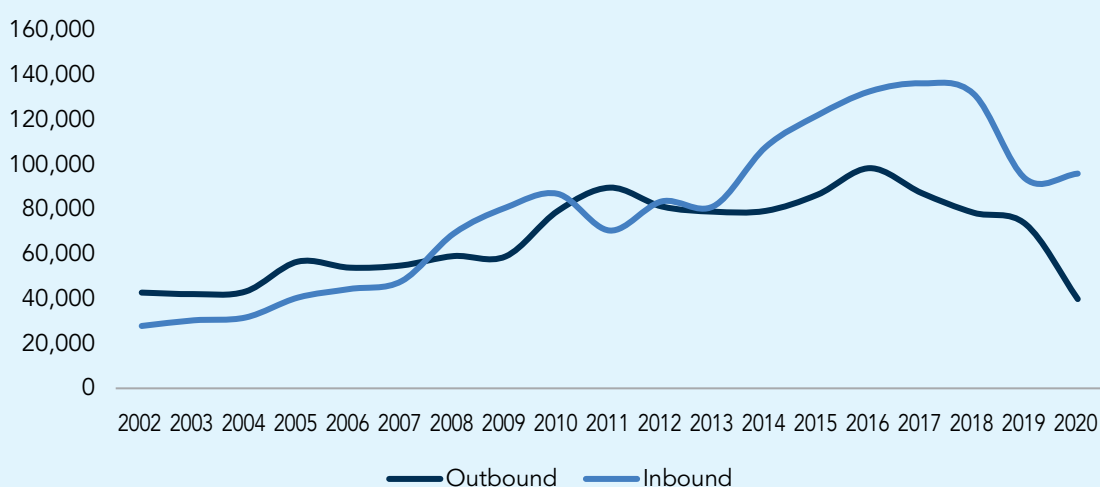
26. Under Mode 2 (Consumption abroad), involving students travelling to Malaysia to enroll in a school for a course of study/degree program, the country has been a net exporter since 2012, due to improvements in the quality of local universities and to the establishment of branch campuses. Although Malaysia has been primarily a sending country for international students since Malayan independence in 1957, the development of private HEIs has resulted in a progressive reduction in the number of outbound students through a process of both import-substitution and export promotion. Cost-savings and the conferment of a foreign degree (at branch campuses) has also increased the attractiveness of studying in Malaysia.⁸ Figure 1 shows since 2012, the number of inbound students has consistently exceeded the number of outbound students.

⁷ See <https://core.ac.uk/download/pdf/298086577.pdf>

⁸ <https://www.thestar.com.my/metro/metro-news/2021/02/09/good-choice-to-earn-foreign-degree-locally>

27. The increase in distance learning driven by the COVID-19 pandemic has resulted in an increase in trade flow under Mode 1 and a decline under Mode 2. Following the interdiction of physical learning, universities had to increase their distance learning offerings for both existing and newly enrolled students (Mode 1). With this initiative, many international students likely chose to return to their home countries to save on living and travel costs, among other reasons (Mode 2). In the context of travel restrictions, many incoming international freshmen were constrained to enroll at these universities from their home countries and to participate entirely through online learning. However, there are indications that the increase in distance learning could be a structural change rather than merely a transitory response to the pandemic, which would imply a continued increase in the trade flows under Mode 1.⁹

FIGURE 1: Number of Inbound and Outbound Students, 2002-2020



Source: Higher Education Statistics 2002-2020, Ministry of Higher Education

29. The majority of international students in Malaysia are enrolled at private HEIs. International students enrolled at Malaysian HEIs (both public and private) accounted for an average of 9% of the total enrollment for the period 2013-2020, growing at the average rate of 12.6% per annum over this period.¹⁰ The largest proportion of these inbound students are enrolled at private HEIs (see **Figure 2**), partly due to the fact that the undergraduate enrollment of foreign students at public HEIs is capped at 5% (Tham 2014).¹¹ While the quota was underused prior to 2007 due to excess demand by domestic students, persistent efforts to improve the international ranking of public universities, especially through the achievement of research university status, has led to a subsequent increase in the enrollment of international students in public HEIs. This has resulted in increased competition between the public and private HEIs to recruit undergraduate foreign students, breaking an implicit prior agreement according to which private HEIs focused on recruiting undergraduate foreign students, while the public HEIs focused on postgraduate foreign students.

30. Private HEIs have long attracted foreign students by offering transnational programs, including franchised and twinning programs. In the late 1980s, private HEIs stepped in to meet the excess demand for higher education by providing transnational programs, under which the degree is conferred by partner universities, as they were at that point not authorized to confer homegrown degrees. This

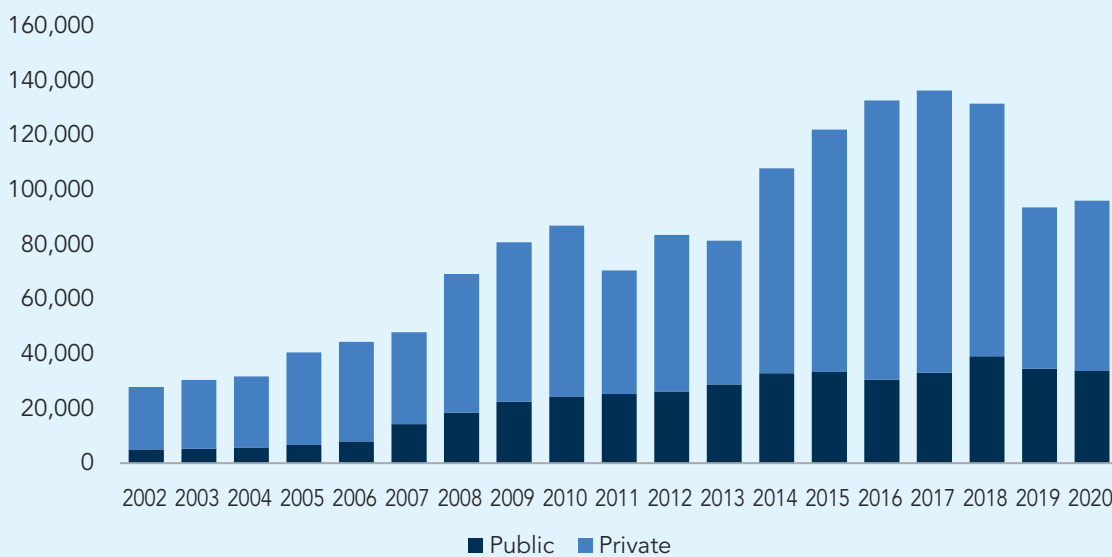
⁹ <https://www.weforum.org/agenda/2020/04/coronavirus-education-global-covid19-online-digital-learning/>

¹⁰ Private HEIs have 70% of total enrollment of foreign students, over the past eight years (2013-2020).

¹¹ There is, however, considerable variation in the share of foreign students at private HEIs, with some institutions being more financially dependent on these students than others (Interview, A1).

coincided with the decision to import programs from a number of countries, including the UK and Australia. Malaysian HEIs continue to offer a large number of transnational programs, with private colleges and university-colleges still permitted to provide such programs. Franchised programs are conducted completely in Malaysia, while twinning programs may allow for combinations of one to three years abroad in partner institutions. These programs attract both international and local students, thus involving both inbound students and outbound students. While in 2010 it was reported that there were 3,218 joint, double, or franchise programs operating in Malaysia, no more recent data are available. There is anecdotal evidence from survey respondents that international students choose Malaysia as a stepping-stone toward studying at final destinations like the US, UK, or Australia, where they can work and study at the same time (Interview, FM1).

