

Internationalisation of Higher Education

Issues and Concerns

Conference Papers



Higher Education Unit

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Foreword

The conference on Internationalisation of Higher Education: Issues and Concerns deals with issues of policy, domestic regulation, improving competitiveness of higher education and the issue of foreign direct investment in higher education. There are also issues related to the mode wise analysis and implications of opening different modes under higher education. This volume contains the papers received by different paper presenters and also the PowerPoint presentations, which were received just before the conference. There may be typographical errors as it contains the paper as they were received from respective authors. This conference paper is for the distribution among the participants of the conference.

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Internationalization of Higher Education: Policy Concerns*

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Abstract

Within the last decade there has been a major shift in the concept and practice of international system of higher education, caused primarily by the globalization processes aided by the developments in information and communication technologies. The push for these developments comes mainly from the developed countries that see commercial opportunities in the new forms of international higher education system. The inclusion of education as a tradable service within the GATS of WTO has given additional momentum to this process.

There is an ambivalent attitude to these developments among most of the developing countries that are not quite certain about the benefits and costs of the new approaches to internationalization of the higher education system. Some of the newly industrializing countries like India see positive opportunities for themselves. In the meantime there has been a large-scale proliferation of international programmes in higher education. There have been serious concerns about the quality, value and credibility of many of them.

The data on their number, variety, enrolment, content, quality and comparability of these transnational or trans-border programmes in the countries in which these are offered is becoming increasingly difficult to obtain. The impact of these programmes on those who are enrolled is uncertain and is beyond any known assessment system. The cost of these programmes is often unreasonably high and not affordable to a vast majority of students. Some of these programmes offer a variety of confusing nomenclature of degrees not compatible with the local norms and standards. Many of these are unaccredited qualifications. The students are misled by glamorous advertisements and academically untenable claims. The absence of any kind of policy and regulatory system in most of the countries has led to the proliferation of largely substandard education.

The deliberations in various national and international forums on the issues and options for policy orientation to take

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advantage of the positive aspects of international higher education system and protect the national interest from spurious programmes are reviewed and the possible strategies for India are outlined in this paper.

EMERGING EDUCATIONAL PARADIGMS

Even the keenest of the observers of the higher education system during the last five years could not predict the staggering number and variety of Transnational Educational (TNE) programmes offered in many of the countries around the world. According to the conventional wisdom, the creation, transfer and dissemination of knowledge and skills were considered as the primary goals and purpose of higher education. Values of charity, humanity, culture, ethics and social benefits were embodied in the programmes and institutions offering high educational qualifications at national as well as international levels. UNESCO's 1998 World Conference resolved, "**Higher education should be considered a public service. While diversified sources of funding, private and public, are necessary, public support for higher education and research remains essential to ensure a balanced achievement of its educational and social missions.**"

In the emerging contemporary scenario higher education is increasingly treated as a commercial commodity offered at high prices at the national level and as tradable products across borders to those who can afford it. This has resulted in the emergence of new types of education providers, innovative methods of delivery, and new types of partnerships presenting new challenges in framing policies and regulations to monitor and enforce quality standards to the educational process. The International Association of Universities (IAU) describes that the current trends are dominated by commercial and financial interests
(Box 1)

BOX 1

"The International Association of Universities, (IAU) founded to promote international cooperation among higher education institutions, notes that despite the universality of knowledge which has always served to affirm the international nature of higher education, the level of internationalization remains low and uneven. Furthermore, international cooperation has had relatively little impact on global wealth and resource distribution even in the realm of higher education. Worse, the external brain drain and other negative consequences of poorly designed cooperative activities have at times even exacerbated the conditions in developing nations. In more recent times, commercial and financial interests have gained prominence in the internationalization process and threaten to displace the less utilitarian and equally valuable aspects of this enriching and necessary transformation of higher education."

Source: Towards a Century of Cooperation: Internationalization of Higher Education, IAU Statement, Prepared for the UNESCO World Conference in Higher Education 1998, formally adopted by the 11th IAU General Conference as part of the IAU Policy 2000.

In many of the developing countries there has been a high degree of privatization of the higher education system. In countries such as India the response to rapidly growing demand for higher education including professional education is to liberally allow the private sector investment in higher education. The internationalization of higher education is now seen as a logical extension of this phenomenon. While there are sufficient legal provisions to ensure the quality standards of the education provided by the approved private national institutions in India, there is hardly any authority to regulate the standards of the programmes offered by foreign institutions on their own or in collaboration with Indian institutions.

The First Global Forum of UNESCO on International Quality Assurance, Accreditation and the Recognition of Qualifications in Higher Education in its Report on “Globalization and Higher Education” considered issues such as: Is higher education a public or a private good? How does trade in educational services threaten the notion of public good? Can public good agendas be shared between public and private providers? How can new providers of higher education contribute to promoting access? How does the commercialization of higher education and the emerging market affect issues of equity in particular in developing countries? It also focused on policy issues that need to be addressed and best ways national governments and institutions should prepare for these new developments. **(Ref. 1)**

The draft resolution during the UNESCO General Conference in 2003 states that “unregulated growth of higher education markets could weaken the sustainability of national higher education systems, particularly in less developed countries;” and urged all Member States to “(a) develop policy frameworks that will facilitate active participation in the knowledge society, narrowing the knowledge and technological divide between developed and developing countries, maximizing the benefits and minimizing the threats of globalization, and to promote quality in and equitable access to higher education; and (b) enhance national capacity for assuring quality and equity of higher education, using comparable criteria for national and transnational providers;”

The Joint Declaration on Higher Education and the General Agreement on Trade in Services signed by *Association of Universities and Colleges of Canada* (AUCC), **(Ref. 2)** representing Canada’s 92 public and private not-for-profit universities and degree-level colleges; *American Council on Education* (ACE), representing 1,800 accredited degree granting colleges and universities in the United States; *European University Association* (EUA), representing 30 national Rectors’ Conferences and 537 individual universities across the European continent; *Council for Higher Education Accreditation* (CHEA),

representing 3,000 accredited, degree-granting colleges and universities and 60 recognized institutional and programmatic accredited in the United States mentions that:

Higher education exists to serve the public interest and is not a “commodity”, a fact, which WTO Member States have recognized through UNESCO, and other international or multilateral bodies, conventions, and declarations. The mission of higher education is to contribute to the sustainable development and improvement of society as a whole by: educating highly qualified graduates able to meet the needs of all sectors of human activity; advancing, creating and disseminating knowledge through research; interpreting, preserving, and promoting cultures in the context of cultural pluralism and diversity; providing opportunities for higher learning throughout life; contributing to the development and improvement of education at all levels; and protecting and enhancing civil society by training young people in the values which form the basis of democratic citizenship and by providing critical and detached perspectives in the discussion of strategic choices facing societies.¹

Given this public mandate, authority to regulate higher education must remain in the hands of competent bodies² as designated by any given country. Nothing in international trade agreements should restrict or limit this authority in any way.

INDIAN SCENARIO

The trends in internationalizing higher education in India was articulated in the first ever national level conference on the topic organized by National Institute of Educational Planning and Administration (NIEPA) in 2000 highlighting the quantum and variety of foreign programmes offered in India and the implications to India’s position in the on going preparations for the GATS negotiations **(Ref. 3)**

According to Powar **(Ref 4)** “ foreign academic institutions of different types are advertising their programs in Indian newspapers, magazines, and journals. The advertisements are aimed at attracting students to academic institutions abroad or inducing them to register for diploma and degree programs of foreign universities that are offered in India itself. A survey of advertisements that appeared in 14 national newspapers, between July and December 2000, provides information on the nature of the programs, the background and distribution of the universities and institutions offering them and the academic standing of the Indian partners.

A perusal of these advertisements showed that the largest number of advertisers (who total 144) is from the United Kingdom (53) followed by Australia (40), the United States (24), Canada (7), and New Zealand. Other countries advertising are Bulgaria (2), Cyprus (1), France (2), Hong Kong (China)(1), Ireland (1), Mauritius (1), Nepal (2), Romania (1), Russia (1) and Switzerland (3). While 117 of the institutions are seeking to attract students to their countries, the remaining 27 are offering programs in India. As many as 46 foreign providers are not recognized or accredited in their own countries. Besides, 23 of the 26 Indian partners are not affiliated with any Indian university—an indication that they have entered the academic arena primarily for commercial gain.

The foreign universities offer a variety of undergraduate and postgraduate courses in practically all faculties. Students are invited to enroll, on the home-campus, in undergraduate courses in the liberal arts, business, and medicine. Also on offer are postgraduate courses in engineering, technology, the sciences, the social sciences, law, arts and design, business administration, international business, banking, finance, and management. One of the institutions is offering direct web-based learning. The programs offered in India are predominantly those in the professional areas of management and engineering. The management courses that lead to an MBA are in the specialized areas of marketing, finance, information systems, mass communications, and international affairs. Other postgraduate management programs are in hotel management, healthcare, and tourism. Engineering undergraduate programs are available in textile engineering, computer engineering, information technology, and communications technology. There are also postgraduate programs in computer science, computer and communications technology, and information technology. Also on offer are undergraduate programs in arts, business, management, and law.

Philip Altbach (**Ref. 5**) described the current wave in international higher education as motivated by profit. Increasingly sophisticated marketing techniques are being used to meet demands and create niches for “educational products.” He noted that universities from the developed countries are offering “off-shore degrees,” in collaboration with non-educational institutions; that the Internet is being used to deliver degrees; that there are few controls concerning quality; and that programs are being offered not only by respected institutions but also by low-prestige schools simply selling worthless certificates.

In India, internationalization of higher education has taken a commercial form, with academic considerations often taking a backseat. In principle, no objection can be raised against foreign universities trying to recruit students for study outside India. In a way foreign study meets the need for higher education to aspiring students who are unable to

gain admission to the institutions of their choice in India. The objection is against the “selling” of degrees, of questionable standard, by unrecognized institutions sometimes in collaboration with some recognized Indian institutions. The franchising of programs has become common but the faculty from the parent institution exercises little or no supervision and facilities are often minimal, and there are few controls relating to quality or financial arrangements.

From the Indian point of view, the activities of such institutions need to be effectively monitored and regulated. Unfortunately, the legal instruments such as the 1956 University Grants Commission Act or the 1987 All India Council for Technical Education are inadequate for this purpose at present. Hence attention should be devoted to finalize and adopt a policy relating to the operation of foreign institutions in India.

ACCESS ISSUE

Until about a decade back, the governments assumed the responsibility of ensuring access to higher education. In many countries, such as India, this became a major challenge as the demand for higher education kept steadily growing, often beyond the capacity of the country to fulfill. Even after opening of large number of private institutions, the demand could not be fully met. Many students sought educational opportunities in foreign institutions or programmes offered by foreign institutions in India. As more and more foreign providers began to offer higher education services across borders the eligibility criteria for admission got lowered as compared to the norms of the approved national institutions.

Those who are in favour of trade in educational services argue that the students can have greater access to a wider range of education opportunities at home or abroad. There are others who believe that such access may be severely limited because of the commercial nature of their education offered at exorbitant cost.

Globalization Vs. Internationalization

In a detailed and thought provoking Position Paper, **(Ref. 6)** the UNESCO has brought out the salient issues relating to the internationalization of higher education. It points out that the two terms, ‘Globalization’ and ‘Internationalization’ are often mistakenly used interchangeably. It makes a careful distinction between the process of globalization and internationalization of higher education. It characterizes **globalization** as:

“a multifaceted process with economic, social, political and cultural implications for higher education. It poses new challenges at a time when nation-states are no longer the sole providers of higher education and the academic community no longer holds the monopoly on decision-making in education. Such challenges not only address issues of access, equity, funding and quality but also those of national sovereignty, cultural diversity, poverty and sustainable development. A further and even more fundamental concern is that the emergence of cross-border higher education provision and trade in education services bring education within the realm of the market and that this may seriously affect the capacity of the state to regulate higher education within a public policy perspective. Declining policy capacity of the state could affect weaker and poorer nations and benefit the more prosperous ones.”

UNESCO’s Position Paper interprets **internationalization** “as one of the ways in which higher education is responding to the opportunities and challenges of globalization. Internationalization includes a broad range of elements such as curriculum, teaching/learning, research, institutional agreements, student/faculty mobility, development cooperation and many more.”

The General Agreement on Trade in Services (GATS) broadly defines internationalization at the national, sectoral, or institutional level as "the process of developing/implementing policies and programs to integrate an international, intercultural or global dimension into the purpose, functions and provision of post-secondary education." Cross-border education is seen as one subset of internationalization strategies.

According to the definition of the European Union “Globalization means that the flows of goods, services, capital, technologies and people are spreading worldwide, as countries everywhere open up to wider contact with each other.”

Jane Knight **(Ref. 7)** described ‘globalization’ and “‘internationalization’ as follows: “Globalization is the flow of technology, economy, knowledge, people, values, idea across borders. Globalization affects each country in a different way due to a nation’s individual history, traditions, culture and priorities” and “Internationalization of higher education is one of ways a country responds to the impact of globalization yet, at the same time respects the individuality of the nation.”

Internationalization of higher education is also seen as the process of integrating an international/intercultural dimension into the teacher, research and service functions of the institution. **(Ref. 8)**

The IAU **(Ref. 9)** makes the following distinction between "Internationalization" and "Globalization". Whereas "Globalization" tends to homogenize social, economical, cultural and academic processes and leads to the marginalization of peripheral cultural and other social processes, "Internationalization" looks for participatory intervention among the equal partners. But this "equal" partnership between advanced countries and developing countries does not always ensure equal treatment among the partners.

According to IAU, the manifestation of true internationalization of higher education should lead to:

1. Networking of institutional interaction based on area/discipline oriented exchange.
2. Idea of International common syllabus in natural sciences and technical subjects for ensuring technical compatibility at graduate level.
3. International mobility of younger students and the partnership among the equals.
4. Syllabus ensuring uniform standards.
5. International syllabus as a larger normative framework and a common demonstrator in scientific and technical subjects up to Bachelor's and Master's level.
6. Prevention of indiscriminate brain drain from the developing countries, and
7. Promotion of transparency in the academic processes.

REGULATORY RESPONSIBILITY

In the light of the above distinction between globalization and internationalization, the need for regulatory mechanism arises in the context of the globalization phenomenon. According to the UNESCO Position Paper **(Ref.5)**:

"Globalization and recent developments in the international delivery of higher education have generated a number of new terms including 'borderless', 'transnational', 'trans-border' and 'cross-border' education. Borderless education refers to the blurring of conceptual, disciplinary and geographic borders traditionally inherent to higher education. It is interesting to juxtapose borderless education with these other new terms. Borderless acknowledges the disappearance of borders while the other terms

actually emphasize the existence of borders. Both approaches reflect the reality of today. In this period of unprecedented growth in distance education and e-learning, geographic borders would appear to be of little consequence. Yet, borders gain increased importance when the focus turns to regulatory responsibility, especially related to quality, access and funding. Therefore, while full recognition is given to the existence and importance of borderless education, the notion of education moving across national jurisdictional borders is salient to this discussion and the term cross-border will be used. No major distinction is made between the terms cross-border and trans-border education.”

