

International Joint Degree Programs: Legal, Financial and Administrative Issues

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Our Context

- Drivers of change:
 - Labor market conditions
 - Weakening of state and governmental funding support
 - Shift from agency model to entrepreneurial model
 - Tremendous growth of for-profit sector
 - Growth in number of international students
 - Need to assure quality across borders
 - Need for international recognition of
 - Academic credentials of faculty
 - Course credits and learning for students
 - Professional credentials of graduates

UNESCO: Cross-Border Guidelines

- **Anna Karenina principle:**
 - “Happy families are all alike; every unhappy family is unhappy in its own way” (Tolstoy, *Anna Karenina*).
 - “In order to be happy, a marriage must succeed in many different respects” (Diamond, 1997).
- **Needed: involvement of multiple stakeholders on both sides of the Atlantic**
 - Higher education institutions/providers including academic staff
 - Governments
 - Quality assurance and accreditation bodies
 - Academic recognition bodies/professional bodies
 - Business community (not in UNESCO guidelines!)
 - Student bodies

Preliminary Framework

	United States	International Bodies, Accords and Programs	Germany
Governmental and Inter-governmental	US Governmental Regulations: DOS, DOHS, DOEd, DOL	UNESCO Guidelines; GATS (Labor market); EU-U.S. Atlantis Program	German Accreditation Council; Bologna Process
Legal and Financial	Authority to operate; Funding model; Contractual requirements	?	Authority to operate; Funding model; Contractual requirements
Accreditation	Regional (e.g., SACS) and Professional Accreditation Bodies (e.g., ABET)	Washington Accord (Engineering)	German Accreditation Council, Accreditation Agencies (e.g., ASIIN)

Building Institutional Support

- **Bottom up: Primary basis for building institutional support is the establishment of mutual interests by faculty in the partner institutions.**
 - Face to face meetings of faculty work well!
- **Top down: Convergence of institutional interests**
 - "Suppression of mutual loathing in the pursuit of government money" (Bolt, 2006).
 - Awareness of market direction, branding/reputation-based alliances with peers, and desire to contain costs by partner institutions may increasingly drive towards joint degree collaboration.

Financial Issues - General

- **Institution can demonstrate its financial capacity to underwrite the international program without diminishing its financial support of the U. S. campus.**
- **Financing of the international program is incorporated into the regular budgeting and auditing process of the institution.**
- **The institution can provide a full accounting of the financing of its international program, including an accounting of funds designated for third parties within any contractual relationship.**

Legal Issues - General

- Institution can document the accepted legal basis for its operations in the host country.
 - What is the process for becoming legally recognized in a country?
 - What are the tax consequences – does the institution have to pay local taxes?

Legal Issues: Contracts

- Are contracts needed?
 - Contracts required by U.S. accreditation agencies
 - Problem: most inter-institutional contracts have been one-page non-specific “gentlemen’s agreements.”
- What are major issues when working out an inter-institutional contract?
 - Revenue and tuition: How to achieve balance?
 - Student pays normal tuition at home institution?
 - Home institution is billed by partner institution for normal tuition, fees and housing expenses?
 - Should it be the same tuition?
 - What laws shall predominate?

Legal Issues: Contracts

- The contract must clearly establish the performance responsibilities of each party to the contract
 - Admissions
 - Course placement
 - Transcripts
 - Health and safety
 - Non-discrimination
 - Invoicing
- Indemnification of parties to the contract
- Insurance coverage
- Behavioral and academic discipline issues, including due process (cultural differences?)
- Dispute resolution and arbitration agreements
- Term of contract; termination clause; what happens upon termination

Contracts: Cost Issues

- The contract must clearly establish the responsibilities of the partner institutions regarding indirect cost, security, approval of salaries, termination costs, licenses and fees, equipment, tuition refund, subcontract and travel, student records, property ownership and accountability, faculty facilities, inventions and patents, safety regulations, publications and copyrights, insurance coverage, accounting records, audits, and accreditation visits from regional, state, or international entities.