FIGURE 2 : International Student Enrollment in Public and Private HEIs, 2002-2020



Source: Higher Education Statistics 2002-2020, Ministry of Higher Education

31. While most foreign students in Malaysia come from low- and middle-income countries, when Malaysian students study abroad, they tend to do so in high-income countries. The top 10 sending countries to Malaysia include China, Indonesia, and Nigeria, with a number of countries from the Middle East and South Asia (see **Table 6**). China has become the top-sending country in Malaysia since 2019.¹² Interest from students in the Middle East increased after September 11, 2001, with the government responding by increasing the promotion of Malaysia's higher education in these countries (Morshidi, 2008). In terms of outbound students, more than half (53%) of Malaysian students who studied abroad in the 2013-2020 period did so in high-income countries (see **Table 7**). In particular, Australia, the UK, Ireland, and the USA remain popular as destination countries for Malaysian students. Taiwan attracts Malaysian school leavers from the private Chinese secondary schools with Unified Examination Certificate (UEC) because these qualifications are not recognized for entry into Malaysia's public HEIs (push factor), and because Taiwan offers language and cultural proximities for these students (pull factor). Egypt is a popular destination for those engaged in Islamic studies, law, medicine, dentistry, and pharmacy.¹³

¹² China is the top sender in several countries due to the size of its population and the importance that parents attach to their children's educational achievements.

¹³ See <https://www.universityworldnews.com/post.php?story=20110204205325983>

Table 6 : Top Sending Countries, 2013-2020

Ranking	2013	2014	2015	2016	2017	2018	2019	2020
1	Iran	Bangladesh	Bangladesh	Bangladesh	Bangladesh	Bangladesh	China	China
2	Indonesia	Nigeria	Nigeria	Nigeria	China	China	Indonesia	Indonesia
3	China	China	China	China	Nigeria	Nigeria	Bangladesh	Bangladesh
4	Nigeria	Indonesia	Indonesia	Indonesia	Indonesia	Indonesia	Yemen	Yemen
5	Yemen	Iran	Yemen	Yemen	Yemen	Yemen	Pakistan	Pakistan
6	Pakistan	Yemen	Iran	Pakistan	Pakistan	Pakistan	Nigeria	Nigeria
7	Iraq	Pakistan	Pakistan	Iran	Libya	Iraq	India	India
8	Bangladesh	Iraq	Iraq	Iraq	Iraq	Libya	Egypt	Egypt
9	Sudan	Libya	Libya	Libya	Sudan	India	Saudi Arabia	Sri Lanka
10	Libya	Sudan	Sudan	Sudan	Iran	Iran	Iraq	Iraq

Notes: MoHE Statistics of Higher Education (<https://www.mohe.gov.my/en/downloads/statistics>)

Table 7 : Top Receiving Countries, 2013-2020

Country	2013	2014	2015	2016	2017	2018	2019	2020	Total	Ranking
UK & Ireland	15,020	15,780	19,350	19,666	19,689	17,776	19,341	6,002	132,624	1
Australia	13,397	20,535	14,300	28,504	17,331	13,871	11,629	2,658	122,225	2
Taiwan	8,530	12,137	13,600	11,493	11,493	13,765	14,306	92	85,416	3
Egypt	11,145	8,720	11,261	11,214	9,392	11,278	11,278	8,355	82,643	4
US	6,600	6,914	7,321	8,498	8,406	1,409	715	6,910	46,773	5
Indonesia	4,685	4,527	4,417	3,886	4,115	3,313	2,863	3,450	31,256	6
China	932	464	814	6,650	6,880	7,948	2,232	4,773	30,693	7
India	3,400	1,023	1,728	1,901	1,551	1,239	1,334	1,222	13,398	8
Jordan	2,879	3,168	2,829	2,108	1,383	898	744	654	14,663	9
Russia	3,350	244	2,048	1,839	1,184	1,261	747	890	11,563	10
Japan	1,147	874	2,475	1,144	1,098	1,112	1,111	279	9,240	11
NZ	1,134	1,041	957	1,026	1,121	995	1,182	514	7,970	12
Korea. Rep.	449	308	1,965	689	634	495	440	452	5,432	13
Singapore	3,016	14	300	-	56	33	1,500	-	4,919	14
Others	3,252	3,553	3,205	1,910	2,916	3,066	3,892	3,631	25,425	
Total	78,936	79,302	86,570	100,528	87,265	78,459	73,314	39,882	624,240	

Source: MoHE Statistics of Higher Education (<https://www.mohe.gov.my/en/downloads/statistics>)

Table 8 : Foreign Education Providers in Malaysia, as at 2020

	Name	Year of Establishment	Share of international students	Country of origin
A	Branch Campuses			
1	Curtin University, Malaysia	1999	20%	Australia
2	Heriot-Watt University Malaysia	2014	20%	Scotland, UK
3	Monash University Malaysia (MUM)	1998	5%	Australia
4	Newcastle University Medicine Malaysia (NUMed)	2009	35%	UK
5	Royal College of Surgeons in Ireland and University College Dublin Malaysia Campus (RUMC)	2018		Ireland
6	Swinburne University of Technology Sarawak Campus	2000	20%	Australia
7	University of Nottingham Malaysia (UNM)	2000	20%	UK
8	University of Reading Malaysia	2015	10%	UK
9	University of Southampton Malaysia (USMC)	2012	10%	UK
10	Xiamen University Malaysia	2015	20%	China
B	Equity Partnerships			
11	Asia School of Business (MIT and Bank Negara)	2015		USA
12	International University of Malaya -Wales (University of Wales and University of Malaya)	2012	14%	UK
13	Kolej MDIS Malaysia (KMDIS; Management Development Institute, of Singapore (MDIS))	2013		Singapore
14	Manipal International University (Manipal Academy of Higher Education, India)	2011	15%	India
15	Melaka-Manipal Medical College (Manipal Academy of Higher Education, India, and Melaka Medical College)	1997	9%	India
16	Netherlands Maritime Institute of Technology (NMIT; NHL Stenden University of Applied Sciences and HZ University of Applied Sciences, Netherlands)	2011		Netherlands
17	Raffles College of Higher Education Kuala Lumpur (RC; Raffles Education Singapore)	1994	30%	Singapore
18	Raffles University (RU; Raffles Education Singapore and Educity Iskandar Malaysia Berhad (ELSB).	2011	10%	Singapore
19	UoW Malaysia KDU University College (University of Wollongong Global Enterprises) *	2019	19%	Australia
20	INTI Education Group (includes University and colleges)	2020		UK

Source: Adapted from Schulze 2020, and Updated as of October 2021. Share of international students taken from <https://www.easyuni.my> as of February 15, 2022.

Note: The equity share of the foreign partner is not published but Xiamen does not have local partners, while Nottingham University Malaysia (UNM) will hold the majority of the shares after the sale of Boustead's equity share to UNM.¹⁴

14 Boustead, the local partner of Nottingham in Malaysia, sold its share to Nottingham University. See <https://www.theedgemarkets.com/article/boustead-exits-university-nottingham-malaysia-sells-controlling-66-stake-rm137mil>

32. Under Mode 3 (Commercial presence), international branch campuses must fulfill certain criteria to be officially recognized as such. In higher education services, a distinction can be made in terms of the type of degree awarded. A foreign partner or owner may award a foreign degree that is in principle the same as that awarded by the home institution, or it may award a local degree. Despite differences in the definitions of a branch campus, there is some consensus that international branch campuses must fulfil three criteria:

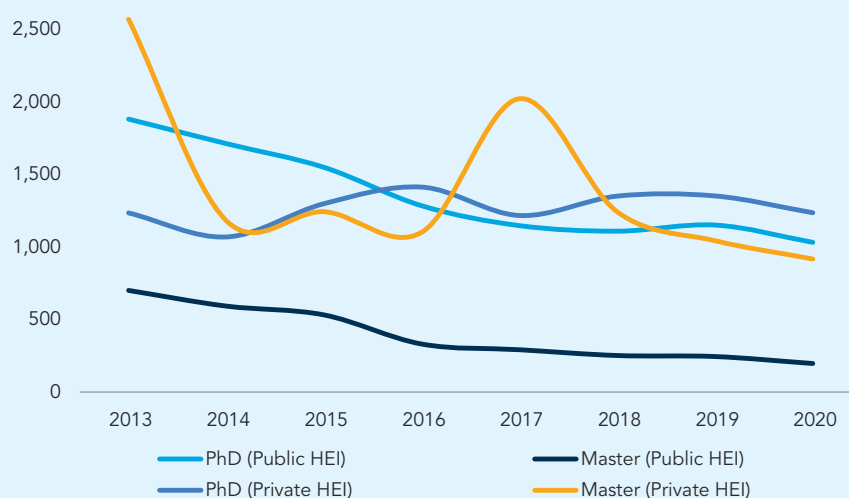
- (i) the campus needs to have a physical presence in the host country;
- (ii) the host campus awards a degree from the home institution; and
- (iii) the host campus must be either fully or jointly owned by the institution that awards the degree (Lane 2011).