In discussing the nature of regulatory policies it becomes necessary to keep in view the following four key elements of globalization relevant to higher education:

- The growing importance of the knowledge society/economy;
- The development of new trade agreements, which cover trade in education services;
- The innovations related to ICTs; and
- The role of the market and the market economy.

In the context of current developments it is not enough to establish regulatory mechanisms for national institutions without having corresponding measures to guide and regulate the international institutions and programmes operating within the country and those offered by national institutions in other countries. Most of the countries haven't really considered as a priority the setting up of specific procedures to assessing Transnational Education (TE). Very often, there is no official regulation or control of TE qualifications. In some countries, they can be recognized if they are awarded by TE providers belonging to a national system of higher education. In other countries, they are treated as «private» institutions which can receive an accreditation or, at the contrary, which are not allowed to deliver diplomas with official value. The lack of quality control is seen as one of the most important problem. (Ref 10)

A brief overview of the nature of regulatory practices relating to International programmes in Higher Education followed by some of the countries is shown in **annex 1**.

MANIFESTATIONS

The globalization process has led to the following developments in higher education services:

- Many different categories of service providers in higher education such as multi-national companies, corporate universities, and media companies;
- Many different modes of delivering education including distance, virtual and multi-media conferences;
- Greater diversification of qualifications and certificates;
- Increasing mobility of students, programmes, providers and projects across national borders; More emphasis on lifelong learning which in turn increases the demand for post-secondary education; and
- Increasing amount of private investment in the provision of higher education.
- Pot-pourri of higher education programmes with wide differences in durations, entry qualifications and credit requirements.

The foreign universities in India function in India in a variety of forms, which include:

- Off-Shore Campuses
- Twinning Programmes
- Franchises
- Co-operative Programmes
- Virtual Universities
- Hybrid Programmes

The main problems encountered by recognition bodies with TE qualifications are confusion on definitions, lack of accurate information, lack of specific regulation and lack of quality assurance control mechanisms applying to TE qualifications and programmes

Currently there is no regulation in place even to monitor the presence of foreign programmes in India, not to speak of assessing their quality and credibility. The removal of this deficiency should be addressed urgently. The range of concerns should include:

- Interpretation of concurrent powers of the Centre and the States;
- Freedom and Responsibilities of Private Institutions to partner with foreign institutions;
- Revision of AICTE Regulations for Entry and Operation of Foreign Universities;
- Amendment to UGC Act to include powers to Regulate Foreign Universities; Regulation of UGC to recognize Degrees through

- foreign programmes in India; Regulations on Nomenclature, Teaching and Evaluation Process;
- Norms for assessment and accreditation of foreign Programmes by Distance and Hybrid modes; and
 - Penalty for non- conformity to provisions of UGC Act and Regulations;

The dominant considerations in evolving the policy framework should be :

- Protecting Students from Misleading Promises
- Safeguarding Financial Interests of Students
- Ensuring Visa Availability (e.g: Twinning)
- Registration of Institutions as Legal Entities
- Monitoring Compliance to Regulations
- Evolving Assessment Norms

IMPLICATIONS

The implications of globalization of higher education, especially in the context of the GATS are highlighted in the UNESCO Position Paper in the following terms:

The idea of academic mobility, students and scholars moving between countries is not new. However, the movement of students, education programmes and providers across borders for commercial and for-profit purposes is growing and this issue has gained new momentum and importance with the establishment of the General Agreement on Trade in Services (GATS).

This new international trade agreement is administered by the World Trade Organization (WTO) and is the first multilateral agreement that covers trade in services. Previous agreements, such as the General Agreement on Tariffs and Trade (GATT), dealt with trade in products. Within GATS, education is one of the twelve primary services and higher education is one of the five sub-sectors of education. The agreement identifies specific rules and conditions to liberalize and regulate trade, and it is these regulations, which are at the heart of the debate about GATS. The inclusion of trade in higher education services within the framework of GATS is a reality and will not change.

Each country can determine the extent to which it will permit foreign education service providers to access the domestic market. However, the growing concerns of the education community worldwide stem from the fact that WTO, an organization that aims to promote trade

for purposes of economic efficiency, with no competence in education, may negatively affect sustainable developments of education.

There is a great polarization of views and intense polemics on this topic. Some traditional stakeholders in higher education: institutions, teachers' unions, students, and scholars strongly oppose higher education being treated as a commodity and urge their governments not to make commitments in higher education in the context of GATS. Others, sometimes from the very same groupings, advocate that trade in education is happening already and that it has clear benefits and opportunities, as long as it is regulated correctly.

However, one of the more critical issues is exactly who has the responsibility for establishing and monitoring the rules and regulations about trade in higher education services, and for whose benefit?

This debate about globalization and a market approach to higher education is gradually being taken up by developing countries and countries in transition as for instance the Accra Declaration (**Box 2**). They are particularly exposed to becoming unregulated markets for higher education exporters because of insufficient government capacity to regulate due to political and governance instability.

BOX 2

**Accra Declaration on GATS and the Internationalization of Higher Education in Africa
(29 April 2004, Accra, Ghana)**

- We therefore caution against the reduction of higher education, under the GATS regime, to a tradable commodity subject primarily to international trade rules and negotiations, and the loss of authority of national governments to regulate higher education according to national needs and priorities.
- A commitment to the strengthening of national institutional capacity and to developing national and regional arrangements for quality assurance, accreditation and the recognition of qualifications, and to greater co-operation and exchange of information on quality assurance issues relating to cross-border provision, including active support for and participation in activities to give effect to the Arusha Convention and to NEPAD objectives.
- We therefore call on African governments and other African role players to exercise caution on further GATS commitments in higher education until a deeper understanding of GATS and the surrounding issues is developed and a more informed position is arrived at on how trade related cross-border provision in higher education can best serve national and regional development needs and priorities on the African continent.

There is concern that the decreasing state funding for higher education will decrease even further and that students will be targeted by private and often expensive providers which will further favour the rich and further disadvantage the poor. At the centre of the debate lies the issue of quality assurance and the need to provide consumer protection from non-reputable providers or 'diploma mills'. The value of the qualifications offered and their acceptance by the labour market are additional concerns for students, employers, the public and the education community itself.

The major policy issue remains: how can new for-profit providers and traditional higher education cross-border providers contribute to the development agenda of a developing country and not weaken it?

GATS MODES AND POLICY FOCUS

Of the four methods of trade used in GATS, the national policy focus is necessary for **Mode 1**: "cross-border" supply, which does not require the students to move physically as for instance in higher education through distance education and e-learning. India could offer educational services through distance mode and web-based programmes to learners abroad in conventional areas as well as in special disciplines in which India has better knowledge base. It can identify special target groups abroad such as Indian Diaspora, and Specialized Subject Learners using its extensive higher educational system.

The policy concerns should be to identify for recognition those programmes which do not require extensive laboratory and workshop facilities; those which have adequate and competent study centers with learning facilities and teachers, adopt properly validated testing and evaluation methods and properly assessed and accredited.

Mode 3: "commercial presence" involves a service provider establishing a commercial facility in another country to provide a service such as in higher education through branch campuses or franchising arrangements and would include off-shore campuses, joint ventures, twinning programmes, and new I-institutions as also establishment of offices, branches, and subsidiaries in overseas markets.

Indian Institutions established abroad could generate foreign exchange; earn prestige for Indian educational capabilities; and help Indian faculty develop broader academic perspectives. Foreign Institutions established in India could bring new educational

programmes not readily available in India; introduce new teaching and learning methods; and attract foreign investments. At the same time they could aggravate shortage of faculty and may lead to deterioration of domestic quality. Foreign Institutions can create duality of quality, standards and access. Commitment for Mode 3 should be governed by Regulatory procedures for Registration, Approval, recognition, Accreditation, Legal Status and Liabilities.

Mode 2: "consumption abroad" involves students moving to the country of the supplier, for pursuing all or part of their education in another country. This would include Indian Students studying in Foreign Institutions and Vice-versa. This does not require any special policy other than monitoring the inflow and out flow of persons and finances. Indian students going abroad will drain scarce resources. Restricting Loan facilities for Engineering Education for study abroad will reduce financial outflow; Improving infrastructures and academic facilities in Indian Institutions would attract foreign students and NRIs. Programmes for foreigners in Indian institutions may crowd out Indian students.

Mode 4: "presence of natural persons" means persons traveling to another country on a temporary basis to provide service, which in education would include professors or researchers. This would require agreements among the countries for unrestricted facilities for them to travel. Interactive relationship between academics will be enhanced. Income opportunities to Indian staff will grow. Joint R&D and consulting could improve. However discriminatory treatments of Indian and foreign Teachers may occur.

OTHER ISSUES OF CONCERN (Extracts from Ref.11)

In developing the policy focus it is necessary to consider the possible hurdles such as:

- Mutual Recognition Agreements (MRA) on qualifications and licensing;
- Citizenship requirements for certain assignments in higher education;
- Investment caps for higher education and Joint Venture requirements in some countries; Visa Quotas;
- Intellectual property rights for learning materials; and
- Separate Federal and State Rules to be satisfied

Regulation of Foreign or Cross-Border Providers

The development of a regulatory framework to deal with the diversity of providers and new cross-border delivery modes becomes more critical as international trade increases. In some countries, this will likely

mean a broader approach to policy—involving licensing, regulating, monitoring both private (for-profit and nonprofit) and foreign providers in order to ensure that national policy objectives are met and public interests protected. More work is necessary to determine how domestic or national regulatory frameworks are compatible with or part of a larger international framework and how they relate to trade agreement rules.

Recognition and Transferability of Credits

New types of education providers, new delivery modes, new cross-border education initiatives, new levels of student mobility, new opportunities for trade in higher education—all this can spell further confusion for the recognition of qualifications and transfer of academic credits. This is not a new issue. While trade agreements are not responsible for the creation of this confusion, they contribute to making it more complicated and also to making resolution more urgent. National and international recognition of qualifications and the transfer of credits have already been the subject of a substantial amount of work. The UNESCO Global Forum on International Quality Assurance, Accreditation and the Recognition of Qualifications is currently focusing on this important issue.

Quality Assurance and Accreditation

Increased transnational education activity and new legal trade rules require that more attention be given to the question of quality assurance and accreditation of cross-border education programs and providers. It is clear that national quality assurance schemes are being challenged by the complexities of the international education environment. Not only is it important to have domestic or national policy and mechanisms, it is equally important that attention be given to developing an international policy approach to quality assurance and accreditation. Can coherence between a domestic or national system and an international policy framework actually strengthen national quality schemes rather than weaken them? Clearly there are risks and opportunities associated with this issue, but to do nothing is a risk in itself.

Quality assurance of higher education in some countries is regulated by the sector and in others by the government. The key point is that authority for quality assurance, regulation, and accreditation for cross-border delivery needs to be examined and guided by stakeholders and bodies related to the education sector and not left in the hands of trade officials or the market.

Mobility of Professionals

GATS is facilitating the mobility of professionals to meet the high demand for skilled workers. This impacts many of the service sectors and

has particular implications for the mobility of teachers and scholars in the higher education sector. In many countries, the increasing shortage of teachers is resulting in active recruitment campaigns across borders. Since many teachers and researchers want to move to countries with more favorable working conditions and salaries, there is real concern that the most-developed countries will benefit from this mobility of education workers.

Culture and Acculturation

Last, but certainly not least, is the issue of culture. Education is a process through which cultural assimilation takes place. GATS sceptics express concern about the homogenization of culture through cross-border supply of education. Advocates maintain that a new hybridization and fusion of culture will evolve through increasing mobility and the influence of ICTs. In fact, they believe that this has been happening for decades and is a positive development. Once again, the divergence of opinion shows that there are new opportunities and new threats to consider, especially on the question of acculturation.

There are concerns that the presence of foreign providers signal to government that they can decrease public funding for higher education, thereby jeopardizing domestic publicly funded institutions.

International trade in education may be advantageous to some countries, such as Australia, UK, USA and India, with a well-developed capacity for exporting higher education and prove to be a disadvantage to others in terms of funding or access.

EXAMPLES OF OTHER COUNTRIES

South Africa (Extracts from **Ref. 12**)

South Africa's for-profit expansion has occurred largely at ISCED "level 5," a postsecondary level "below" the standard first-degree university level. More extensively in South Africa than in the United States, such concentration appears common among for-profits. Unlike much of the Third World, South Africa has not suffered major erosion in the perceived quality of its public universities. As in most Asian countries, then, no major exodus of elites has occurred from the public to the private sector. In circumstances like these, an academically formidable public sector may feel little threat from an expanding private for-profit sector that leaves aside traditional high-prestige academic tasks. Nor are public institutions necessarily just passive observers. On the contrary, South Africa quickly became notable in the 1990s for the extent of the partnerships between public and private higher education institutions. Parallels and variations exist in other countries where

private commercial higher education (for-profit or nonprofit) thrives, as in China and Malaysia.

South Africa's public institutions may seek access to paying students, underrepresented groups, and perhaps to commercial innovation and stimuli for their own personnel. The private institutions tend to seek ties to high-status institutions, access to facilities, enhanced opportunities for their students to transfer upward, and use of developed curriculum—all of which in turn improves their ability to recruit students. Each partner thus strengthens its legitimacy and its finances, though only one partner identifies the latter with profit.

China (Extracts from **Ref. 13**)

According to Garrett “China is perhaps the world's most complex, over-hyped, and under-analyzed market for transnational higher education. The country's size combined with China's transition from a command to a pseudo-market economy and potential as a superpower has prompted many higher education institutions in the developed world to explore the possibilities for market entry. The recent accession of China to the World Trade Organization and the increasingly favorable official view taken of in-country activity by foreign education institutions (new regulations came into force in September 2003), suggest a genuine opening up of the market.” (www.obhe.ac.uk).

From the Chinese perspective, the major benefits of foreign involvement are capacity, status, and innovation. China is rapidly becoming the most significant source of students studying abroad (sending over 63,000 students to the United States alone in 2002). However, like some other major source countries such as Malaysia and Singapore, China may come to view foreign-sourced, in-country provision as more cost-effective (in terms of reducing travel costs and stemming brain drain).

The third and most recent piece of legislation on transnational provision was released in March 2003 and offers clarification on the prior 1995 regulations. (Both the 1995 and 2003 regulations are available in English on the Ministry of Education website.) Major features include the stipulation that foreign institutions must partner with Chinese institutions; partnerships must not seek profit as their objective; no less than half the members of the governing body of the institution must be Chinese citizens and the post of president or the equivalent must be a Chinese citizen residing in China; the basic language of instruction should be Chinese; and tuition fees may not be raised without approval.

The sustained proscription of foreign education institutions making a profit in China is in contrast to the 2002 law on domestic private higher education, which permits a “reasonable return.” It would appear that no Chinese private higher education institution has yet won approval to offer programs leading to foreign degrees, so the combination of a for-profit domestic provider and a foreign provider has yet to materialize, at least at degree level.