Contracts: Best Practices

- **Models of best practice***
 - **Governance of international joint degree programs:** create a board structure to address
 - Academic standards that will apply
 - How students will be admitted
 - **Dispute resolutions**
 - Build in arbitration clause for mediation via third party facilitation
 - Hire an academic expert as the arbitrator

* Thanks to William Hoye, General Counsel, Notre Dame University

US Visas and Work Permits

- **Multiple Stakeholders:** Applicable U.S. governmental regulations and requirements are spread across multiple agencies:
 - 8 C.F.R. (Department of Homeland Security)
 - 20 C.F.R. (Department of Labor)
 - 22 C.F.R. (Department of State)
- **Program Complexity:** Department of State Exchange Visitor Program, under 22 C.F.R. 62, provides the following categories:
 - Government Visitor
 - International Visitor
 - Professor and Research Scholar
 - Short-Term Scholar
 - Specialist
 - Student, College/University
- **Visa Variety:** For nonimmigrant students (F-1, M-1), exchange visitors (J-1), cultural exchanges (Q-1, Q-2, Q-3), employment (H1-B)
 - I-94 Granted at discretion of immigration official, not guaranteed in advance of arrival
 - Student and Exchange Visitor Information System (SEVIS) regulations apply for student visas

Visa and Work Permit Issues

- **Progress:**
 - Recent easing of restrictions by U.S. Departments of State and Homeland Security for students and researchers working in engineering, chemistry, and technology.
 - Department of State: added 350 consular positions, extended the length of time for which security clearances are valid.
 - Is this a Condi Rice effect?
- **Current challenges:**
 - Delays in the visa process continue to reduce the number of international students on U.S. campuses (Council on Economic Development, 2006).
 - Proposed State Department Rule 1400 AC-15 on the Exchange Visitor Program would limit intern experiences in the US to *recent graduates* and would exclude current students, thus greatly reducing reciprocal exchanges at the undergraduate level.

QA & Assessment - US

- **US DOEd, NACIQI:**
 - Basic eligibility requirements for accreditation of regional accreditation bodies include completion rate, licensure exam pass rates, and professional placement
- **US Regional accreditation agencies' criteria include**
 - Guidelines for planning and evaluation
 - Guidelines for assessing student learning
 - "Comparable quality" of main campus vs. program abroad best addressed through assessment of learning outcomes
 - For example, see the detailed SACS requirements at <http://www.sacscoc.org/pdf/081705/joint%20ventures.pdf>
- **Accreditation Board for Engineering and Technology (ABET) EAC criteria include**
 - **Criterion 2:**
 - Creating and legitimating objectives with stakeholders
 - Process for evaluating educational objectives
 - **Criterion 3:**
 - Assessment of program outcomes (direct and indirect)
 - **Issue: ABET currently only accredits one program per discipline – thus imperiling the status of joint degree programs.**

QA & Assessment - Germany

- **Accreditation Council Criteria**
 - **Criterion 1.3 includes**
 - Conformance with educational goals that have been recognized as being fit for purpose
 - Focus on learning outcomes
 - Facilitation of profile building
 - Facilitation of quality advancements (dynamic quality definition)
 - Reflecting the European Dimension
- **ASIIN**
 - 1.2 Educational aims
 - 1.6 Quality assurance measures
 - Program must include measures regarding quality of program process, structure and results
 - **Special forms of study**
 - 3.4.7.1 Dual study options
 - 3.4.7.2 Internationally-oriented study programs

QA & Assessment - Bologna

- **Diploma Supplement: notion of competencies that map to the discipline**
- **No structure for assessment of learning in terms of competencies in the US as formalized as in the Bologna agreements -- but similar requirements do exist.**
- **How do we demonstrate that joint degree programs are conducting assessment of competencies and “closing the loop” with ongoing adjustments to aid student learning?**
- **What is the common ground with US practices?**

Accreditation Issues

- **Engineering Accreditation: ASIIN and ABET are Washington Accord signatories, but...**
 - For U.S. institutions, student financial aid is tied to Title IV funding and regional accreditation bodies.
 - No Multilateral Recognition Arrangements (MRAs) at present between US regional accreditation bodies and the German Accreditation Council or the various recognized German accreditation agencies.
- **Revisit question of what stakeholders need to be involved to make a joint degree program a "happy marriage."**