Based on the above definition, there are 10 international branch campuses in Malaysia (**Table 8**). These campuses can be divided into two types: those with multi-faculties and those focused on specific professional disciplines, such as medicine in the case of RUMC, and engineering in the case of USMC.

33. Under Mode 4 (Temporary presence of natural persons), private and public HEIs hire foreign faculty members. As is the case with the relative contributions of foreign students to public and private HEIs, a larger proportion of foreign faculty members can be found at private HEIs. The share of foreign faculty members relative to the total number of faculty members averaged at around 6% at public HEIs and 11.9% at private HEIs over the 2013-2020 period. Among the foreign faculty at public HEIs, the share of PhD holders was larger than that of non-PhD holders during this period. However, from 2018 to 2020, the proportion of PhD holders at private HEIs increased (see **Figure 3**). While there is no available data related to the country of origin of foreign faculty members, anecdotal evidence suggests that a large proportion come from other developing countries, particularly those where academic wages are lower and job opportunities are more limited than in Malaysia (push factors). It appears that some foreign faculty members who came to Malaysia as foreign students have stayed after being offered jobs following their graduation.

34. Private and public HEIs seem to hire international faculty members for different reasons. In the case of private HEIs, foreign faculty members are recruited for expertise that may not be available locally and to provide a diverse teaching experience for students, as a form of internationalization at home (Interview, A3). Public HEIs may also recruit foreign faculty members to improve their international rankings. Furthermore, transnational programs require faculty members from the parent institutions to visit the hosting institution to meet the accreditation process in the home institution/country, resulting in Mode 4 flows.

FIGURE 3 : Qualifications of Inbound Foreign Faculty Members at Public Private HEIs, 2013-2020



Source: Higher Education Statistics 2002-2020, Ministry of Higher Education

Malaysia's trade commitments seem mostly unbound, with some limitations and restrictions, especially under Mode 1 and Mode 4

35. Malaysia has opened up the private higher education sector in partial fulfilment of its services trade commitments (see Table 9). In the case of Mode 1, the sector is unbound. There are no limitations in terms of market access (MA) for Mode 2 and unbound for National Treatment (NT). The main limitation in terms of MA in Mode 3 relates to the cap on foreign equity, which is set at 70% for ASEAN and sometimes less for other countries (for example, at 49% in MJEPA). Other limitations include economic needs test requirements. It should be noted that Malaysia has unilaterally allowed 100% foreign equity in this sector.¹⁵ In the case of Mode 4, it is mostly unbound, except as indicated in the horizontal section for MA and NT. According to the ASEAN MNP agreement, an exception is made for the private higher education sector, with the limits set at 10 lecturers and/or experts but no more than 30% of lecturers employed in an educational institution. Private higher education was not covered by the 1994 GATS agreement and was only added in the revised offers in 2005. The revised offers do not result in a higher level of liberalization than under the regional and bilateral agreements. For example, Mode 2 is unbound, except for students moving abroad (including students under franchise and twinning arrangements). Foreign equity is capped at 49%, with further limitations including an economic needs test.

36. Many of the restrictions under Mode 2 and Mode 4 are specific to public universities. International students enrollment at public HEIs is capped at 5% of overall enrollment, which limits flows under Mode 2 and explains why the vast majority of international students are enrolled at private HEIs. In addition to this limit, the language barrier also likely limits internationalization since the language of instruction at public universities is Bahasa Malaysia. Furthermore, permanent positions at public institutions are reserved for Malaysian nationals only, so foreign faculty members at public universities do not have access to long-term/permanent contracts, which likely limits flow under Mode 4.

Table 9 : Summary of Malaysia's Commitments for Higher Education

Agreement*	Mode 1		Mode 2		Mode 3		Mode 4	
	MA	NT	MA	NT	MA	NT	MA**	NT**
AFAS10	U with exceptions	U	N	U	L	U	U with exceptions	U with exceptions
ACTIS	U with exceptions	U	N	U	L	U	U with exceptions	U with exceptions
AKFTA	U with exceptions	U	N	U	L	U	U with exceptions	U with exceptions
AANZFTA	U with exceptions	U	N	U	L	U	U with exceptions	U with exceptions
MJEPA	U with exceptions	U	U with exceptions	U	L	U	U with exceptions	U with exceptions
MPCEPA	U with exceptions	U	N	N	L	U	U with exceptions	U with exceptions
MNZFTA	U with exceptions	U	N	U	L	U	U with exceptions	U with exceptions
MICECA	U with exceptions	U	N	U	L	U	U with exceptions	U with exceptions
MAFTA	U with exceptions	U	N	U	L	U	U with exceptions	U with exceptions
GATS	U with exceptions	U	U with exceptions	U	L	U	U with exceptions	U with exceptions

Notes: L = with limitations, MA = market access, N = none or no limitations, NT = national treatment, U = unbound

* AFAS 10: ASEAN Framework Agreement on Services (10th package);

ACTIS: ASEAN-China Trade in Services Agreement; AKFTA: ASEAN-Republic of Korea Free Trade Agreement; AANZFTA: ASEAN-Australia New Zealand Free Trade Agreement; MJEPA: Malaysia-Japan Economic Partnership Agreement; MPCEPA: Malaysia-Pakistan Comprehensive Economic Partnership Agreement; MNZFTA: Malaysia-New Zealand Free Trade Agreement; MICECA: Malaysia-India Comprehensive Economic Cooperation Agreement; MAFTA: Malaysia-Australia Free Trade Agreement; GATS: General Agreement on Trade in Services (Revised offers, 2005).

** ASEAN Agreement on the Movement of Natural Persons (NP)

Source: MITI website (www.miti.gov.my)

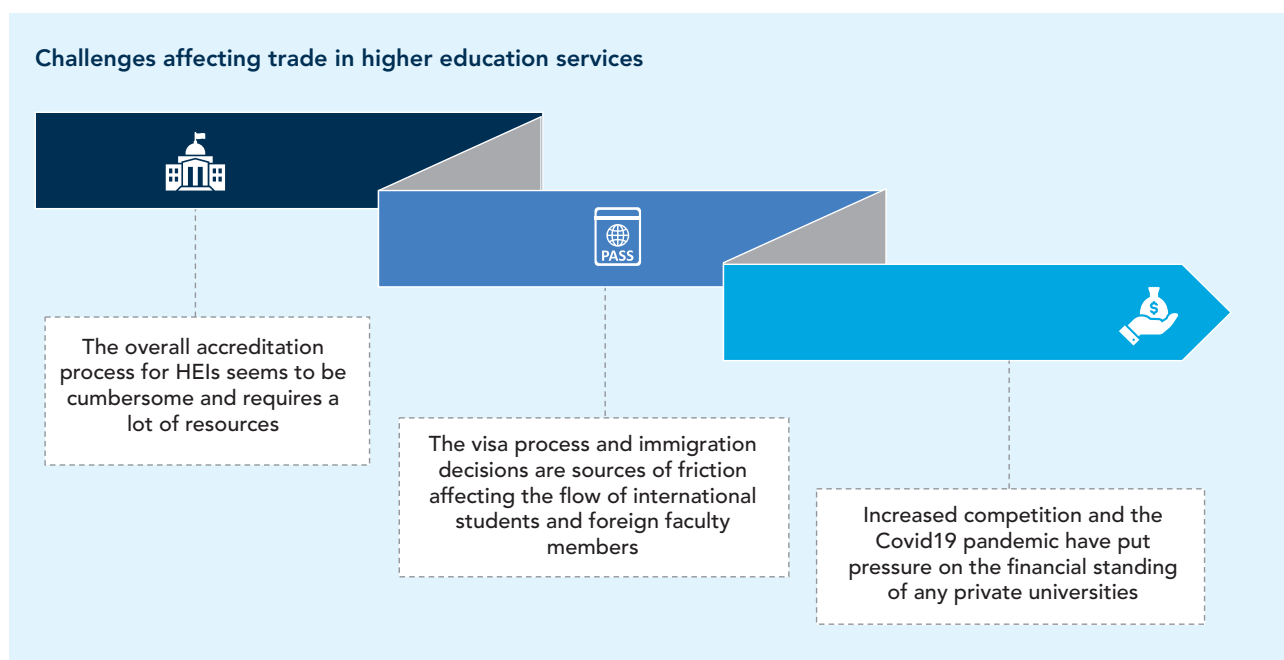
15 See <https://www.mida.gov.my/industries/services/education-services/>