Indeed, there is no foreign for-profit higher education institution currently operating independently in China at the bachelor’s degree level or above. Known examples of other foreign for-profit education activity include IT education firms such as India’s NITT and brokers such as CIBT. Canadian CIBT acts as a local partner for some U.S. for-profit institutions, such as Western International University (owned by the Apollo Group) and ITT Educational Services.

None of the regulations on foreign education activity mention on-line learning or distance learning of any kind. According to a 2002 report, there are no officially approved examples of Sino-foreign on-line provision, suggesting that approval would be required (the full reports contain some recent examples). While on-line provision is not directly mentioned in the regulation of Sino-foreign partnerships, any such activity would constitute offering foreign provision in China and would thus appear to fall under the scope of the decree.

According to Garrett (**Ref. 13**) adequate data are not available on the scale of foreign higher education activity in China, but the evidence suggests rapid development. According to the 2003 decree concerning foreign education activity in China, there are currently 712 ‘approved’ jointly run educational institutions in China. The Jointly run education institutions encompass activities ranging from co-developed new institutions, to a foreign degree franchised to an existing Chinese university, and providing for sub-degree and non-degree programmes. The decree states that the United States is the source of the highest number of partnerships, followed by Australia, Canada, Japan, Singapore, the United Kingdom, France, and Germany.

China’s size, devolved authority, and ambivalent practice of the rule of law have led to a situation of both officially approved and non-approved foreign provision, and various types of approval. The national Ministry of Education regularly publishes a list of “approved higher education joint programs in China leading to the award of overseas degrees or degrees of the Hong Kong Special Administrative Region (SAR).” In 2002, this list contained 67 partnerships covering 72 joint programs, roughly a tenth of 712 total mentioned above. The 2002 reports notes that, aside from these 72 approved joint programs, the “remainder . . . are only authorized to offer certificates and diplomas.”

Other data suggest that there are in fact many non-approved joint programs in China leading to the award of a foreign degree.

Very few countries collect or publish detailed data on the offshore activities of their universities. The main exception is Australia. Data published by the Australian Vice-Chancellor's Committee (AVCC) in May 2003 list 200 current offshore programs in China undertaken by Australian universities, 157 (79 percent) of which involve either Australian bachelor's or master's programs. If one assumes that American, United Kingdom and other major source countries are also offering non-approved degree provision on a similar scale, it is clear that the real extent of foreign degree activity is far in excess of that reported on the official ministry list. Given the apparent scale of non-approved activity, the variety of sources of non-ministry approval (e.g., municipal, provincial, and local governments) and the possibility that some programs lack any form of government approval at all, the figure may be only an approximation of a phenomenon beyond the scope of official statistics.

The data show that 27 Australian universities have current offshore programs in China (excluding Hong Kong SAR). This represents 71 percent of the Australian Vice Chancellor's Council's 38 university members, suggesting China as a major site of offshore activity for a large majority of Australia's universities. Offshore programs in China represent 13 percent of all reported current offshore activity by AVCC members. Three universities--Charles Stuart, Southern Queensland, and Victoria, offer Fifty-three percent of Australian joint programs in China. By level, 50 percent of programs are at the master's level, 29 percent at the bachelor's level, with the remainder a mixture of postgraduate and undergraduate certificates, diplomas, foundation courses, and English-language provision. By subject, approximately 60 percent of provision is in the broad area of business and management, with IT, law, and education the other prominent disciplines.

The AVCC data also include valuable information on mode of delivery. For example, the data show that less than 17 percent of Australian offshore programs in China included a period of study in Australia. Just over 25 percent include at least some study by distance learning, while only 15 percent are offered wholly at a distance. The AVCC data give no details on enrollments.

A report on the International Education in China (China Daily Dated April 22,2003) is reproduced in **Annex 2**

Australia

Jan Currie (Extracts from **Ref. 14**) discusses the implications of the aggressive promotion of Australian Universities in foreign countries. During the last decade, competition for funding and privatization transformed most Australian universities into corporate enterprises. He discusses the case of three Australian universities, established in different eras, all restructuring themselves to become more enterprising: Melbourne University (1855), a traditional university, recently developing Melbourne Private, and creating an alliance, Universitas 21, with Australian and overseas universities to deliver online courses; Monash University, established in 1961, becoming a multiversity by merging six campuses in Australia and building campuses in Malaysia and South Africa, and capitalizing on satellite television and other new technologies extending open learning to students in Australia and overseas; and Murdoch University, a small university established in 1975, beginning as an alternative university and now struggling to be a global player in this competitive environment. Pressures are mounting for all Australian universities to commercialize, to become more utilitarian, and to market their courses more aggressively in Australia and overseas. He discusses the potential benefits of these transformations, some of the controversies surrounding these decisions, and the possible negative consequences for these universities of becoming corporate enterprises. He highlights the warning about the commodification of knowledge and the need to maintain openness and collaboration in our search for new knowledge and to maintain trust in learning relationships.

Netherlands (Extracts from Ref. 15)

Nuffic is the abbreviated name of the Netherlands Organization for International Cooperation in Higher Education. Fifty years after its foundation, international cooperation in higher education is a hotter issue than it ever was. In the past ten years or so the situation has changed dramatically as regards the political, economic and technological world order. And in the next ten years, national higher education systems and individual institutions will be exposed to a combination of forces that will set new parameters for the production and distribution of higher education. These include the growing global demand for higher education as well as its growing and diversifying supply, the new communication technologies and increased mobility, and the rise of the networked knowledge economy. Higher education is increasingly crossing national borders, and supply and demand are increasingly being matched in a way that justifies talking about a higher education market.

On both the demand side and the supply side, the parties are not what they were. Students are no longer all recent secondary-school graduates. The suppliers of higher education are no longer just a

country's own universities and other traditional institutions, but include all sorts of companies and international, public-private consortia. Demand for higher education is more than keeping pace with population growth in developing countries. In the West, growth in personal incomes is also responsible for growth in demand, as is the need for skills created by the knowledge-based economy. This last factor also means that the people seeking tertiary education are no longer just school-leavers. They include people who are already practicing a profession and must continue to update their knowledge and skills, as well as people looking to do so between jobs. For more and more people, lifelong learning is becoming a fact of life.

Besides new demand, there are new suppliers. These are no longer just universities that are governed and/or funded by governments, but also include rapidly growing numbers of private training institutes that operate for profit, multinational companies that offer courses for their employees in their own corporate universities, and publishers. Some of these suppliers form partnerships with the traditional universities. For commercial suppliers, the education 'market' is becoming very interesting because of its scale and its transnational character. In Asian countries, for example, there is great demand for higher education that cannot be supplied at home because the infrastructure for it is lacking. There is also a need for degree programmes and academic titles that are recognized in the countries where economic opportunities lie. But even in the rich countries, it is increasingly important for students to receive education that is internationally oriented. This is good news for providers. It means that they can sell the same 'product' in a large number of countries.

The internationalization of higher education is a development that is greatly accelerated by the new information and communication technologies. While educational institutions are setting up departments or satellites in other countries, the largest portion of 'for-profit' education crosses national borders with the help of ICT. In 1999 the volume of e-learning provided by the corporate sector grew by no less than 68 per cent and by 2003 this business is expected to turn over some 365 billion dollars a year. So much the better, some people say, because to keep the economy growing it is essential that higher education be in tune with economic production. For this purpose, a close link with the world market can only be an advantage. This is the standpoint of the European Round Table of Industrialists, for example, which a couple of years ago made an impassioned plea for reforming European higher education. Other people shudder at the thought of commercial interests gaining too strong a hold on higher education. They shudder for two reasons. On the one hand they are afraid that short-term demands will predominate to such an extent that long-term investments in the quality of education

will no longer be made. At the same time they point out that universities and commercial providers are pursuing different aims and they fear that in joint ventures, academic values will quickly lose out to the profit motive. Now that there is talk of drafting agreements for free trade in higher education services within the framework of GATS, these same voices are warning that this threatens the public and democratic character of higher education. The new relations between supply and demand raise questions about the role of government at national and supra-national levels. One of the traditional tasks of national governments – namely to regulate the public and private supply of education – becomes more difficult to perform not only because the line between public and private is fading, but also because a growing portion of higher education is being offered via the Internet, partly by organizations and institutions in other countries. It is hard to imagine how quality, affordability and accessibility – which are the reasons for regulating supply – can ever be assured outside the public domain. But new instruments will certainly be needed.

And because these aims lie not only at the national level but also at the global level, new demands are placed on international governments and organizations. Post-secondary education can be seen as distinct from this. In practice this largest portion of higher education long ago ceased to be directly related to the generation of knowledge, perhaps partly because of the large numbers of students who enroll in it. Only the pursuit of a PhD is still generally characterized by a direct relationship between knowledge production and education. This pursuit is generally solitary, however, with each individual following a unique route.

Perhaps checks and balances should be built into a new form of ‘regional governance’ as represented in the European Higher Education Area. Attention must also be given to the question of what higher education institutions themselves can do in order to defend the important roles they have always played and which roles can and should companies play in this respect.

Finland (Extracts from Ref. 16)

Higher education has moved from the sphere of the “national” to the spheres of the “regional”, the “international” and the “global”. An example of the regional approach in higher education is the Bologna-process aspiring to create a European Higher Education Area, an example of an international process is the mutual recognition process of recognition of qualifications (the Lisbon Convention of 1997) and the global trade in educational services can be considered as happening in the global sphere partly irrespective of the nation state boundaries.

Internationalization, like globalization is a concept with different interpretations. Internationalization of higher education can be viewed either from national policy perspective or institutional perspective. Internationalization can be viewed as “an intentional national response to globalization” used to facilitate understanding of global environment and ways of interaction in it or “as a systematic, sustained effort by government to make higher education institutions more responsive to the challenges of ‘globalization’ of the economy and society”. Transnational education is commonly defined as “All types of higher education study programmes or sets of courses of study, or educational services (including those of distance education) in which the learners are located in a country different from the one where the awarding institution is based. Such programmes may belong to the education system of a State different from the State in which it operates, or may operate independently of any national education system.”

Europe (Extracts from Ref. 17)

According to the OECD, about 2.2 billion dollars is spent on education worldwide each year. In the OECD countries, the private sector accounts for an average of 10% of this total. In the United States and Germany, it is as high as a quarter. Most of the money is spent on higher education. And, thanks to ICT and the growing demand for people with good academic qualifications, the share of privately financed (i.e. commercial) education is increasing.

Today, private education no longer means just schools and universities run by religious or other communities, but education and training programmes offered by multinationals for their own staff or by commercial institutes. To get their diplomas recognized they sometimes forge alliances with universities, which are also becoming more and more commercial.

In Europe, private higher education is still a relatively new idea and the focus is on how to shift the balance from government to the private sector. France is an exception to this trend. In May, it was the only country to object to the European ministers’ wish to define education as a ‘societal’ rather than a ‘public’ good, which would have opened the door for the private sector to play a more prominent role.

Higher education requires a challenging working environment. And that environment includes not only Shell’s internal ‘corporate university’, but also the possibility to supplement the courses it offers with modules from Australia’s Curtin University. In this way, Shell employees can obtain a recognized Masters degree in, for example, chemical

engineering. Shell and Curtin drew up the curriculum for the Masters jointly. Such alliances might not be suitable for courses like Hebrew, philosophy or classical history, but are quite common in the technical disciplines and in management training. It brings together the 'universities' of companies like McDonalds or Motorola and classic *almae matres*.

Shell now has 12 university partners (none of which, interestingly enough, are universities of professional education). One of these is the University of Twente, where the Educational Science and Technology Department is studying e-learning (learning via the Internet), the perfect vehicle for much new market-oriented education. The department has developed a programme, Teletop, which contains elements of the programme used internally at Shell and which is also being tested by Shell. The university has recently reached agreement with IBM on joint marketing of Teletop.

The potential offered by ICT to reach an unlimited market, together with the growing demand for well-educated people (who are then expected to keep learning), makes higher education a lucrative option for commercial producers of educational programmes like the Canadian company Thomson, the German book publisher Bertelsmann, the newspaper concern Naspers from South Africa and even Vivendi, the French company involved in water and pop music. Like companies with corporate universities, they also sign agreements with universities to link their courses to academic qualifications. In this way, it is now possible to buy shares in academic programmes. And they are potentially very lucrative. 'Higher education and e-learning are among the most promising emerging developments on the world market,' says Oskar Tijs, media analyst at Fortis Bank.

With the exception of the University of Twente, the universities in the Netherlands are adopting a 'wait and see' attitude. Universities in the Anglo-Saxon countries, in Latin America and in Asia have more experience with the new education providers. In those countries, the honeymoon is now over. The University of Toronto recently left the U21 university network because it had entered into a joint venture with Thomson, which it was not in agreement with. The project, U21 Global, sells business and e-commerce courses in Asia and Latin America, in English, Spanish and Mandarin and leading to a Masters degree from one of the universities in the network.

Sheldon Levi of the University of Toronto expressed his dissatisfaction in the Times Higher Education Supplement: 'What is the objective of a company or consortium that offers e-learning? To make money or to improve the quality of education? If a university receives

money to be a member of such a consortium, but is then expected to lend its name to products over which it has no direct control, is that a good deal?’

Opponents of the American proposal fear that the consumer would lose basic rights if the power of the private sector were to become too great. How do you put the brakes on that if the provision of higher education is no longer protected by national legislation against commercial providers? Who guarantees academic freedom and ensures that education remains accessible, affordable and of a high quality? Many new courses are related to jobs that people already have. Does that mean that good education will soon be reserved for the haves? And how do countries with weak education systems - not only developing countries, but also those in Southern Europe - stop foreign universities from dominating the market by influencing geographical spread and prices and by attracting all the best teaching staff? South Africa has been confronted with this problem for many years. The government there is trying to introduce rules to give it more control over the activities of educational institutes, particularly those from abroad. Education minister Kader Asmal says they’re not interested in free trade; the government is going to impose criteria on who gets to provide courses.

Germany (Extracts from Ref. 18)

German universities are characterized by the quality and wide range of their fields of study. They combine a great tradition with modern equipment, research and instruction. The Federal Government supports the internationalization of our educational system through a wide range of measures and programmes, with a view to strengthening our competitiveness in the global market for higher education.

For example, German universities now offer a large number of internationally compatible higher education courses (Bachelor's and Master's degree programmes). Particularly in the area of postgraduate study, a large number of the courses on offer are taught in English.

The Federal Government is actively involved in the [Bologna Process](#), which aims to create a homogenous European higher education area by 2010. Furthermore, it is shaping relations with our neighbour states through projects like the [Franco-German University](#), which opens up possibilities for intensive cooperation for more than 130 participating universities in both countries, and the Franco-German Forum, an annual event that provides information on studying in the partner country, as well as on Franco-German employment prospects. The Federal Government also promotes partnerships with universities worldwide.

CONCLUSION

Globalization of higher education in the form of commodity is a new phenomenon, not based on any altruism but determined by commercial considerations. It has been there even before GATS discussions, which has merely sharpened the issues.