CHAPTER 3

Challenges Affecting Trade in Higher Education Services

- 37. In addition to the limitations and restrictions that still exist (see Table 9), challenges affecting trade in higher education also emanate from non-discriminatory domestic regulatory practices and market performance.** Regulations and bureaucracy can be sources of frictions for trade in general, but more so in the case of trade in services such as higher education services. For HEIs in Malaysia, the regulatory frameworks pertaining to the accreditation process and immigration appear to be some of the most significant challenges for trade in higher education services. Furthermore, market performance can put pressure on the financial standing of private HEIs and, in some cases, lead to closures.



The overall accreditation process for HEIs seems to be cumbersome and requires a lot of resources

- 38. The two main regulatory Acts that specifically affect Malaysia's private HEIs are the Private Higher Institutions Act, 1996 (Act 555) and the Malaysian Qualifications Agency (MQA) Act, 2007 (Act 679).** Act 555 regulates the establishment, registration, management, and supervision of all private HEIs, both local and foreign. Act 679 provides for the establishment of the MQA as the regulatory agency holding the mandate for quality assurance for all postsecondary programs and qualifications provided by HEIs. The Act also establishes the Malaysian Qualifications Framework (MQF) and the procedures for both provisional full accreditation of a diverse range of programs. The Act also provides for the establishment of the Malaysian Qualifications Register (MQR), which records details of the programs, qualifications, and higher education providers accredited under the Act. More details related to the two Acts are presented in the Appendix and in the background paper.
- 39. Both Acts have the potential to impact all four modes of trade, with foreign institutions with a commercial presence in Malaysia automatically falling under the jurisdictions of both.** In particular, Act 555 affects the types of institutions awarded a license to engage in the private higher education sector in the country. In turn, the types of institutions determine domestic and foreign demand for education in Malaysia. Furthermore, the quality of institutions also affect the level of interest from foreign faculty members. Similarly, Act 679 regulates the accreditation of programs at HEIs, which also has a bearing on foreign students' level of interest to study in Malaysia and the need to hire foreign faculty members.

- 40. The various agencies are tasked with regulating and providing administrative services to HEIs work with different mandates and in isolation.** The main agencies involved in the governance of HEIs, and related processes are the Ministry of Higher Education, the Malaysian Qualifications Agency (based on Act 679), and Immigration. To a lesser extent, the Companies Commission of Malaysia (CCM) is also involved, given that private HEIs are required to be established and registered as companies. While each of these agencies are established under different Acts and operate according to their respective mandates, Education Malaysia Global Services (EMGS) is an implementing agency that functions as a one-stop agency for the management of all foreign students, under the MOHE.
- 41. HEIs continue to be subject to a number of cumbersome administrative processes.** This is at least partially due to the need to resubmit the same information and documentation on multiple occasions, such as when licenses are renewed. For example, the general information of HEIs that must be submitted for accreditation has to be submitted again for every new program application.
- 42. While the government's regulation of private HEIs is intended to ensure a balance between the profitability of the institutions and their performance,¹⁶ some observers state that it may be over-regulated.¹⁷** The higher education sector faces numerous administrative burdens, which have persisted over time. For instance, when hosting international students, HEIs need to comply with the requirements of several agencies, including MQA, MOHE, Ministry of Home Affairs (MOHA), Immigration, and EMGS. HEIs must commit a lot of resources to comply with numerous standards, procedures, policies, and circulars issued by these different agencies, each operating under separate mandates. This may cause confusion when there are conflicting sets of information (Interview, A3) (Rashidah et al., 2014). The lack of coordination between the different agencies can create unnecessary burdens for IS and private HEIs. The administrative burden is applied uniformly across all private HEIs, regardless of their years in the industry and their track record. For example, the one-year license required by institutions recruiting foreign students is applied uniformly across all HEIs.
- 43. There have been complaints regarding over-prescribed standards and compliance related to the accreditation process by the MQA.** With the MQA's objectives being to assure the quality and standard of programs offered, all institutions of higher education have to be accredited by the MQA (see **Table 10**). HEIs offering ODL, dual-mode, or traditional mode programs undergo the same accreditation processes, as governed by MQA. The process is also the same for public and private HEIs.¹⁸ However, HEIs must apply separately for the accreditation of programs for fully ODL and conventional modes, doubling the administrative burden.
- 44. While in principle it is possible for HEIs to conduct a self-accreditation process, the conditions according to which they may do so are not clear.** While self-accreditation would enable the institution to self-govern the process, participation in the self-accreditation process requires an invitation from the Minister,¹⁹ with the conditions for such an invitation not stated on the MQA website. Media reports suggest that the institution's age and the ratings it has achieved are some of the criteria used.²⁰ It should be noted that self-accreditation status merely indicates that the institution has developed a strong and rigorous internal quality assurance system, without implying that the process is less cumbersome.
- 45. There are a number of accreditation challenges that are specific to Mode 3** (Interviews A1; A2; Azilah et al., 2018; MOE 2020). In the early days of the liberalization of the sector, foreign branch campuses had to undergo the accreditation process when the institution was already accredited in its

16 <https://www.universityworldnews.com/post.php?story=2010110522092111>

17 <https://www.malaymail.com/news/malaysia/2019/02/14/education-ministry-looking-into-over-regulation-of-private-institutions/1722939>

18 See Flowchart in Appendix for more details on the accreditation process.

19 https://www2.mqa.gov.my/portal_swa/FAQ.cfm

20 <https://www.thestar.com.my/news/education/2017/03/19/selfaccreditation-status>

home country, which led to many complaints. This was resolved when these branch campuses were awarded self-accreditation status. HEIs that offer twinning and franchise programs are also required to be accredited by the MQA for program delivery. With this requirement, these institutions still need significant resources to manage both MQA's document preparation and audit requirements and those of the foreign qualification body of the partner university (for example, the Quality Assurance Agency for Higher Education from the United Kingdom).

- 46. Another administrative burden related to the accreditation process for private HEIs emanates from changes in the requirements of the Malaysian Qualifications Framework and Quality Assurance System, which mandates revisions to previously submitted documents (Interview, Q3).** The management of HEIs face significant difficulties complying with the very detailed documentary requirements, with the process having evolved from benchmarking with best practices to complete compliance with the prescribed standards (Interview, A3). These documents will need to be updated and resubmitted whenever newer standards are introduced by MQA, with HEIs needing to spend time to re-educate faculty members (FM) on the new templates. A number of FM have stated that the process is excessively rigid and time-consuming and represses creativity, reducing the time available to improve teaching content or to engage in research (Interview, FM1).
- 47. Private HEIs that have achieved the self-accreditation status (SWA) must establish a quality team that in fact acts as a mini-MQA for their institution.** This need to establish a robust internal quality assurance system and office is also a time-consuming and resource-demanding process.