India is looked upon as a lucrative market for trade in higher education while at the same time India looks to opportunities for marketing its capabilities in higher education in other countries. In order to reduce the attractiveness of the foreign programmes to Indian students it will be necessary to adopt strategies that will lead to greater degree of flexibility in structure and curriculum; innovative academic policies; new varieties of programmes; consortia of Indian institutions for effective marketing; establishment of special export zones for Indian educational service providers and pooling of resources to create world class facilities for living and learning

Keeping in view the Constitutional requirement that the education at all levels is a public function meant to fulfill certain larger intellectual, economic and social goals, the policy concern must be directed towards making a clear distinction between those programmes of formal higher education that should be kept out of international commercial mode; and those types of post secondary education leading to acquisition of special skills but not in degree qualifications.

If any of the programmes are approved for degree qualifications in India, these should be subjected to the following conditions: These should be offered by not-for-profit institutions; should be comparable to Indian degrees; should have been or should be accredited by recognized bodies; their teaching and evaluation process should be closely monitored and their degrees should have no restrictive conditions for higher education or employment in their own country.

The following types of programmes should be considered questionable: if offered only as off-shore programmes and not in their own countries; offered by unknown universities and spurious institutions; not having valid accreditation; provide only casual and notional learning support; and promise advanced degrees in unreasonable time frames (One Year/two year Bachelor's and one year Master's degrees; simultaneous BBA and MBA in three years after 10+2)

There is an urgent need to create a mechanism to co-ordinate the policies, if any, of the various regulatory bodies in the higher education system in India such as U.G.C. A.I.C.T.E., M.C.I., D.C.I., Pharmacy Council of India, Nursing Council of India, Council of Architecture and National Council of Teacher Education. They should agree upon a common procedure to continuously monitor the higher educational programmes offered in India in Mode 1 (Cross Border Supply) and in Mode 3 (Commercial Presence) and create a data base for ready reference for policy makers, regulatory authorities, universities, prospective students and the public.

The policy framework for international education in India should clearly define the authorities for granting recognized qualifications. In case of foreign qualifications a recognized body should provide the equivalence. Maintenance of prescribed educational standards by the institutions in term of physical infrastructure, faculty, teaching and learning process, academic facilities, and curricular structure and content should be entrusted to a competent body in India. The Indian institutions should be permitted to establish satellite campuses and extension centers by themselves or through collaboration in foreign countries and admit Indian and other foreign students and offer their Indian degree programmes or foreign (local) Degree programme. For this purpose full mobility of teachers and students should be allowed.

Active liaison with organizations outside India, which are engaged in collection of data and monitoring the trends in internationalization of higher education such as the International Association of Universities (IAU), should be maintained to benefit from their deliberations and recommendations. (e.g **Box 3.**)

BOX 3

Recommendations of International Association of Universities

In recognition of the urgency to take positive actions, the International Association of Universities recommends that:

1. Higher education institutions seize the initiative in the process of internationalization rather than reacting to external globalization forces, such as the market, in determining their actions;
2. Higher education leaders, with the active support of all levels of the academic community, develop clear institutional internationalization policies and programmes that are seen as integral to the life of the institution and, to the extent possible, enjoy adequate internal and external funding;
3. This support be facilitated by the creation of a Forum on Internationalization Policy by the IAU and its Associate Members for exchanging ideas and experience, proposing new programmes and policies, and reviewing existing ones;
4. The curriculum of the university reflect the preparation of international citizens, for example, through facilitating foreign language and intercultural competence and understanding of global, international, and regional issues;
5. North-South cooperation in higher education, focusing as it does on human resource development, be recognized as a major instrument of the fight against inequality among nations, people, and groups and be given adequate support and funding by regional and national development agencies, intergovernmental organizations, private foundations and the universities themselves;
6. the highly successful and valuable mobility programmes developed within particular regions (Europe, Asia, North America) continue to serve as catalysts and models to expand such flows more widely to ever-growing numbers of individuals and institutions on the global level. Efforts should be made to promote the growth of academic mobility programmes also in the other regions of the world (Africa, Middle East, Latin America) as well as expanding inter-regional programmes of inter-university cooperation;
7. Institutions of higher education take pro-active measures to ensure the quality of the internationalization process by making use of existing quality review expertise developed by various organizations and that IAU make such projects known among its membership and contribute to the development of a roster of experts available to take part on peer review teams;
8. the expansion of education export/import be conducted within internationally ethical codes of good practice and be accompanied by efforts to evaluate its educational and other impacts and to sustain quality control;
9. the expertise and experience of retired faculty members and scholars and other professionals be mobilized and shared across the North-South divide in an *Academics without Borders* volunteer programme to be facilitated by IAU, UNESCO, governments and the universities;
10. UNESCO, national governments, and educational institutions each demonstrate their commitment to international cooperation in higher education by implementing, within their respective purview, policies that remove obstacles to mobility, such as stringent visa requirements, restrictive recognition practices, and other regulations which impede the flow of students and academics; and

All internationalization programmes should be founded on the principle of partnership among equals and promote intercultural competence and a culture of peace among global citizens.

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□ □ **GATS (WTO) and the implications for higher education in Europe**
European University Association (EUA)
<http://www.unige.ch/eua/En/Activities/WTO/>

□ □ **GATS, Higher Education and Public Libraries**
Information for Social Change <http://www.libr.org/ISC/articles/14-Dodds.html>

□ □ **Canadian Higher Education and the GATS: AUCC Background Paper**
Association of Universities and Colleges of Canada (AUCC)
http://www.aucc.ca/_pdf/english/reports/2001/gats_07_e.pdf

□ □ **Canada targets education in GATS talks**
Canadian Association of University Teachers
http://www.caut.ca/english/publications/now/20010315_GATS.asp

□ □ **The Threat to Higher Education**
A briefing on current World Trade Organisation negotiations
<http://www.peopleandplanet.org/tradejustice/gats.education.rtf>

Negotiations are underway that could dramatically transform the Higher Education sector, yet few people in the **UK** are aware of them. These crucial decisions are being made through the World Trade Organisation's General Agreement on Trade in Services (GATS), which has an agenda of sweeping deregulation and privatisation of services. The implications for Higher Education are enormous.

□ □ **GATS: Implications of Globalisation on Australian Universities**
National Tertiary Education Union
Australia's Union for Tertiary Education Staff
<http://nteu.datalink.net.au/freestylr/gui/files/file3bf9e0c1e0b9b.pdf>

□ □ **Education International**
Education International is concerned that proposals for a significant increase in the scope of, and degree of, liberalisation of trade, might cover education services. Education International's central objective is to have education excluded from the scope of the General Agreement on

Trade in Services (GATS). (Education International is a world-wide trade union organisation of education personnel)

□□ **Council of Europe - Steering Committee for Higher Education and Research**

[Trade in Higher Education: a possible CD-ESR contribution in the context of GATS](#)

□□ [The Belgian position concerning the relations between Education and GATS](#)

□ **Negotiating Proposal for Education Services**

Australian Department of Foreign Affairs and Trade

http://www.dfat.gov.au/trade/negotiations/services/np_education.html

□ **Negotiating Proposal on Education Services**

The Ministry of Foreign Affairs of Japan

<http://www.infojapan.org/policy/economy/wto/educate0203.html>

□ **Negotiating Proposal for Education Services**

The New Zealand Ministry of Foreign Affairs and Trade

http://www.mft.govt.nz/foreign/tnd/wtonegotiations/topics/services_prop2.html

□ **Higher (tertiary) Education, Adult Education, And Training**

U.S. Department of State's Office of International Information Programs

<http://www.usinfo.state.gov/topical/econ/wto99/education1214.htm>

United States proposal on higher (tertiary) education, adult education and training services for consideration of all WTO Members.

□ [The European Commission "Info-Point" on World Trade in Services:](#)

GATS Commitments by Country (Legal Texts and Commitments)

Countries that have made commitments covering the Higher Education Services

Other Related Links

<http://www.esib.org> :The National Unions of Students in Europe

<http://www.chea.org/index-iqr.htm> : Council for Higher Education Accreditation

<http://www.enqa.net/> : European Network for Quality Assurance in Higher Education

http://europa.eu.int/comm/education/policies/rec_qual/recognition/index_en.html :

European Commission, Recognition of Qualifications

<http://www.acenet.edu/> : American Council on Education

http://portal.unesco.org/education/ev.php?URL_ID=12516&URL_DO=DO_TOPIC&

[URL_SECTION=201](#) : UNESCO Higher Education Mobility, Quality and Innovation

<http://www.inqaahe.org/> : International Network for Quality Assurance Agencies in

Higher Education (many links with quality agency)

ANNEX 1.

International Regulatory Examples

Overview of the Regulation of Transnational Education (TE) in some countries (Ref.10)

Austria

- no specific regulation or control of TE ;
- possibility for private institutions to receive an accreditation ;
- to regard TE in term of their status in the country of origin
- qualifications should be considered as belonging to the country of origin.

Belgium (Flemish Community)

- the law is very restrictive concerning recognition :only institutions listed by law are allowed to deliver recognized diplomas ;
- **for recognition there is a distinct advantage if the award comes from an institution which belong to a national system of higher education.**

Czech Republic

- ***if the institution providing TE doesn't want to award Czech degrees it has no duty to ask for an approval to operate as educational institution ;***
- ***the diplomas awarded by TE providers will be evaluated with regards to the status of the institution (is it a branch of some foreign recognized institution ?) and with regard to the length and content of study ;***
- ***the institution providing TE has the possibility to act as private higher education institution in the frame of Czech higher education system if it is legal entity with domicile in the Czech Republic and if granted the state permission by the Ministry of education.The state permission is issued on the base of the recommendation of Accreditation Commission of the Czech Republic.***

Denmark

- ***no legal regulation for TE but the national quality assurance agency has the right of initiative to take action ;***
- **TE is still a marginal phenomenon.**

Finland

- no specific regulation for TE ;

- the awarded diplomas can be recognized if the originating institution is appropriately recognized in its home country ;
- the main problem is the quality.

France

- **no distinction made about the origins and nature of TE ;**
- **academic recognition is the competence of each institution of higher education ;**
- **the laws allows anyone suitably qualified to open a higher education institution ;**
- the main problem is the evaluation of quality.

Germany

- **TE is not legally regulated and there is no national quality agency dealing with the accreditation of those institutions. The Länder are responsible ;**
- **the main problem is the « degree mills » and the recognition problems.**

Greece

- the Greek Constitution does not allow private institutions to organize higher education ;
- **only a changement of regulation which seems quite difficult could modify the situation.**

Iceland

- marginal phenomenon ;
- no specific law regulating TE but the Ministry of Education must approve all university level education ;
- TE must be regulated at a European level to have a positive impact : it could make the national/regional European education programmes more varied.

Ireland

- the national Council for Educational awards has validated programmes offered by some transnational providers.

Italy

- the treatment of imported TE varies according to the nature and information available on the originating educational system ;
- state or state recognized providers are looked upon favourably.
- Distance learning degrees are only recognized if they have similar admission requirements to traditional degrees in the country of their origin ;

- foreign higher education degrees can only be recognized if they are delivered by foreign institutions located outside Italy.

Latvia

- the law provides possibility to foreign institutions to receive a permit to operate ;
- for the moment, Branches of Russian institutions are operating and don't try to obtain accreditation : no recognition is given because there is no information allowing to judge quality.

Netherlands

- ***marginal phenomenon ;***
- ***the recognition of TE is not affected in terms of the originating country or its nature providing the awards are from institutions recognized in the country of origin ;***
- ***no regulation or control over imported or exported TE.***

Norway

- ***no legal regulation on TE ;***
- to be recognized, TE qualifications should have been awarded by an institution which is recognized in the home country.

Portugal

- no regulation concerning TE , except for doctoral degrees where recognition cannot be granted ;
- marginal phenomenon ;
- the main problem is quality control as no assurance mechanisms exist.

Russia

- ***no specific regulation regarding TE ;***
- ***the providers are requested to respect the Code of good practice for the provision of TE.***

Slovakia

- ***legal basis set up in 1996 to allow TE to operate ;***
- ***TE providers operating in Slovakia before 96 can submit an application for establishing a higher education institution .If the demand is rejected, the provider is obliged to dissolve the TE institution ;***
- ***the terms « higher education institution » and « university » are protected by law and the institutions which are not allowed by law to use the name are illegal.***
A new law is in preparation , probably more liberal for TE.

Spain

- **no effective regulation of TE and no specialised quality control mechanisms ;**
- **distinction made between public and private providers ;**
- **the main problem is the lack of quality assurance.**

Sweden

- the main principle for the recognition of TE qualifications is that , in general, they should have been awarded by an institution which is officially recognized in the home country or otherwise accredited by a recognized authority (for example, a US regional accrediting body) ;
- TE is not regulated as such but the national quality assurance agency deals with the recognition of US branch university to enable students to use their state loans to attend the university .

Switzerland.

- **when TE is state recognized in the provider country, recognition by universities is normally granted ;**
- **legal regulation on TE is insufficient, there is almost no quality control ;**
- **there is a need of quality control.**

United Kingdom

- **important exporter of TE ;**
- **recognition of imported TE qualifications is the concern of individual academic institutions ;**
- **for exported TE, there is no regulation but the Quality assurance agency is considering a certification process.**

United States

- USA is exposed to all of the various types of TE and there is no national framework law to regulate it ;
- **it is impossible to take any legal action against providers of TE for the sole reason that the academic standards of the diplomas that they award are poor.**

ANNEX 2.

Education: China's Learning Curve (China Daily, April 25, 2003)

([http://www.zju.edu.cn/english/news/2003\(1-9\)/news030425.htm](http://www.zju.edu.cn/english/news/2003(1-9)/news030425.htm))

Foreign universities will have unprecedented opportunities beginning this fall to tap China's higher-education market. New rules - drafted by the Ministry of Education and approved last month by the State Council, China's cabinet - will allow foreign educational institutions to establish joint ventures (JVs) that provide education services in China. The guidelines are expected to boost China's already-heated education market. The education sector is one of China's less-developed, but highly promising, markets. There is huge potential within the sector, given China's nearly 1.4 billion population. Officials expect the regulations will stem the flow of Chinese students to overseas colleges and universities. "The government especially encourages domestic higher education organizations to co-operate with established top overseas partners," the rules stipulate.

The rules, for the first time, will clearly identify approval procedures and time lines, which have been shortened from three months to 45 days. Besides, the degrees or certificates awarded by the joint ventures are expected to hold the same authority as degrees issued by the overseas partners in their home countries. "While most applicants value the high quality education provided by such Sino-foreign schools, many are more attracted by the guaranteed foreign certificates," said an official with the Chinese Service Centre for Scholarly Exchange. Chinese Education officials began drafting the provisions two years ago, in the wake of China's World Trade Organization (WTO) entry. A temporary act, introduced in 1995, presently supervises joint-venture schools' operations. As special market cases, 100 Sino-foreign programmes were approved before March to grant foreign degrees. Another 20 are awaiting approval, said an official with the State Council's Academic Degree Committee. "Both numbers will shoot up once the rules are implemented," he predicted. Experts suggest such joint ventures will allow Chinese students to receive degrees from world-renowned universities for a fraction of the price generally charged students who study overseas. Courses in China will likely cost between 20,000-50,000 yuan (US\$2,425-6,060) a year. Chinese students who study overseas generally pay more than 140,000 yuan (US\$17,000) a year.