Table 10 : Administrative Challenges Encountered by Private HEIs, as at October 2021

Modes	Administrative Challenges
Mode 1	<ul style="list-style-type: none"> • Accreditation process for ODL²¹ • Seeking for Self-accreditation
Mode 2	<ul style="list-style-type: none"> • MOHA License to recruit international students; renewable annually • Application for visas and renewal of visas • Extension of visas for students, including beyond stated duration of program • Extension of visas upon completion of studies • Permission to work • Recruitment agents • Coordination between MOHE, EMGS, and Immigration
Mode 3	<ul style="list-style-type: none"> • Accreditation burdens • All programs whether accredited or not at home country must undergo MQA accreditation for program delivery • Seeking for Self-accreditation
Mode 4	<ul style="list-style-type: none"> • Getting approval for hiring foreign faculty members • Visas, including for family members and work permits for spouses • Visa Extensions

Notes: MOHA: Ministry of Home Affairs

Source: Authors

21 See the Code of Practice for ODL <https://www2.mqa.gov.my/qad/garispanduan/COPIA/2019/Final%20COPPA-ODL%202nd%20edition%204.12.19.pdf>

The visa process and immigration decisions are sources of friction affecting the flow of international students and foreign faculty members

- 48. Under Mode 2, the administrative burdens affect both the hosting institutions and foreign students alike.** Firstly, the hosting HEI needs to apply for a license to recruit foreign students, which must be renewed annually. One of the criteria for the approval of this license is the institution must have the capacity to manage international students, including having an international office or visa department. Significant resources have to be allocated for the stringent annual audits for the license, leading to additional administrative burdens.
- 49. According to a report published by the MOE in 2020 (MOE 2020), the application process for obtaining a student visa is characterized by a number of inefficiencies.** The International Office or Visa Departments of hosting institutions are responsible for applying for student visas through the EMGS, which must be processed annually for all foreign students, since student visas are only valid for one year. Although transfers to other institutions are allowed, the student pass is not transferable to the new institution, which means that a new one must be applied for.²² Foreign students must leave the country if the transfer is not completed within 90 days, adding to the administrative burden for students and host institutions.²³
- 50. Although the visa application process has improved with the establishment of EMGS processes and subsequent improvements to them, there are still several significant limitations.** Some of the improvements include increased transparency through the availability of information on a website, with the system enabling users to track the process and to request clarification online.²⁴ However, the system is not electronically integrated with the Immigration Department systems (Interview, RA1). When a process is pending at the Immigration Department, the students and HEIs are unable to check that through the system. Instead, an employee of the institution is required make a trip to Immigration Department to follow up on the students' application (Interview, IO3).
- 51. The stringent immigration rules and processes can be counterproductive at times.** Even though EMGS is the implementing agency (under the purview of MOHE), an approval granted by EMGS can still be overruled by Immigration. For example, the visa application of a PhD graduate who intended to participate in a master's program was rejected by immigration because he had enrolled at a lower level of study. In this case, the application was subsequently approved following an appeal, when an appropriate justification was provided (Interview, M2). Immigration adheres strictly to the specified conditions for the extension of students' visas, which includes an 80% class attendance rate and academic results with a minimum CGPA of 2.0.²⁵ For students who fail to meet these requirements, even marginally and with justifiable reasons, the visa extension request may be declined, even with valid supporting documents from the hosting institution (Interview IO1, A2). Foreigners in Malaysia with an employment pass who wish to study at Malaysian HEIs must also apply for the student pass, which can be a time-consuming process (Interview, A2).²⁶

22 <https://educationmalaysia.gov.my/faq/#at-the-end-of-my-degree>

23 <https://www.imi.gov.my/portal2017/index.php/en/student-pass.html>

24 See <https://visa.educationmalaysia.gov.my/guidelines.html>

25 <https://educationmalaysia.gov.my/visa-renewal-for-existing-student/>

26 <https://educationmalaysia.gov.my/faq/#do-i-need-to-exit-the-country-if-i-want-to-change-from-employment-pass>

- 52. Furthermore, extending a student visa beyond the stated duration of the program is not permissible.** While local students are allowed a longer time period to complete their studies, such as when they fail or repeat courses, foreign students are not allowed to extend the duration of their studies. Similarly, extending the student visa following the completion of studies to travel or while waiting for convocation can be difficult. In these cases, international students must return to their home country and come back to Malaysia for convocation. In addition, foreign students are unable to renew their visa if their host institution fails to maintain its accreditation status. While the accreditation protects the students' interest, the media have reported cases where the accreditation status of some programs has lapsed or did not materialize as expected, leading to student protests and outcries.
- 53. International students hoping to bring dependents to Malaysia face additional administrative burdens.** In particular, the application for visas for family members is subject to numerous verification processes (Interview, A2). When approved, dependents are issued a social visa to travel to Malaysia. They must then apply for a spouse visa while in the country. Because the spouse visa process can be burdensome and time-consuming, the social visa held by dependents can expire before the approval for a spouse visa is granted; in which case, the spouse must leave the country.
- 54. Immigration rules pertaining to international students' employment are also strict.** While in Malaysia, international students are only allowed to work during semester breaks or holidays of more than seven days. They can only work part-time, for a maximum of 20 hours per week, at specified jobs at venues such as restaurants, petrol kiosks, mini-markets, and hotels, and only as long as their student passes remain valid.²⁷ In addition, international students must obtain approval to work part-time from Immigration before they can work. The application must be submitted by a representative of the HEI and the student, making the process unnecessarily cumbersome.
- 55. Immigrations rules for foreign students in high-income countries tend to be much more flexible.** Similar to Malaysia, other countries in the region (Thailand and Indonesia) require international students to renew their visa every year. However, in high-income countries, it is common for foreign students to receive multi-year visas and be allowed to work during their studies. For instance, in Australia, the length of the student visa is based on the degree program.
- 56. Before hiring foreign faculty members, HEIs must demonstrate that they have first made the effort to hire a local.** To hire foreign faculty members on an employment pass, the institution is required to advertise job vacancies for a minimum of 30 days through MYFutureJobs Portal under the Ministry of Human Resources.²⁸ After that, employers are also required to conduct interviews with prospective local workers. Only if no local candidate can be identified is the institution permitted to hire a foreigner. Contracts may be granted for up to two years so long as the monthly salary falls in the range of RM5,000-RM9,900.
- 57. However, this does not necessarily mean that Immigration will provide a visa for the foreign faculty member's full contracted period.** In some cases, it appears that Immigration will approve only a one-year visa, even though the employer has provided the faculty member with a contract for two years and requested a two-year visa (Interview, A1). In addition, the reasons for reducing the term may not be conveyed to HEI. Without knowing the reasons, HEIs may face the similar dilemmas the next time they make an application. This creates uncertainty and increases the administrative burden for the employer and employee.

²⁷ See <https://educationmalaysia.gov.my/faq/#can-i-work-while-study>

²⁸ https://www.perkeso.gov.my/images/hiring_rehiring/130421_-_FAQ_EKSPATRIAT_EN.pdf

Increased competition and the COVID-19 pandemic have put pressure on the financial standing of any private universities

58. Most private HEIs are solely dependent on tuition fees to sustain their financial performance.

Some HEIs receive some subsidies from the parent company, which may be government-linked companies (GLCs) and large conglomerates. With government funding at their main source of funding, public universities do not have to worry much about solvency issues. Unlike public universities, private institutions must ensure profitability to keep operating. As such, the main challenge is seeking to strike a balance between maintain standards and recruitment and enrollment.

59. Before the COVID-19 pandemic, many private HEIs were in difficult financial situation. Given that the vast majority of international students are enrolled at private HEIs, solvency issues leading to some closing down directly affects the flow of international students (Mode 2). However, many were in precarious financial situations. A recent report in the Asia Sentinel reports that as of 2018, as many as 44% of private HEIs were technically financially insolvent and 64% in debt distress.²⁹ A sensitivity analysis in William & Lim (2015) reveals that the profit of 70% of private HEIs would turn negative if their revenue declined by 5%. The profit of more than 50% of the private HEIs would be insolvent if revenue were to decline by 15%.³⁰

60. COVID-19 then exacerbate these already precarious financial situations among private HEIs because for many, international students' enrollment is their main source of income. Border closures in Malaysia to stem the spread of COVID-19 has led to a decline in international students enrollment by 20 to 50%, exacerbating the already difficult financial situations of many private HEIs.³¹ Consequently, many have permanently closed their doors. Based on reports from the National Association of Private Educational Institutions, 60 private HEIs have closed permanently in 2020 due to the COVID-19 pandemic leading to a decline in revenue.