"More well-off Chinese families can afford the tuition fees of these joint venture schools, which will provide courses up to international standards," said Zeng Gang, head of Zhuoyue International College, which is affiliated with the University of International Business and Economics. The Sino-US joint venture institution turned down 30 per cent of its applicants seeking enrolment in five of its undergraduate

programmes, Zeng said. The school's tuition this year is 33,500 yuan (US\$4,120), more than four times China's 2002 per capita gross domestic product. A lucrative source of candidates for co-operative programmes, experts suggest, would be the large number of teenagers who have failed college entrance examinations. China's high school graduates, if hoping an enrollment in colleges, are required to complete these exams, which are conducted each year. Eleven per cent of China's middle school students reportedly are capable of completing college or university educations. The government hopes to increase that rate to 15 per cent by 2010, leaving more room for non-government-run schools. More than 400,000 Chinese students have studied abroad since the opening-up in the late 1970s. The rapidly increasing number of students studying overseas in the past two decades has corresponded with China's economic growth.

That growth is expected to slow down if foreign schools establish their presences in China, said a business analyst. China's annual education expenditures account for a mere 1.4 per cent of the global cost of public education, far below its school population, which makes up 23 per cent of the world's total, indicate statistics. China since the early 1990s has allowed private companies to run schools. Private and foreign schools, however, are not as developed as their State-run rivals. Foreign universities and educational organizations, limited by strict regulations in their home countries, will only issue selected degrees or certificates to graduates of joint programmes in China, Zeng said. "Top foreign universities are usually subject to more strict rules than second-tier ones," Zeng said. "That is why top universities are rarely seen as partners in co-operative programmes, especially in undergraduate education." Apart from higher learning programmes, vocational and technical education institutions will also boom in the Chinese market, experts said. To meet demand for expertise in various fields resulting from China's WTO membership, Shanghai, a metropolis in East China, has established more than 150 Sino-foreign schools. More than 50,000 Chinese students, with varying educational backgrounds, attend the schools. Provincial or regional governments will have to approve establishment of any Sino-foreign vocational and/or technical institutions.

The proposed guidelines stipulate that Co-operative higher learning programmes would have to be approved by the Ministry of Education and the Office of Academic Degrees Committee of the State Council.

The guidelines would ban co-operative programmes that involve preliminary education and courses in military affairs, policing, religion and politics.

The proposed rules also outline the organizational and managerial structures for Sino-foreign joint schools, and detailed application and deadline procedures.

The guidelines reportedly are based on the ministry's inspections in Beijing, Shanghai, Guangzhou, Shenzhen, Zhuhai, Wuhan, Chengdu, Chongqing and Zhengzhou.

The proposed rules also take into account surveys conducted by China's embassies and consulates.

Domestic Regulations Relating to Foreign Providers of Higher Education in India

K. B. Powar

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Introduction

With the advent of globalization, in the early 1990s, foreign providers started entering the higher education market in India offering degree programmes mainly in the professional disciplines. The first entrants included an unaccredited 'university' from the United States, a further education institution from the United Kingdom and a university of poor academic standing also from the United Kingdom. Realising the danger posed by such foreign providers to the Indian higher education system the University Grants Commission and the Association of Indian Universities prepared, in the mid-nineties, draft regulations for controlling the operation of foreign providers. Though accepted in principle by the Department of Education, Ministry of Human Resource Development, no concrete follow-up action was taken. Hence, acting on its own, the Association of Indian Universities formulated and issued guidelines regarding the grant of equivalence to degrees offered in India by foreign universities (Association of Indian Universities, 1999).

In April 2003 the All India Council for Technical Education issued Regulations relating to entry and operation of foreign universities/institutions imparting technical education in India (All India Council for Technical Education, 2003). The University Grants Commission has also framed similar guidelines but these have not been notified. It is understood that guidelines are also being prepared by the National Council for Teacher Education, the National Assessment and Accreditation Council, the Distance Education Council constituted under the Indira Gandhi National Open University Act, and other statutory bodies for the consideration of the appropriate authorities.

There are many who feel that with free-entry of foreign providers being a possibility under the GATS regime, that will be operative from 1st January 2005, there is a need to put into place regulations that will control the activities of commercial (non-academic) institutions and unscrupulous providers. Significantly, GATS does recognize the right of nations to introduce regulations in order to meet national policy objectives. However, the regulations should not come in the way of a healthy growth of the Indian higher education system, through high-quality collaborative or independent programmes in professional and socially relevant disciplines. Further, that even while making commitments nations have the right to prescribe limitations on National Treatment and Market Access.

The GATS Framework

The General Agreement on Trade in Services (GATS) came into force in 1996 and it provides for progressive liberalization of trade in 12 Services or Sectors that together have 161 Sub-sectors. Educational Services has 5 sub-sectors, including the higher education sub-sector. Four different modes are recognized for trade in services. These are Cross Border Supply, Consumption Abroad, Commercial Presence and Presence of Natural Persons. Under GATS, there are general obligations that apply automatically to all member countries regardless of the existence of commitments. These relate to the Most Favoured Nation (MFN) treatment, transparency and setting up of procedures. Conditional obligations relate to Market Access and National Treatment. Each member nation is expected to identify Sectors/ Sub-sectors and Modes of Supply in which it is willing to make Commitments along with any Limitations (limiting conditions) under which it will allow service suppliers Access and National Treatment. It is relevant that under GATS no country is obliged to make commitments in any service. India has not made any commitments in the Education Sector, nor is it likely to do so in the near future. Though there is some potential for exporting education India is a net importer of education services. The country has little to gain from liberalization of education services. Hence it would be safer to 'defend its turf' rather than open its market. However, it is possible that it may be obliged to make commitments in the higher education sub-sector, as part of adjustments, to secure commitments in other sectors. A fear, often expressed all over the world is that in a GATS-controlled regime education policies may increasingly be decided, not by the education minister, but by the ministers in charge of trade, commerce and finance.

It is contended that education, along with health and other basic social service, should be excluded from GATS, under the provision of Article 1.3 as these are generally accepted to be 'public consumption' items. In most countries education, at least primary education, is the basic responsibility of the government which is to be supplied free of cost and, therefore, it qualifies as "a service supplied in the exercise of governmental authority". However, the existence of a large private higher education segment in many developing and developed countries shows that it also exists as a 'private consumption' item and this makes the position of the higher education sub-sector contentious.

Article VI of GATS, relating to domestic regulation, requires that where specific commitments are undertaken each member shall ensure that all measures that affect trade in services are administered in a reasonable, objective and impartial manner. It provides for bodies to ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not

constitute unnecessary barriers to trade in services. In sectors or sub-sectors where a member-nation has undertaken commitments it cannot apply licensing or qualification requirements, and technical standards, that nullify or impair the commitments. Therefore, domestic regulations, which are necessary for promoting national policies (as those relating to access and equity) and for protecting the public higher education system, need also to take into account the aspects of progressive liberalization in trade, the growing participation of the private sector in education, and the need to promote the quality of education.

Existing Guidelines/Regulations

The statutory bodies and other organizations have been rather slow in framing regulations to regulate operation of foreign providers. The guidelines of the Association of Indian Universities (1999) and the Regulations issued by the All India Council for Technical Education (2003) are briefly reviewed below.

Association of Indian Universities (AIU)

The Association of Indian Universities formulated, in 1999, guidelines for grant of equivalence to degrees awarded in India by foreign providers. The guidelines presume that the foreign university has an Indian collaborator. The main conditions for equivalence that are prescribed are:

1. The Indian institution (partner) has adequate infrastructure and facilities, as validated by the report of a Review Committee of AIU.
2. The programme is implemented jointly by the foreign university, and an Indian university, or an academic institution affiliated to an Indian university, with both contributing to the academic programme in approximately equal measure.
3. The foreign university gives an undertaking, in the form of a certificate, that the degree/ diploma awarded to the student in India would be considered as equivalent to the corresponding degree/ diploma awarded by the University at home, and that it would be recognized in that country as being equivalent to the corresponding degree/ diploma of the awarding university.
 - a. Similar, but more comprehensive, criteria for regulating the operation of foreign educational institutions were suggested in a discussion paper circulated by the Ministry of Human Resource Development, in November 1999. These, included additional clauses relating to advertising and publicity, and to the remission of fees to the country of origin.

All India Council for Technical Education (AICTE)

The All India Council for Technical Education issued on 3rd April, 2003 regulations for entry and operation of foreign universities/ institutions imparting technical education in India. The objectives of the Regulations are to facilitate collaboration and partnerships between Indian and foreign universities/ institutions in technical areas; systematize the operation of foreign universities/ institutions already operating in India; safeguard the interest of the Indian student community; enforce accountability on the part of the foreign providers; to prevent the entry of non-accredited universities/ institutions; and overall, safeguard the nation's interests.

The Regulations prescribe the procedure of registration of foreign providers. A foreign university/ institution has to make an application accompanied by a No-objection Certificate from the concerned Embassy/ High Commission in India. It has to submit a detailed Project Report which is to be examined and approved by AICTE.

The AICTE Regulations require the foreign provider to either establish operation on its own or have collaborative arrangements with a recognized Indian academic institution. The foreign institution should be accredited in its home country and should give an undertaking that the degree/ diploma will be recognised in the home country. The Indian partner has to be an Indian university or an affiliated institution, preferably accredited by the National Board of Accreditation of AICTE. The nomenclature of the degree offered in India has to be the same as that which exists in the parent (home) country. (It is not clear as to what would be the interpretation if the nomenclature is not in accordance with the nomenclature approved by the University Grants Commission). Strangely, a clause prevents the university/ institution from educational innovations including those related to mode of delivery. It will be the responsibility of the concerned foreign university/ institution to provide for, and ensure that, all facilities are available. The fees charged, and the intake of students, will be prescribed by the AICTE. There are other conditions that aim at protecting the interest of Indian students and provide for overall control of operations by AICTE.

Reflection

The AIU guidelines delineate some basic conditions that need to be met in order to protect the interest of the Indian higher education system, and more specifically of the Indian students. The AICTE Regulations are omnibus in nature and are applicable to foreign universities intending both to enter into collaborative arrangement with Indian academic institutions, and to establish their own campus. It is doubtful if these could be applied, with equal effectiveness, to the different modes of operation like agreements leading to joint or dual

degrees, articulation programmes, franchise arrangements or direct operation through (offshore) centres/ campuses. It would, perhaps, be better to have separate regulations for different situations.

Foreign Providers and Regulatory Mechanisms

Foreign providers entered the Indian higher education market, in the commercial presence' mode, in the early 1990s, and in subsequent years the number of providers steadily increased. In late 2000 there were 27 providers having presence in India, mainly from the United Kingdom, Australia and the United States. By early 2004 the number had increased to 61 (Table 1). This only substantiates the common belief that the Indian market is being increasingly sought by the developed countries.

Table 1: Foreign Providers having Commercial Presence in India

S. No	Country	2001			2004		
		Universities	Others	Total	Universities	Others	Total
1	United Kingdom	9	1	10	16	7	23
2	Australia	3	-	3	2	4	6
3	United Staes	9	3	12	16	3	19
4	Canada	-	1	1	2	1	3
5	Others	-	1	1	4	6	10
		21	6	27	40	21	61

Note:

Under Universities are included institutions recognised as such in the home country.

Others include institutions that may or may not be recognised/ accredited in the home country.

* K. B. Powar and V. Bhalla, (2001) ** K. B. Powar and R. Mukand, (2004)

The mechanism/ purpose of trade in different modes, in India, are given in Table 2 along with the actions that are required to be taken, and the possible regulation/ promotional mechanisms that need to be implemented. The position as regards the different modes is briefly discussed below:

Table 2: Modes of Trade in Higher Education Services

Mode	Mechanism/Purpose	Action Required	Regulation/ Promotion Mechanisms
Cross Border Supply	Print Media and AV Mode	No need to regulate, except for highly specialised areas	—
	Internet	Regulate	<ul style="list-style-type: none"> · Restrictions on electronic transmission. · Non - recognition of degrees obtained/ awarded through e-mode
Consumption Abroad	Inflow		
	Degree and Diploma Programmes	Encourage	<ul style="list-style-type: none"> · Providing incentives, easing visa requirements; · Simplifying admission and entry procedures and effective marketing
	Short Term Programmes	Encourage	
	Study India Programmes	Encourage	
	Outflow		
	For varied programmes	Restrict, if need arises	<ul style="list-style-type: none"> · Restrictions on release of foreign exchange and currency; · Restrictions on the disciplines and/ or programmes for which permission to study abroad is granted; · Insistence on minimum academic attainment in India before venturing out etc.

Commercial Presence	Joint/Dual Degree Programmes	Encourage	—
	Articulation Programmes	Encourage selectively	—
			<ul style="list-style-type: none"> · Limitations on number of programmes/ partners. · Limitations regarding number of campuses. · Insistence on joint venture with an academic partner; · Limitation of direct investment by prescribing equity ceilings; · Imposing high licensing fees and/ or taxes; · Regulating the amount of money that can be repatriated; · Insisting on sharing of academic responsibilities in equal proportion.
	Off-shore Programmes Franchising	Regulate Discourage	—
Movement of Natural Persons	Teachers and Experts	Generally encourage but may regulate in specified fields	Scrutiny of credentials, political leaning and academic discipline is desirable.

Cross Border Supply

Distance education is a powerful means of spreading education and is being used in the developing countries for providing education to the under-privileged, and the difficult-to-reach. However, it also allows education to be imparted across borders in a manner which is difficult to check. It basically takes two forms: Conventional distance education using print and audio visual material, and distance education using the Internet. The latter has helped improve the form and structure of higher education. Looking at the considerable development of conventional distance education in India (It is presently imparted through 11 open universities and through distance education centres in 104 dual-mode universities) there is little threat of foreign universities, using the conventional distance education mode, posing a threat to the Indian open education system. There is, therefore, no need to impose any restriction except on programmes whose contents are harmful to the country's interests.

The needs of the labour market, and the ever increasing demand for knowledge in thrust areas that has an international component, has greatly increased the potential of learning through the Internet. There is a possibility that in areas like management, software development and tele-communication, cross border supply through the electronic medium may be detrimental to the interest of the Indian higher education system. Some form of regulation may be necessary. This may be in the form of restriction on the electronic transmission of course material (Mexico has telecom laws that restrict the use of transmission satellites and receiving dishes), non-recognition of degrees obtained/ awarded through the e-mode and denial of permission for joint ventures.

Consumption Abroad

Consumption Abroad is the mode of trade in education services in which there is movement of students across national borders. Indians have been going abroad for education for nearly two centuries now for improving their academic and technical capabilities. Though the number of students going abroad far exceed those coming to India there is no immediate need to regulate either the outflow or the inflow of students. On the other hand there is a need to encourage the inflow of foreign students for different types of programmes – degree and diploma, study India, and short-term.

Outflow of students can be regulated to some extent by placing restrictions on the release of foreign exchange and currency; restricting the disciplines and/or programmes for which permission to study abroad is granted; insisting on minimum academic attainment in India before venturing out etc. Inflow of foreign students needs to be encouraged by

providing incentives, easing visa requirements; simplifying admission and entry procedures and effective marketing.