29 <https://www.asiasentinel.com/p/the-collapse-of-malaysian-private>

30 https://penanginstitute.org/wp-content/uploads/jml/files/research_papers/Private-Higher-Education-in-Malaysia-Avoiding-a-Hidden-crisis.pdf

31 <https://themalaysianreserve.com/2021/05/17/private-universities-colleges-risk-permanent-closure/>





CHAPTER 4

Policy Suggestions

- 61. Over recent years, both private and public HEIs in Malaysia have evolved to provide a far greater range of alternative education pathways for both local and international students.** It is not clear how education exports contribute to overall services exports due to the lack of data. However, the sector had the potential to be a major contributor to the services sector's exports, with this possibly underpinning the government's aspirations since 2007 to transform Malaysia into a higher education hub (MOHE 2007). Becoming a hub would enable Malaysia to attract a greater number of international students, and thereby enhance both exports and import substitution.
- 62. While Malaysia has become a net exporter of students over this period, the current regulatory system has increased the administrative burden.** Although the regulatory system seeks to protect the interests of the students, it has become inflexible and cumbersome, with multiple audits and a great deal of duplicative processes. Imposing the same administrative processes on all providers is burdensome, and fails to recognize that some private HEIs have expanded the capabilities and capacities to offer quality higher education.
- 63. Although trade in higher education services has become relatively liberalized across the four modes of services trade, there remain some limitations and restrictions.** Trade in the higher education sector in Malaysia should be further liberalized if the country is to fulfil its aspiration of becoming a regional hub for higher education. For instance, allowing long-term contracts for foreign faculty at public HEIs (Mode 4) could help them to attract more highly qualified foreign faculty. It is also important to close the gap between the commitments in the various trade agreements and the status quo.
- 64. Policy reforms should focus on easing administrative burdens across all four modes.** Starting with the accreditation process, the administrative burden could be eased by eliminating requirements to resubmit the same information for different processes. In addition, the rules for self-accreditation should be made more transparent to provide HEIs with greater flexibility. The license to recruit international students should be valid for multiple years, especially for HEIs that have successfully recruited and managed foreign students for more than five years. To ensure quality and to guard against abuse, HEIs could be made subject to audits. Where deficiencies are identified, the institution could be put on probation or have its license to recruit foreign students revoked or suspended while it takes remedial actions.
- 65. Addressing these issues would result in reducing the rigidity of the current system.** The conditions applied to determine which institutions should be granted greater flexibility in any of the above areas should be based on an agreed, predetermined, and transparent list of criteria. This could include a proven record of the institutions in terms of their years of operations, record in managing international students, the records of the foreign students themselves, and the rating and financial sustainability of the institution. This is necessary, given that private HEIs are heterogeneous, with varying capacities and capabilities for managing IS and for quality assurance. With greater transparency, institutions could be encouraged to achieve these targets if they wish to have greater flexibility, thereby serving to improve the quality of Malaysia's HEIs.
- 66. To attract foreign students and faculty members and to enhance trade in the higher education sector, it is crucial to ease the visa and immigration processes and rules.** First, HEIs will have to be able to offer long-term contracts to foreign faculty members they recruit. Furthermore, if Malaysia is to fulfil its aspirations of becoming a regional hub for higher education, reforms will need to be implemented to make the immigration process and rules more flexible and accommodating. For instance, student visas/passes could be issued for the same duration as the degree program or for as long as it is permitted for domestic students. Currently, domestic students can extend a three-year degree program for up to five years, but international students are not permitted. If there are concerns

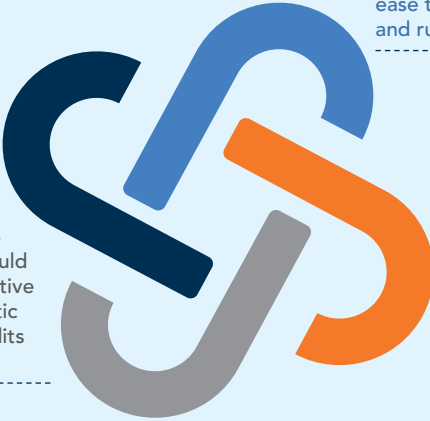
Policy recommendations

Policy reforms should focus on easing administrative burdens across all four modes

Enhancing the digitalization of the regulatory framework for HEIs would increase efficiency; reduce duplicative processes; and remove bureaucratic redundancies in the numerous audits required.

To attract foreign students and faculty members and to enhance trade in the higher education sector, it is crucial to ease the visa and immigration processes and rules.

In addition to digitalizing their regulatory processes, HEIs should also digitalize their operations and systems.



that students might drop out and still be able to leave and re-enter the country, the requirement for re-entry could include proof of good standing at the university. Similarly, visas should be issued to foreign faculty members for the suggested period of their employment contracts, with the process to obtain visas for spouses and dependent children eased.

- 67. Enhancing the digitalization of the regulatory framework for HEIs would increase efficiency; reduce duplicative processes; and remove bureaucratic redundancies in the numerous audits required.** Specifically, a centralized database could be established to which HEIs could upload general information to reduce repetitive processes and unnecessary delays. This information can be used by different agencies, such as MQA for the accreditation process, MOHE and MOHA for the application of the International Student License, and extensions of licenses to private HEIs (Mode 1, 2, 3). In addition, a centralized database on foreign students and faculty members could be accessed by all agencies to monitor visa and contract renewals (Mode 2). Digitalizing the immigration process could allow foreign students and faculty to track their application status (Modes 2 and 4).
- 68. In addition to digitalizing their regulatory processes, HEIs should also digitalizing their operations and systems.** This includes making use of cloud-based technologies for e-filing, a system that could be used to upload students' academic results and to generate reports for course outcome and program outcome achievements (for example, the Outcome Based Education Online System, OBEOS), as used by a private HEI (Mode 1, 2, 3). In addition, enhancing digitalization would enable institutions to offer more options for distance learning, thus facilitating trade flows under Mode 1.
- 69. To achieve better enforcement, the MOHE should review the criteria needed for the approval and extension of licenses, enabling Malaysia to move towards being not just an education hub, but a hub of quality education.** For this to occur, it is only necessary that some HEIs are enabled to provide this quality education, not to establish a large number of providers. Thus, the regulatory framework should aim to foster an environment that incentivizes quality private institutions with strong systems of self-governance to thrive, rather than imposing stringent regulations that stifle their development.
- 70. A coordinating council comprised of the various regulatory agencies and representatives from HEIs can be established to coordinate and pilot these suggested policy reforms.** This would be important to ensure that policymakers and implementing agencies consider the needs and aspirations of the institutions they govern.