Commercial Presence

Commercial Presence means the presence of foreign education providers in a country either by way of collaborative programmes, or through the setting up of facilities. An important mechanism which helps in improving the quality of education is through collaboration at the inter-institutional level. This normally results in the grant of dual degrees or joint degrees. This is a form of commercial presence that needs to be encouraged.

Another form of inter-institutional collaboration is through articulation agreements between two institutions. This involves partial study in two or more institutions. Commonly under articulation agreements the students study in the initial period (say two or three years of a technical degree programme) in India and the finishing period (two years or one year) in a university in a developed country. The advantage to the student is that he or she is able to avail of advanced/sophisticated facilities at a much lesser cost. It is usual for the foreign partner to award the degree. Technically it amounts to transfer of academic credits from the Indian university to the foreign university. Looking to the advantages this form of collaboration needs to be selectively encouraged after reviewing the credentials of both the institutions.

A third form of Commercial Presence is through franchise arrangements. The foreign university virtually sells its degree through a commercial partner in India. More often than not the Indian partner is a commercial organization. Franchising needs to be regulated if not completely disallowed. This can be done by insisting that the Indian partner in the collaboration should be a university, or an institution affiliated to a university whose facilities are validated by a competent peer committee.

Commercial Presence can also be achieved by foreign institutions by setting up of campuses in India. Indian institutions have established campuses abroad but foreign universities have not done so in India. However, there are examples of foreign universities hiring building-space for conducting their operations, including teaching. Such campuses and centres can provide quality education but can also have deleterious effects. They need to be allowed only after the fulfillment of stringent conditions.

Commercial Presence can be regulated by limiting the number of programmes/ partners that a foreign university can offer and the number of campuses/ centres it can establish; insisting on a joint venture with an Indian academic institution as partner; limiting direct

investment by prescribing equity ceilings; imposing high licensing fees and/ or taxes; regulating the amount of money that can be repatriated; insisting on sharing of academic responsibilities in equal proportion, etc.

Presence of Natural Persons

Presence of Natural Persons involves the movement of teachers for imparting education. As far as India is concerned the number of persons coming in is not large and only a small proportion of the number of Indians teaching abroad. The inflow of teachers, for short-duration visits, needs to be encouraged because it will promote quality teaching through introduction of modern and innovative methods of instruction. Scrutiny of credentials, political leaning and academic disciplines is, however, desirable.

To Conclude

While free flow of information and knowledge is desirable in the context of liberalisation of policies and economic development, it is equally necessary that the operation of foreign education providers be controlled in order to protect national interests and the interest of the Indian higher education system. Of the four modes of trade in services, consumption abroad and presence of natural persons do not pose any serious problem. However, there is a need to regulate commercial presence and to some extent cross border supply though the impact of the latter is presently not clear. The regulations framed for this purpose need to separately take care of the issues that may arise from each mode. Coordinated efforts need to be made in this regard.

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Improving Competitiveness of Indian Higher Education in the Global Market

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A critical study of Indian higher education evokes two mutually contradictory perceptions. According to one, the system is a crucial factor for survival for it provides people an opportunity “to reflect on the critical, social, economic, cultural, moral and spiritual issues facing humanity” (National Policy on Education, 1986). According to the other view, the university system has developed an inbuilt process of metabolic degeneration. The large scale expansion has, among other things, eroded the quality of university education. As stated by the Planning Commission, (2002). “Although the number of universities has increased and many universities continue to maintain high standards of education, it is a matter of serious concern that, on the whole, the expansion in quantity has been accompanied by a fall in quality...” It has also been contended that the system of education has not been able to provide education relevant to the needs and aspirations of the ever-increasing number of seekers of knowledge, escalating the ranks of unemployed and unemployable youth in the country. The system has also been castigated as an exclusive preserve of the elitist groups, regardless of their capacity to benefit from higher education.

It is difficult to subscribe fully to either of the extreme views. Like any other system in the World, Indian higher education symbolizes a phenomenon of ‘light and shades’. While we have a good number of institutions, which can compare favorably with the best in the world, a significant proportion of institutions need to improve their academic standards in order to become a part of a reasonably comparable academic configuration in the global market.

In this paper, an attempt has been made to delineate the steps that should be taken to make our higher education competitive in the world market. The issues, which have been discussed, are:

- 1) Reforms within the Education System;
- 2) Improving Human Capital;
- 3) Institutional Reforms;
- 4) Augmenting Resources; and
- 5) Privatization of University Education.**

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Impact of Globalization on Higher Education

Education, as a service industry is part of globalization process under the umbrella of General Agreement on Trade in Services (GATS). 'Education, in the services sectoral classification of World Trade Organization (WTO) has been mentioned along with five sub-sectors including higher education services. The sub-sector classification is, however, subject to modification in the light of developments in education services negotiations' (Sudhushu Bhushan, 2004).

The inclusion of education as a component of the services sector under the WTO regime has given rise to quite a few misgivings in the academic world. It has been pointed out that there is a distinct possibility that this might "force countries with quite different academic needs and resources to conform to structures inevitably designed to service the interest of the most powerful academic systems and corporate educational providers... breeding inequality and dependence" (Altbach, 2002). Further, "Globalization... can lead to unregulated and poor quality higher education, with the world wide marketing of fraudulent degrees or other so-called higher education credentials..." (World Bank's Task Force, 2000). It has also been pointed out that India, is likely to turn into "an increasingly attractive market for foreign universities and hence other nations are going to use GATS' provisions to their advantage" (Arun Nigvekar, 2002). Further, under globalization, education will be treated as a commodity to be traded in the open market like any other commodity with its implicit ramifications. It will also give free access to private bodies to enter the haloed precincts of education with the possibility of commercialization looming large over the educational horizon.

Given the array of theoretical and epistemological perspective presented in the general social science literature on 'globalization', it is difficult to assess not only the nature and dimensions of globalization, but also what it might mean to the field of education. Very few educational researchers or theorists have attempted to make connections between the economic, political and cultural dimensions of globalization and the policies and practices of education to be adopted to meet the challenges arising out of it. India is no exception.

It appears as though the phenomenon of globalization will mean many different things for education. Most certainly, in the near future, "it will mean a more competitive and deregulated educational system modelled after free market but with more pressure on it to assure that the next generation of workers are prepared for some amorphous 'job market of 21st century'. It will also mean... "that educational system will

increasingly provide the sites of struggle over the meaning and power of national identity and a national culture. And finally, schools will no doubt also be the sites of various counter-hegemonic movements and pedagogies". (Wells, et. al., 1998)

Making Higher Education Competitive

Notwithstanding the problems emerging from the on-set of globalization, it must be conceded that it is a stark reality, which cannot be wished away. It is, therefore, essential that we must take steps to bring about the needed reforms in our system so that our institutions of higher education as also the students graduating from these institutions can compete in the World market on equal footing. These reforms will have to be multi-dimensional, necessitating improving/modifying the system from within and from outside.

A brief discussion of these reforms follows:

Needed Reforms Within the Educational System

1. Content of Education

(a) Curriculum Upgradation

The modern advances in information technology have revolutionised, among others, the content of knowledge and the processes of educational transaction. The ever-growing use of electronic media has brought education to the doorsteps of the common man. Information processing technologies provide an efficient framework for the storage, management, analysis and application of information. In the process, popular culture and education alike have adopted what may be called 'computational paradigm', the use of computer metaphors, to understand how human beings cognize themselves and the World.

In order to meet the challenges thrown up by the cataclysmic changes occurring in the economic, social and technological systems, it is necessary that the students should be equipped with, besides theoretical knowledge, adequate skills to enable their full participation in the emerging social, economic and cultural environment. Also the universities have to undergo a sea-change in their outlook and perspective "leading to fundamental changes in the structure, management and mode of delivery..." (Planning Commission, 2002). The operative part of this paradigm shift is the need for a continuous up-gradation of curriculum in order to introduce the latest developments relating to various disciplines in the curriculum and its transactional

technique. Alongside, pruning of the existing curriculum would be a necessary condition in order to remove the obsolete and irrelevant details. This process has to be continuous and well conceived.

The fast developing stock of knowledge and the need for its continuous updating has also initiated an era of life long learning. Education is no longer confined to a particular period of life. It is a continuum with no artificial time barriers restricting the process.

This brings to fore the significance of expanding facilities through non-formal/distance education mode not only to provide an alternative system of education to meet the burgeoning needs of the aspirants of knowledge but also for offering a multiplicity of courses on the 'Cafeteria' basis to meet their varying educational needs.

(b) Productivity Orientation

The basic objective of globalization is to improve the quality of labour and to make the educational system an instrument of preparing students, who can compete in the World markets as productive members of the society. To achieve this objective, it is necessary to make skill training as an integral part of the curriculum besides bringing about attitudinal changes so that the students do not consider it infra-dig to work with hands.

Our experience of introducing an element of skill training, however, has not been adequately successful. The schemes of vocationalisation, both at the school and college stages, have been languishing for want of enthusiastic response on the part of students (and teachers). It has also not received the required social recognition. It may be recalled that the scheme of vocational education at the secondary stage was launched in 1988 as a centrally sponsored programme. Against a target of diverting 10 per cent of students to vocational stream by 1995 and 25 per cent by 2000, only 11 per cent of students have been covered at the plus two stage. At the college stage also, the scheme of vocationalisation has been in operation since 1994. Till date, it has hardly covered twenty thousand students out of a total university enrolment of more than nine million. Further, there is huge drop out rate, which generally occurs in the mid-session, leading to colossal waste of facilities.

The reasons for the slow progress of these programmes are many, but the most significant is lack of appreciation – by the parents, teachers and students – of need for introducing an element of skill training as a part of the general curriculum. Education is still

considered basically as an academic discipline in which the intrusion of vocational training is considered unacceptable. Further, the craze for degrees is also an important retarding factor. There is also lack of parity of status between students and teachers of vocational and general streams leading to the former hesitating to join vocational courses.

(c) Industry/University Linkages

In order to make university courses productivity oriented, it would be necessary that universities should establish closer links with the industry. It must be appreciated that the industry is the user agency for the manpower trained in the university system. They should, therefore, be actively involved in the preparation of syllabi. They should also be persuaded to provide supervised practical training to the students. Professionals from the industry may be associated with teaching as guest faculty. Further, industrial and commercial houses may be motivated to provide financial assistance to universities by establishing inter-disciplinary chairs for teaching and research.

(d) Research

Indian professionals, particularly in Information Technology and allied fields, have successfully competed in the world markets especially in software development and data analysis. This, however, cannot continue for a long time, especially because competition from the developing countries is likely to be very intense in times to come. This underscores the need for emphasizing Research and Development (R & D) particularly in the newly emerging areas in our university institutions. As suggested by Iyengar (2000): "Our human resource development in the future should be planned such that there are identified areas in which India could compete effectively, and be innovators rather than just followers. These could include areas such as biotechnology, new power sources, education etc. The Government should focus on these areas, and offer incentives to researchers for innovative research in these fields".

(e) Value Education

In order to ward off the evils of untrammelled competitiveness and use of unethical practices to go up in the socio economic ladder, it is necessary that education should lay stress on value education, which emphasizes cooperation rather than competition; sharing of experience rather than personal aggrandizement and learning to live together rather than living in mutually hostile camps. Education should help to engender a new "humanism that contains an essential ethical component and sets considerable store by knowledge of, and respect for,

the culture and spiritual values of different civilizations, as a much *needed counter weight to a* globalization that would otherwise be seen only in economical or technological terms. The sense of shared values as a common destiny is in fact the basis on which any scheme of international cooperation must be founded" (Delors Commission, 1996).

2. Improving Human Capital

(a) Student Competencies

There has been considerable expansion of student enrolment at the university stage. From a mere 2 lakhs at the time of independence, the student enrolment is likely to reach a figure of about 10 million. In terms of the relevant age group coverage, however, it is hardly 6 per cent. With the success of the schemes of universalization of elementary education, the pressure on secondary and higher education will further increase. Steps have to be taken to prepare this large student body to face international competition. For this purpose a selective approach of identifying talent and enabling them to procure education of the highest quality will have to be adopted.

It can be argued that nurturing of excellence will be inequitable in that it may deny opportunities to a very large segment of student population, who are not so intellectually endowed, to get into institutions of higher education. It is also feared that the present day techniques of students' assessment are not very reliable tools for measuring the potentiality of students, particularly from rural areas and those belonging to the deprived sections of the society.

It is difficult to deny the force of these arguments. The remedy, however, lies not in denigrating the need for nurturing excellence but in creating opportunities for expanding the *field* of excellence, so as to enable more and more promising students to join institutions of higher learning. This would necessitate qualitative up-gradation of the academic and physical infrastructure, reforming teacher education programmes and improving the system of student assessment so that no student with potentiality for benefiting from education is denied that opportunity. It may also require special coaching facilities for the students belonging to the traditionally deprived sections of the society.

(b) Faculty Up-gradation

In spite of very extensive utilization of electronic media and self-study system in the field of education, the teacher remains at the centre-stage of education. He is a facilitator, inspirer, motivator and guide. His contribution to the students' achievement is, by no means, insignificant.

It is therefore necessary that the best available persons should be selected for teaching positions. They should also be exposed to periodic orientation courses to update their academic and professional skills.

3. Institutional Reforms

(a) Institutional management

There is an urgent need for improving the physical and academic infrastructure of university institutions. Alongside there is also need for reforming the management and governance systems of universities to better enforce financial and administrative discipline. This, according to the Planning Commission (2002) should include 'decentralization of the university system, greater powers to faculty/department and nomination of students to university bodies on the basis of merit/excellence.... Further, "the accreditation system will need to be made more transparent and progressively freed from govt. regulation leading to a situation when the whole procedure would be based on a system of public appraisal/acceptance".

(b) University Autonomy

It needs hardly be emphasized that universities' role of furtherance of knowledge can be achieved only if they are given unfettered freedom and autonomy to experiment with new ideas and adopt innovative techniques for curriculum transaction. It may, however, be emphasized that autonomy should be tempered with accountability. The society has a formidable stake in the educational system and it has a right to monitor the functioning of the university institutions.

4. Augmenting Resources

The steps suggested in the previous paragraphs would necessitate escalated requirements of finances for education. For this purpose, it will be necessary to suitably increase government funding for these sectors. Unfortunately, the reverse process has been set in motion. According to Panchamukhi (2002), the impact of reforms has not been quite favourable for social services including education. Before Reforms period, social services constituted 39.4 per cent of total government expenditure. The percentage declined to 36 during 1991-92 to 1996-97. In the case of education, the decline was from 21 per cent to less than 20 per cent during the same period. There have been concerted attempts at down-sizing secondary and higher education on the part of the government goaded particularly by international organizations like the IMF and the World Bank.

A brief discussion of these developments follows:

The main argument in favour of cutting down the flow of adequate funding for higher education has been the 'Rate of Return' studies, on the basis of which the World Bank came to the conclusion that its lending strategy should emphasize primary education relegating higher education to a relatively minor place in its development agenda. The plea has been repeated by Carnoy (1999), according to whom: "Higher education is a high cost level of schooling and basic education is relatively low cost. In addition, in many countries, public university education costs are heavily weighted toward non-teaching and non-research expenditures such as student subsidies and administrative costs". The shift of emphasis, it is argued, "would enhance opportunities for larger number of primary students at the expense of subsidizing a relatively elite group of families that could bear the cost of university education".