Table 11 : Summary of Policy Suggestions

	Suggestions	Modes of Delivery
A	Coordination Council (MOHE, MQA, Immigration, EMGS, MAPCU, NAPEI, VCCPU) Functions to improve coordination, streamline policies and regulations, review processes, and act as an appeal mechanism for conflict resolution.	Modes 1, 2, 3, 4
Tasks		
1	Review and resolve administrative burdens affecting international students, including the conditions to work during the semester and semester breaks.	Mode 2
2	Review and resolve administrative burdens affecting foreign faculty members.	Mode 4
3	Review, update, and streamline regulations to improve efficiency and reduce time and uncertainties.	All modes
4	Conduct regulatory impact assessment before deciding on new regulations that can affect any of the modes of trade.	All modes
5	Consider giving self-accreditation (SWA) for specific disciplines or faculties instead of SWA status for the institution, a concept similar to QS or THE university ranking for dedicated disciplines.	All modes
6	Review the composition of panel of assessors.	Modes 1 and 3
B	Enhance Digitalization	
1	Centralized database on the general information of private HEIs.	All modes
2	Centralized database of information pertaining to foreign students and faculty members.	Mode 2
3	Digitalize immigration approval process for foreign students and faculty.	Modes 2 and 4
4	Private HEIs to invest in digitalized systems that can increase efficiency and reduce time spent on the preparations for accreditation and its maintenance.	Mode 2
C	Specific Suggestions	
1	List the criteria used for inviting self-accreditation on the website, to increase transparency.	Modes 1 and 3
2	Fix the duration taken for approval of self-accreditation to be completed, which is not stated on the website.	Modes 1 and 3
3	MOHE to review the conditions for approval and extensions of licenses to private HEIs, for example financial sustainability, and record of managing quality to reduce the number of private institutions for better enforcement. The conditions should be made transparent.	Modes 1 and 3

Source: Authors

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Appendix

Domestic regulations

Table 12 : Private Higher Education Institutions Act, 1996

	Main Parts	Sections
1	Preliminary	1-2
2	Administration	3-5
3	Establishment of private higher educational institutions	6-20
4	Establishment of private higher educational institutions with the status of a university, university college and branch campus	21-23
5	Registration of private higher educational institutions	24-29
6	Management of private higher educational institutions	30-37
7	Conduct of courses of study at private higher educational institutions	38-44
8	Discipline and conduct of students	46-50
9	Permits to teach	51-53
10	Revocation of approval and cancellation of registration	54-57
11	Closing down of private higher educational institutions	58-62
12	Inspection of private higher educational institutions	63-64
13	Enforcement and investigation	65-71
14	Offences and penalties	72-87
15	Regulations	88
16	General	89-95
17	Saving and transitional provisions	96-99

Source: Act 555

Table 13 : Malaysian Qualifications Agency Act, 2007 (Act 679)

	Main Parts	Sections
1	Preliminary	1-3
2	Malaysian Qualification Agency	4-10
3	Council of Malaysian Qualifications Agency	11-20
4	Provisions relating to officers and employees	21-27
5	Financial provisions	28-34
6	Malaysian Qualification Framework (MQF)	35-37
7	Provisional accreditation	38-44
8 (Chapter 1)	Accreditation <i>Programmes and qualifications under the Malaysian Qualifications Framework</i>	45-49
Chapter 2	<i>Professional programmes and professional qualifications</i>	50-55
Chapter 3	<i>Foreign programmes and qualifications</i>	56-60
Chapter 4	<i>Self-accrediting higher education providers</i>	61-64
Chapter 5	<i>Skills training programmes and qualifications</i>	65-71
Chapter 6	<i>Programmes and qualifications of a branch campus</i>	72-73
Chapter 7	<i>Prior learning and credit transfer</i>	74-77
9	Evaluation of other qualifications	78-79
10	Institutional audit	80
11	Malaysian Qualifications Register	81
12	Appeals	82-84
13	Enforcement and investigation	85-94
14	Offences and penalties	95-101
15	Miscellaneous	102-114
16	Repeal, savings and transitional	115-127

Source: Act 679

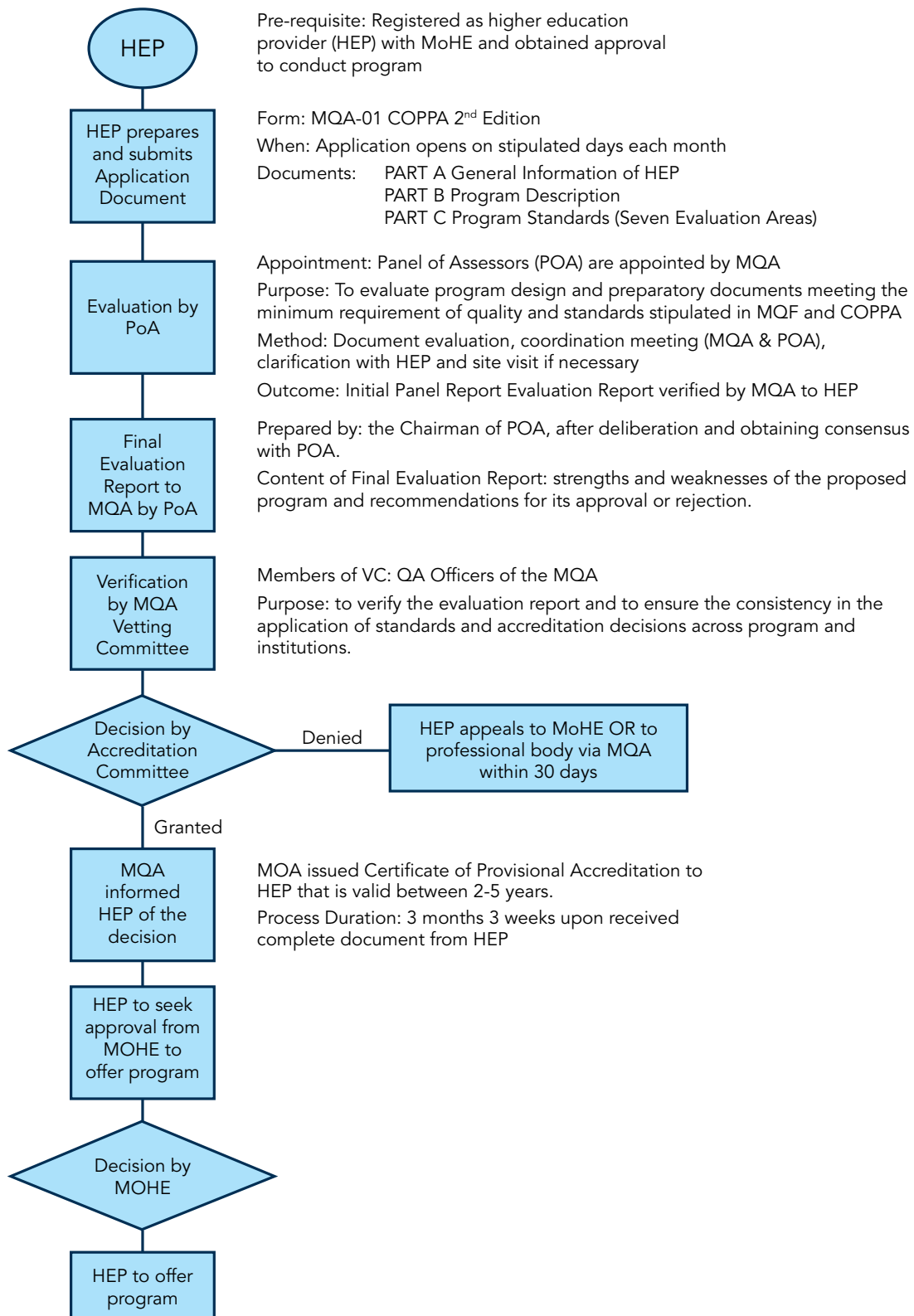
Table 14 : Governance Structure of Private HEIs

Regulatory and other relevant agencies	Roles
Ministry of Higher Education (MOHE)	The Ministry of Higher Education (MOHE) Malaysia governs all national education-related matters from post-secondary to higher-level education. The ministry is led by Minister of Higher Education, who has powers as set out in Act 555.
National Council of Higher Education* (under review)	Responsible for formulating policies and established by the National Council of Higher Education Act, 1996 (under review).
Malaysian Qualifications Agency (MQA)	<p>National body that regulates quality of education under the MQA Act 2007 (Act 679).</p> <p>Implement the Malaysian Qualification Framework (MQF) as a reference point for Malaysian qualifications and maintain the Malaysian Qualifications Register (MQR).</p> <p>Develop standards and accredit all other relevant instruments as national references for the conferment of awards, with the cooperation of stakeholders.</p> <p>Assure quality of HEIs, accrediting programs that fulfil the criteria and standards to facilitate recognition and articulation.</p> <p>Evaluate foreign qualifications and assess comparability in relation to MQF.</p>
Immigration Department of Malaysia	Immigration department exerts considerable control, issuing and renewing student visas of international students (IS) and foreign faculty members.
Companies Commission of Malaysia (CCM)	Since all private HEIs are formed by companies, the statutory governance system of the companies applies to all PHEIs, subject to any modifications made in the company's constitution.
Professional Bodies	Oversight of the knowledge, skills, conduct, and practice of dedicated profession/occupation; for example Board of Engineers Malaysia, Nursing Board Malaysia etc.
<i>Education Malaysia Global Services (EMGS)**</i>	EMGS is a Company Limited by Guarantee (CLBG) under the purview of the Ministry of Higher Education Malaysia. EMGS is the wing responsible for promoting Malaysia as the international education hub of choice and to position Malaysia as a Top 10 education destination. It is also the principal body that manages the movement of international students in Malaysia, including facilitating visa processing.