The Government of India seems to have succumbed to these specious arguments. It would be evident from the fact that in 1997, the Ministry of Finance circulated a note on 'Subsidies', in which, among other things, higher education was described as a 'non-merit' good, ineligible for government subventions. The Planning Commission (1992-97) in its usual cautions manner has also talked of making higher education 'as far as possible self-financing'.

A deeper consideration of this suggestion will bring out its utter shortsightedness. In the first instance, it is wrong to presume that at the higher education stage, costs are heavily weighted towards non-teaching and non-research expenditure. Moreover it is academically preposterous to segmentalise education, whose different stages are complementary rather than competitive. For example, if university education is starved of funds, it will be impossible to provide good and competent teachers for the school stage. As emphasized by Panchamukhi (2002); "At any point of time, weakening of higher education sector would weaken the forces of competitiveness and efficiency in the functioning of different sectors of economy..."

The implementation of this too simplistic suggestion will also impede the progress of basic research, which is an important responsibility of the universities. Further, any scaling down of the financial inputs for higher education would result in the qualitative deterioration of the highly trained scientific and technical manpower, which is the mainstay of our economic and social development.

It is heartening to note that a recent Task Force of the World Bank (2000), while fully supporting the continuation of larger investment in primary and secondary education, rebutted the traditional economic argument, which is based on "limited understanding of what higher education institutions contribute". The Task Force challenged the notion that public investment in higher education is socially inequitable. It said: 'Rate-of-Return' studies treat educated people as valuable only through their higher earnings and the greater tax revenues extracted by society. But educated people clearly have many other effects on society: "educated people are well – positioned to be economic and social entrepreneurs, having far reaching impact on the economic and social well being of their communities. *Rates of return analysis entirely misses the impact of university based research on the economy – a far reaching social benefit that is at the heart of the argument for developing strong higher education system*".

It may be stressed that education is a continuum in which the various stages are complementary rather than competitive. Any attempt at compartmentalizing education in order to deny the requisite funding to a particular sector would be retrogressive and retard the progress of education. Having said this, it would be difficult to deny that the university institutions have been facing a situation of resource crunch for the last two decades. It is also conceded that the government is committed to expanding primary education and hence universities are expected to generate their own resources by taking recourse to hiking fee structure and encouraging private bodies and industrial houses to contribute towards higher education. How far these measures can bridge the budgetary deficits of the university institutions is, however, a moot point.

5. Privatization of University Education

As a corollary to the suggestions about reducing public investment in secondary and higher education, a plea has been made to hand over these sectors to private bodies. It has also been suggested that institutions beyond primary basic education should increasingly depend upon tuition fees, the philanthropy of the general public and the industrial and commercial organizations, which should be allowed to set up, manage and finance institutions of post elementary education.

In the preceding section, it has been argued that it would be counter-productive for the government to withdraw from secondary and higher education in view of their close relationship with the production of highly trained technical and professional manpower. Furthermore some

of the disciplines, which have no apparent market value, will go by default resulting into a skewed development of the educational system. There is also strong apprehension that privatization would lead to commercialization of education. As pointed out by Altbach (2000), "The motivation for establishing (Private) institutions is always to make money. British and Australian institutions have been active internationally as a way of making up for budget cuts at home". The emergence of capitation fee charging and self-financing institutions in India, with not necessarily philanthropic aspirations is an eloquent testimony to the abject surrender of education to commercial houses.

In view of the above considerations; while the participation of private bodies in investment and management of education should be encouraged, complete privatization of these sectors of education should be ruled out. Further, market needs should be kept in view while developing the curriculum. The element of productivity orientation should guide the formulation of curriculum framework. It is also necessary that while deciding about the fee structure and other student levies, the tendency towards commercialization of education should be guarded against.

To Conclude

We have discussed the inevitability and irreversibility of globalization and its multi-dimensional impact on the system of education. In this context, various suggestions have been made to bring about reforms in the educational system in order to make it competitive in the global market. These include wider utilization of information technology; giving productivity dimension to the educational system and laying emphasis on research and development. There is also dire necessity of competency building of the human capital – the students and the teachers – in order to enable them to face the fierce competition unleashed by the opening up of the economy. The approach has to be comprehensive and all embracing so that the university system can face the onslaught of foreign institutions attempting to have a foot-hold in the academic environment of this country as also other developing countries. A reference has been made to controversies relating to scaling down of government funding of higher education and introducing changes in the inter-sectoral priorities in the allocation of resources leading to the misconceived policy of downsizing of secondary and higher education. It has also been pointed out that a thoughtless emphasis on privatization of higher education without realizing the dangerous possibility of making the system a commercial enterprise would be retrogressive. While a plea has been made to enhance government funding of higher education, the university institutions also need to enhance the process of internal and external resource generation. In this

process, besides a reasonable hike in cost recovery from the beneficiaries, the vital role of industry has been emphasized. It has also been pointed out that internationalization of education particularly higher education, without due regard to the needs and aspirations of the developing countries, would be counter-productive. All these issues need very serious consideration in order to take steps to able our institutions of higher education competitive in the world markets, while retaining their ethnic configuration.

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Foreign Direct Investment in Higher Education: Issues, Implications and Strategies

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Introduction:

Foreign Direct Investment is an investment involving a long-term relationship and reflecting a lasting interest and control of a resident entity in one economy in an enterprise resident in an economy other than that of the foreign direct investor [OECD, 1996; IMF, 1993]. Importantly, FDI may be undertaken by individuals as well as business entities. Such investment involves both the initial transaction between the two entities and all subsequent transactions between them and among foreign affiliates [UNCTAD, 2001]. FDI flows comprise two distinct forms – equity and non-equity form of investment. The equity capital flows comprise of the foreign direct investor's purchase of shares of an enterprise in a country other than its own. Such flows also include the foreign direct investor's share in reinvested earnings. Besides, the equity form of FDI also includes short or long-term intra-company loans and debt transactions between foreign direct investor and the affiliates. The non-equity form of FDI include investments through such activities as subcontracting, management contracts, turnkey arrangements, franchising, licensing and product sharing [UNCTAD, 2001]

Given the above scope, it is obvious that the FDI implies that the investor exerts a significant degree of influence on the management of the enterprise resident in the other economy and no wonder that the whole issue has been a subject matter of debate. At the core of debate is the issue as to who benefits the most from the FDI flows – the host or the foreign investors. There are many who question the appropriateness of the transfer of resources especially those related to technology transfer and are vary of the negative aspects. Such views may range from sceptics to those strongly advocating for further research on the consequences of FDI on the host countries. The costs and benefits of firms in home and host countries are the subject of intense debate, as governments try to

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devise ways to harness multinational investments' (MNI)s economic and political power. The levels of positive and negative impacts (costs and benefits) can vary among different countries depending on the host country itself as well as the investing company and the interaction between those two [Grosse, 1988]. On the other hand, there are people who argue that the FDI is an important source of private external finance for developing countries and the host countries stand to benefit on a number of counts [Mallampally & Sawant, 1999]. The FDI, where on one hand, provides the much-needed resources leading to accelerated capital formation, it, on the other hand, also facilitate transfer of technology, knowledge, skills and above all the organizational and managerial capabilities. The proponents of FDI also emphasize on its role in accessing international marketing networks is also emphasized amply.

Advantages & Disadvantages of FDI:

FDI involves the transfer of financial capital, technology and such other skills as managerial, marketing and accounting and thus entails costs and benefits for the investing as well as the host countries. Though the phenomenon has shot into prominence only recently, its theoretical foundations were laid down much earlier. Kindleberger (1969), for example, had argued that the relationship arising from the FDI process was not a zero-sum game and that for its success both the investing as well as the recipient countries must believe that the expected benefits to them were greater than the costs to be borne by them. The effects of FDI on the host country are classified into economic (positive and negative effects on output, balance of payment and market structure), political (generally negative effects on national sovereignty) and social (generally negative due to the creation of enclaves and foreign elites as well as distortions of culture). Some of the most important advantages and disadvantages of the FDI inflows listed below²:

Advantages of FDI:

1. FDI flows continue to expand even when world trade slows down or when portfolio investment dries up. These flows are less volatile than portfolio investment flows because FDI represents a long-term commitment to the underlying project.
2. It involves the transfer of funds, technology and other skills that are desperately needed by developing countries.

² Adapted from Moosa Imad (2003)

3. FDI raises income and social welfare in the host country unless there are distortions caused by protection, monopoly and externalities.
4. It provides a vehicle for reviving the domestic capital market through which domestic savings can be channelled to finance domestic investment.
5. FDI boosts growth in the host countries through technology diffusion and the transfer of capital.
6. FDI can lead to an increase in employment in the host country by setting up new production facilities and by stimulating employment in distribution. It can preserve employment by acquiring and restructuring ailing firms.
7. FDI leads to an improvement in the capital account of the host country.
8. FDI is likely to boost productivity and competitions
9. FDI boosts the skills of local workers through training.
10. FDI helps provide local firms with increased opportunities by establishing links with local suppliers for locally produced goods.

Disadvantages of FDI

1. FDI symbolises new colonialism. It leads to the loss of sovereignty and compromise on national security. The sheer size of the MNIs may jeopardize national independence of the host country;
2. MNIs are often in a position to obtain incentives (from the host country) in excess of their needs and perhaps in excess of the benefits they bring to the host country.
3. MNIs exist and operate primarily because of market imperfections, which precludes the conditions under which FDI supposedly boosts welfare. Even if FDI leads to a gain in world output, it results in some distributional changes between labour and capital.
4. FDI creates enclaves and a foreign elite in the host country and thus have the potential to introduce adverse cultural changes.
5. FDI may not bring in as much investment as expected for the following reasons. (i) it is a relatively expensive source of financial capital; (ii) actual capital flows provided by MNCs may not be large as they may choose to obtain funds from the local capital market; and (iii) the capital contribution of MNCs may take non-financial form (for example, goodwill). By raising capital locally MNCs crowd out domestic investment, which is perhaps more suitable than foreign investment.

6. The domination of a developing country by an MNC may be economically detrimental to growth through a lower rate of capital accumulation, greater incidence of undesirable practices and adverse effect on competition. MNCs are very powerful negotiators, likely to strike favourable terms in bilateral negotiations with the government of a poor country.
7. It is invariably the case that subsidiaries operating in host countries are wholly-owned by the parent MNCs. The host country has no control over the operations of these subsidiaries.
8. FDI can reduce employment through divestment and closure of production facilities. The empirical evidence shows that the overall employment effects of the activities of MNCs on the host country are small.
9. Outward FDI destroys jobs at the source country because output of foreign subsidiaries becomes a substitute for exports from the home country. FDI leads to an increase in wage inequality in the host country.
10. FDI is often blamed for its balance of payments effects. The source country faces a sudden deficit when the FDI occurs, whereas the host country faces a perpetual deficit due to profit repatriation.
11. MNCs indulge in the production of luxury goods rather than the basic consumer goods needed in developing countries.
12. FDI does not play an important role in technology diffusion because (i) inappropriateness of the technology they provide, as it is too capital-intensive; and (ii) the availability of cheaper sources of technology. Moreover, the R&D activities are concentrated at the MNCs' home countries.
13. The costs of training labour are not large enough to make a significant contribution to the improvement of skills of local workers. The practices of MNCs may be irrelevant to the host country, in which case training will not be useful and may even be harmful. Moreover, it is often the case that MNCs reserve key managerial and technical positions for expatriates.
14. MNCs worsen income distribution in the host countries. They also worsen income distribution worldwide by paying foreign workers low wages, charging ordinary consumers high (sometimes extortionist) prices, and paying "celebrities" obscene amounts of money for sponsoring their products. For example, it is reported that sportsmen Michael Schumacher and Tiger Woods earned more than \$100 million each in 2000 alone, most of which was sponsorship money.

15. They abuse transfer pricing, depriving host countries from tax revenue. Reportedly, a subsidiary of an MNC operating in a particular country has not made any profit for over thirty years, which makes one wonder why this subsidiary is still operating in the same country.
16. They form alliances with corrupt elites in developing countries. There are several examples of billionaires who migrate to developed countries after accumulating massive wealth in extremely poor countries. There is no wonder that the OECD has encouraged MNCs not indulge in any activity involving corruption and bribes.
17. Most MNCs are sufficiently vertically integrated or have incentives to engage in inter-subsidiary transactions that limit the scope for developing strong ties with local suppliers.
18. FDI leads to a worsening of market concentration and the possibility of monopolistic or oligopolistic practices.
19. Because MNCs have significant financial, political and negotiating power, they can get away with a lot of damage to the environment in developing countries.

Contemporary FDI Scenario:

While the debate is not settled as yet, most economies of the world seem to be of view that the FDI does more good than harm to them and have been forthcoming with policies that seek to make their home environment more and more attractive for the foreign investors. The number of countries that changed their investment regimes has increased from a mere 35 in 1991 to as many as 69 by the year 2000. The number of regulatory changes introduced by different countries of the world has also increased from 82 in 1991 to 150 in 2000 and as expected most of these regulatory changes were brought about to make the FDI more favorable. In deed, there were also a very few countries that made their environment somewhat hostile for the FDI but those were only far cries of wilderness [Table 1].