Note: **EMGS is implementing agency.

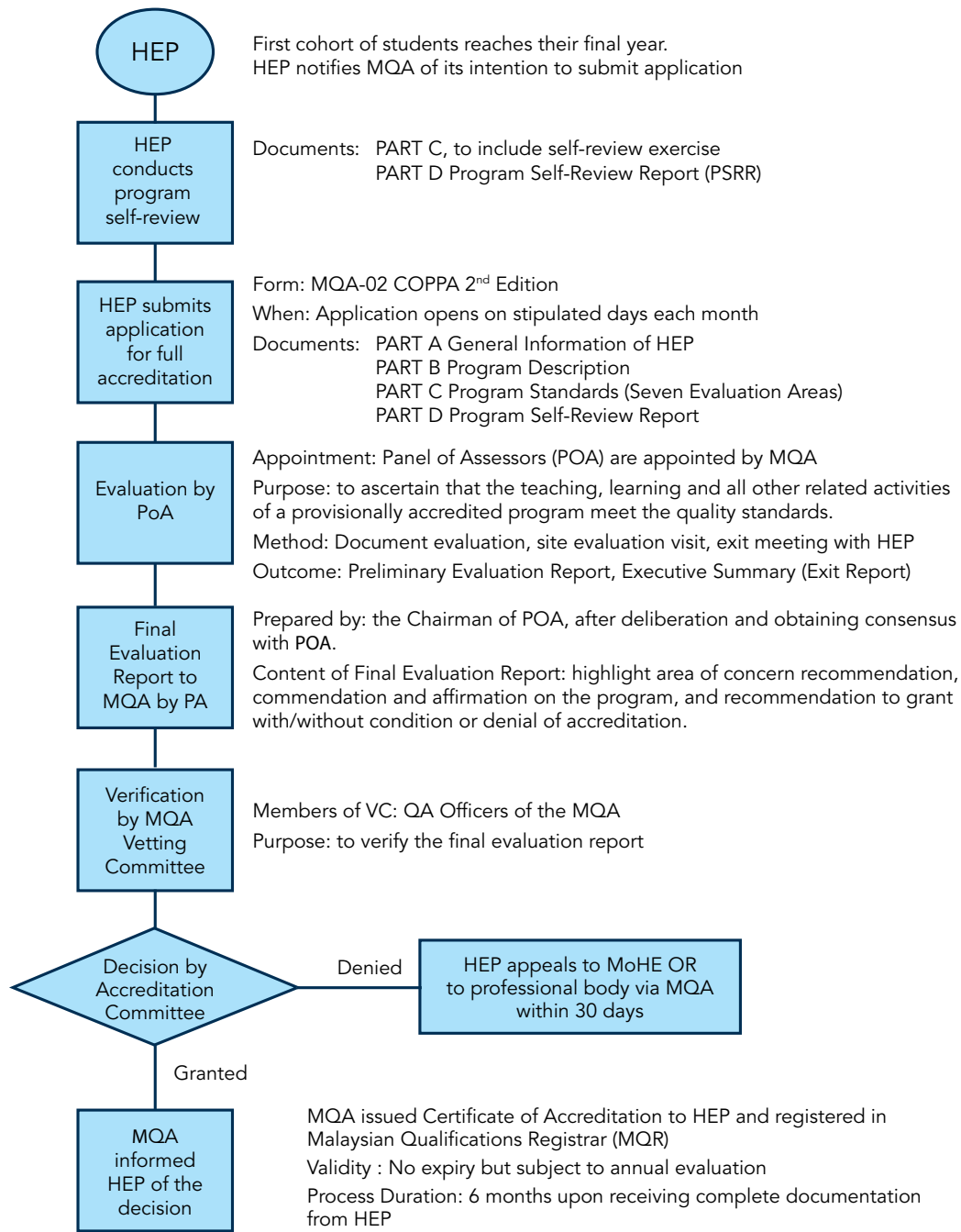
Source: Adapted from MOE (2020)

FIGURE A1: Provisional Accreditation Process



Source: MQA COPPA 2nd Edition, 2017; MQA Act 2007; MQA Self-Assessment Report 2007; Panduan Penyerahan Permohonan MQA

FIGURE A2 : Full Accreditation Process



Source: MQA COPPA 2nd Edition, 2017; MQA Act 2007; MQA Self-Assessment Report 2007; Panduan Penyerahan Permohonan MQA

Interviews

Methodology

The study used qualitative information gathered through interviews with international students, local and international faculty members, international officers, quality officers, human resource officers, international marketing officers from private HEIs, international recruitment agents, and associations. The information was then verified after triangulation with existing data and literature. Interviews were conducted over videoconferencing, and recorded to facilitate transcription. The responses were kept confidential.

Three associations representing the private higher education sector were interviewed, using the same open-ended questionnaire that was sent to them beforehand. These interviews lasted more than four hours each. Each association was represented by the leader and council members who are knowledgeable in the issues discussed. The interviews with the other stakeholders (international students, faculty etc.) were selected based on snowballing. Each lasted between 45 minutes to one hour.

The interviews were transcribed and then compared to see similarities and differences in responses. The responses were then triangulated with existing published studies, government reports, media announcements from the Ministry of Higher Education, and private higher education institutions, including the associations, and website information from all the agencies involved such as Immigration, MQA, EMGS. The international student folder information which are available and can be downloaded from the websites of selected private higher education institutions were also studied to verify the responses. Although the sample is small due to the limited time for the interviews, the triangulation of data enabled the researchers to use only verified and verifiable information for the report.

List of Interviews

International Students	Four international students who are pursuing PhD, Master, and degree programs from China, Indonesia, Bangladesh, and Nigeria respectively were interviewed. These are among the top 10 sending countries to Malaysia. ³²
International Faculty	Three international faculty members from Indonesia, Iran, and Iraq who worked as lecturers at three different private HEIs for a few years.
Faculty Members	Two faculty members from two universities. One was the Head of Program and had experience in the accreditation of an academic program. Another is a lecturer-in-charge of quality at the faculty level.
International Office	Three international officers from research university, private university, and college*.
Quality Office	Three quality officers from respectively an ODL institution, private university, and college*.
Human Resource	Two HR officers from respectively a research university and a private college*.
International Marketing	Two officers were interviewed from a private HEI. Both have more than three years of experience in international marketing. One of them is the director of the Marketing Department.
International Student Recruitment Agent (RA)	Two international student recruitment agents. Both owned a RA company. One of them has worked in the international office at a private HEI for 15 years. The other was an international student who graduated from one of the public HEIs in Malaysia.
Associations	Three associations participated in four separate interviews: <ul style="list-style-type: none"> (1) Malaysian Association of Private Colleges and Universities (MAPCU) (2) National Association of Private Educational Institutions (NAPEI) (3) The Vice-Chancellors' Council for Private Universities (VCCPU)

Note: * Overall view from a college

Source: Author

32 <https://www.mohe.gov.my/muat-turun/statistik/2020/492-statistik-pendidikan-tinggi-2020-03-bab-1-makro-institusi-pendidikan-tinggi/file>



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