Table 1: National Regulatory Changes Introduced by Countries of the World

Items	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Countries that changed their Investment Regimes	35	43	57	49	64	65	76	60	63	69
Number of Regulatory Changes Introduced	82	79	102	110	112	114	151	145	140	150

Number of Regulatory Changes that made FDI more favourable	80	79	101	108	106	98	135	136	131	147
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Source: UNCTAD, 2001, p6

Implications of FDI in Higher Education in India:

Seen in the perspective described as above, it is far easier to derive the implications of FDI in higher education in India. On the positive sides, the following may be cited as the compelling justification:

1. FDI may lead to increased investment in higher education leading to enhanced access. Although, India presently boasts for one of the largest systems of higher education found anywhere in the world, the access to higher education is limited to no more than 6 percent of the population in the relevant age group. Lack of funds has generally been cited as the most important barrier in increasing the number of universities and colleges in their country. In such a situation FDI in the sector may be of significant import;
2. Higher education in India does not compare well in terms of quality with international higher education. Although the elites do get access to the international quality higher education by joining universities abroad, the masses are deprived. Campuses of the foreign universities within the country would enable relatively larger number of Indian students to get access and exposure to international higher education, for the same will still be much less expensive than travelling abroad;
3. Emigration of Indian students for foreign higher education leads to substantial outflow of foreign exchange leading to the flight of capital. Entry of foreign campuses on Indian soil would substantially reduce this flight of foreign exchange;
4. Higher educational institutions presently function as a monopoly insulated from competition. This has worked as an effective barrier to curricular innovation. They have continued to teach curricula that have become archaic and irrelevant to the needs of modern India. Foreign higher educational institutions would bring competition that would bring about changes in the Indian higher educational institutions making them internationally competitive and relevant;
5. International qualification brought about by the foreign universities and other higher educational institutions shall provide Indian students greater international mobility for their degrees shall be internationally comparable and acceptable;

6. Technological innovation and research and development are considered to be the hallmarks of the international quality higher educational institutions. Their campuses on the Indian soil shall bring in these in the country and the higher educational scenario in the country would brighten;
7. Increased investment in higher education by the FDI would lead to establishment of new institutions and creation of new infrastructure which will in turn lead to employment and income generation for the educated unemployed of the country;

Like all other benefits of the FDI, these are also subject to certain preconditions, which are generally non-existent. As a result, a country may not be able to get any or all of the benefits. In contrast, the negative effects of the FDI would pervade. In the context of higher education, some of the pervading negative effects could include:

1. Multinational investments are predominantly guided by profit consideration. They are invariably market and profit seekers. Their profit motive and tendency to maximize return on their investment would lead to gross commercialisation and debasement of higher education which will take a variety of forms.
 - a. They will launch only such courses, as are more in demand, which the Indian counterparts are not able to meet.
 - b. They will design and market courses with fancy nomenclature so as to attract students
 - c. They will use the power of marketing communication and advertisements to allure students by creating false impression of quality
 - d. They will resort to a pricing policy that would be guided more by profit consideration than cost consideration and thus charging exorbitant prices for courses that have employment potential
 - e. Pricing by the foreign players would artificially jack up the fees charged by the Indian counterparts for they will find easy justification.
2. The MNIs in higher education would be more guided by the market considerations than the national needs. Contrary to the expectations that they will be devoting their time, resources and energy in curricular and technological innovation and up gradation, they would design and market courses that are of use in immediate job market requirements rather than creation and development of knowledge;

3. FDI in higher education would indeed bring competition but there are greater chances that the same leads the higher education in the country in negative directions in more than one sense:
 - a. Alluring qualified and experienced faculty from the local higher educational institutions, leaving them with relatively less bright and less competent ones
 - b. Alluring such students from the local higher educational institutions that belong to the affluent sections of the society and thereby leaving these institutions with those from the lower socio-economic background. This will not only adversely affect the quality of higher education in the local institutions but would also make the higher education exclusivist
 - c. Competition primarily entails cost control and cost reduction and thereby compromising on the quality of inputs and processes. This might lead to minimal investment in infrastructure, labs and library; appointment of under qualified and underpaid faculty and staff; compromising on the educational standards and teaching-learning processes
 - d. Survival in an intensely competitive environment compels institutions to make them user-friendly and responsive to the needs and requirements of their consumers. In an educational context the same could be detrimental to the core spirit of education. Higher educational institutions may resort to such friendliness as to reduce their course content, or rigours or relax evaluation such that all those who take admission in a programme must somehow be given degrees irrespective of how do they perform.
4. Higher education is not only about investing in people to learn skills but more importantly it is about developing an orientation and attitude towards the self and society. This is about values and culture. The MNIs would not necessarily adhere to the cultural values and ethos that have been so cherished and nurtured by the host country.
5. The multinational investors (MNIs) may at time, find it expedient to bring, along with the financial and technological resources, the intellectual resources in physical forms. This may lead them to hire international faculty and staff in the name of improving quality and efficiency. Once in the host country, these manpower may start seeking jobs elsewhere and often at the cost of the local resources;
6. If MNIs enter into the host country in search of profit and returns, they would like to repatriate a significant portion of their surplus to their home country to satisfy the investors' need. Once this

happened, there would be flight of foreign exchange from the host country;

Is India an attractive destination for FDI in Higher Education?

Would India be able to attract sufficient FDI in higher education in the FDI? To answer this question one must carefully understand the internationalisation process. At the core of the internationalisation process lies the desire of the MNIs to maximise return of their investors. They reach out to other countries in search of market (to maximise their revenue by targeting newer and additional customers and thus maximising profit by achieving economies of scale) or resource use efficiency (leading to cost reduction so as to magnify the difference between revenue and expenditure and thus maximise their return by achieving economies of operation) or for risk diversification (leading to sustained profitability). Whatever be the driving factor, the bottom line is the maximization of shareholders' return or value. It needs to be clearly understood that the MNIs would not want to invest unless the host economies would offer them the above described revenue, cost or risk diversification advantages. Obviously, higher educational sector in India offers tremendous revenue, cost and risk-diversification advantages to private MNIs, which emanate from the following:

1. India is a country of over one billion population with rapidly rising middle class which not only has the capacity to afford for but has also realised the need and importance of higher education as an instrument of social and economic mobility;
2. Declining state investment in higher education due to resource constraint, diversion of available resources to the primary and secondary level of education is likely to further sharpen the demand supply mismatch and consequent pressure leading to deterioration in the quality of existing institutions in the medium term framework would further increase the prospects of private investment;
3. Increased investments in primary and secondary higher education would, in the medium term framework, further exert pressure on and demand for higher education, which if unmet through state enterprises will have to be channelled to the private players;

4. **India is a country where a significant number of intellectual resources received their higher education in foreign countries; particularly in the US and Europe and nearly all of them occupy position of power or influence in the country. These may be effectively used as conduit to further the interests of the multinational investors;**
5. **India is one such country where elites nurture colonial hangovers; they still pride in possessing foreign memorabilia and are fond of refurbishing the same. This makes India a very potent market place and fertile ground for the foreign higher educational institutions.**
6. **On the top of it, higher education scenario in the country is dominated by the public institutions, which are constricted to the extent of being strangled by the archaic and over-bureaucratic rules, regulations and directives. These institutions are in no position to pose competitive threat to the foreign institutions. Besides, the domestic private players in higher education are only miniscule and are largely in the unorganised sector with minimal investment and near zero brand equity. These can be easily devoured and eliminated through the market powers and machination of the international institutions;**
7. **India is one such unique democracy where civil society is still in its primitive stage and where the politicians and babus with vested interests grossly shadow people power. It is far more easier and cheaper to lobby for a vested interest and seek favours;**
8. **The country is a freak for controlling institutions of higher education by dictating their day-to-day operations. This could in other countries be a very strong deterrent and disincentive for the entry of international institutions. But given the fact that the implementation mechanism is fraught with serious limitations due to the sheer size of the country and multiplicity of institutions, this makes a haven for the greedy and unscrupulous. It makes even more attractive destination due to the fact that the bureaucracy is obnoxiously slow in responding to regulatory challenges and reforms.**

The above attractions notwithstanding, higher education sector in India offers some very serious restrictions on the entry of international higher educational institutions. Some of these deterrents are listed below:

1. Education in India is recognised and organised as a non-profit activity. The educational institutions will have to be established and run by a society registered under the Societies Registration Act or as a public trust or under Section 25 of the Companies Act. All these prohibit educational institutions from making and appropriating profit.
2. Judicial activism seen in recent times coupled with ever increasing rise in public interest litigation make the entry and operations of international institutions full of challenges;
3. The red-tape and slow-responding bureaucracy
4. The estimates of the size and purchasing power of the middle-class, particularly the type that the MNIs would be targeting, may be deceptive and the market for higher education may not be big enough to attract MNI.

Would India be able to attract FDI?

Intellectual debates apart, the above statistics prove much beyond doubt that most countries of the world are keen on harnessing their full potential in attracting FDI on their soil. This could be because they are fully convinced of the potential benefits that the FDI may bring or this could also be due to persuasion or lobbying by the MNCs and TNCs but the fact remains that most economies of the world are, at least for the present, too keen to make themselves the most attractive FDI destinations. As expected, India too is one of those countries, which has been keen on attracting FDIs on its soils and has, therefore, brought about significant policy changes in this regard during the past one decade, ever since the economic liberalization process started in 1991. Since then, the government has permitted automatic approval of foreign investments up to 57 percent in more than 34 industries. A few more industries have already been added in the list. The Foreign Investment Promotion Board (FIPB) has been put in place to fast process applications for FDI not covered in the automatic route. Some other measures taken to facilitate foreign investments are given in Table 2.

Table 2: A Glimpse of Regulations for FDIs in India

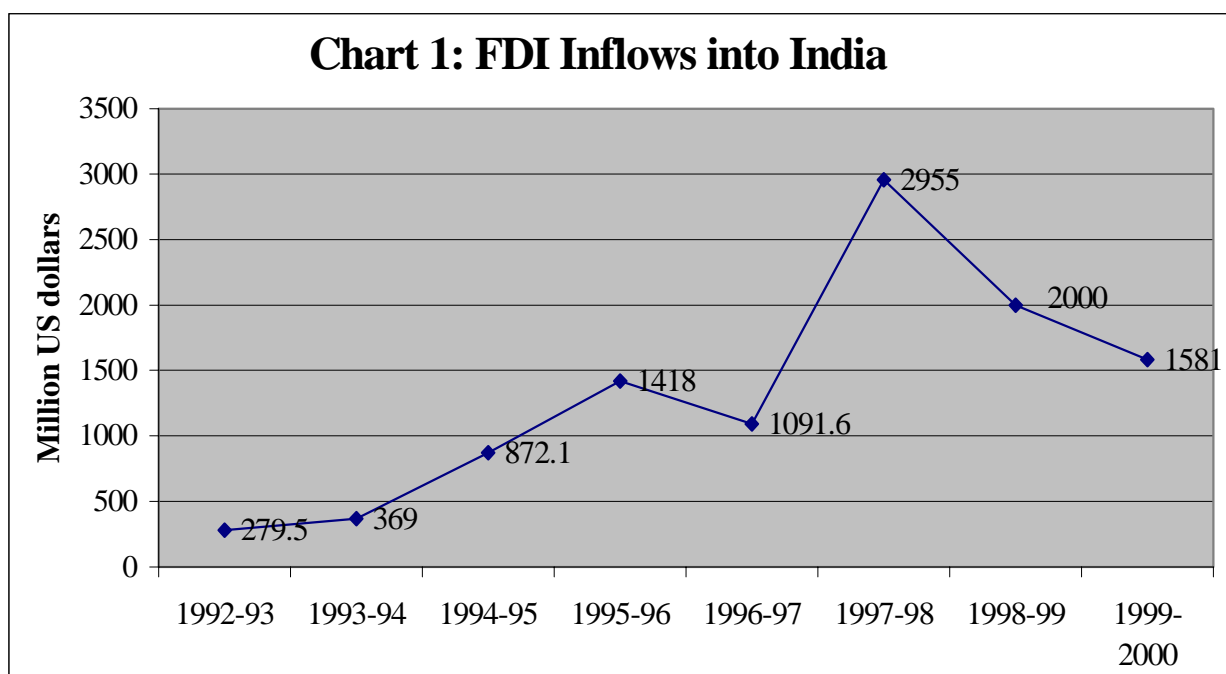
Nature of Financial Collaboration	Regulations for NRIs/OCBs/PIOs	Regulations for Foreign Investors
48 High Priority Industries	100% Equity, Repatriable	51% Equity Repatriable
Export/ Trading	100% Equity, Repatriable;	51% Equity, Repatriable;
Hotels/Tourism	100% Equity;	51% Equity;

Nature of Financial Collaboration	Regulations for NRIs/OCBs/PIOs	Regulations for Foreign Investors
	Repatriable;	repatriable
9 Infrastructure industries		74% Equity; repatriable
3 Mining industries	100% Equity; repatriable	50% Equity; repatriable
EOUs/FTZs	100% Equity	100% Equity
Sick Industries	100% Private Placement	
Telecommunication	49 to 51% Equity	49 to 51% Equity
Power	100% Equity	100% equity
Medicals/Hospitals/	100% Equity	
Shipping/ Oil Exploration/Oil Refining/ Fishing	100% Equity	
SSI Industries	24% Equity; repatriable	24% repatriable
Housing/ Real estate/ Infrastructure	100% Equity; repatriable	
Investment in New/ Existing Issues by companies	30% Equity; other than agriculture	30% Equity; other than agriculture
22 Consumer Goods Industries	Permitted	Permitted
Investment in IPOs of Unlisted Companies	100% Equity	100% Equity
Domestic Air Carriers	100% Equity	100% Equity
Banking Operations	40% Equity	20% equity
Non Banking Financial Companies	51% Equity	51% Equity
B to B e-commerce	100% equity	
Entertainment Electronics	51% Equity	51% Equity
Source: Compiled from Machiraju (2002), p17.9-17.11		

Have the above initiatives and policy measures been able to attract FDIs in the country at an accelerated rate? Where do we stand vis-à-vis other economies and regions of the world? These are some of the questions that we seek to answer in this part of the paper.

FDI Inflow into India:

As per the Annual report of the Reserve Bank of India, the FDI into India has gone up from a mere \$280 Million in 1992-93 to as much as \$2955 Millions in 1997-98. As per the Report the FDI inflow into India has, however, declined to \$ 1581 Million in 1999-2000 [Chart 1].



A quick analysis of the country-wise data on FDI inflows into India shows some interesting trends. The inflows from the United States, which was around 8% of the total inflows in 1992-93 has averaged around 22 % by the year 1999-2000 whereas investments flowing from Japan has remained at an average of about 9% throughout the period. Interestingly, however, FDI inflows from United Kingdom, Switzerland, Singapore, Hong Kong and France have simply disappeared from 1996-97 onward. Similarly, there

have been substantial decline in FDI inflows Netherlands, Germany and Other countries [Table 3]. The above did, however, coincide with massive increase in FDI inflows from Mauritius. This may not be a sheer coincidence as there is a strong possibility that investors from these countries might be channelling their investment through Mauritius, a tax haven. If this is so, the country needs to speed up its efforts in making its Avoidance of Double Taxation Treaties more effective

Table 3: Country-wise FDI Inflow into India (Percentage)

Country	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99	1999-2000
Australia	3%	3%	2%	4%	0%	0%	0%	0%
Germany	8%	10%	4%	7%	15%	5%	6%	2%
Hong Kong	1%	2%	2%	7%	0%	0%	0%	0%
Italy	0%	0%	0%	0%	0%	1%	6%	8%
Japan	9%	10%	11%	4%	9%	6%	12%	9%
Mauritius	0%	0%	0%	0%	0%	30%	30%	30%
Netherlands	8%	13%	5%	4%	11%	5%	3%	3%
Singapore	1%	3%	3%	4%	7%	0%	0%	0%
South Korea	0%	0%	0%	0%	0%	11%	4%	0%
Switzerland	13%	6%	3%	2%	0%	0%	0%	0%
Taiwan	2%	17%	16%	5%	5%	0%	0%	0%
USA	8%	27%	23%	14%	22%	23%	23%	23%
Others	47%	10%	30%	49%	31%	18%	18%	2%
Total	100%	100%	100%	100%	100%	100%	100%	100%

Computed from data from RBI Annual Report 1995-96 (p72) and 1999-2000 (p108), as quoted in Machira

Industry-wise analysis of RBI data on FDI inflows into India reveals that amongst the major industry groups that have benefited include chemical and allied products, computers, domestic appliances, electronics and electrical equipments, engineering, finance, food and dairy products, pharmaceuticals and services sector [Table 4].

Table 4: Sector-wise FDI Inflow into India (Percentages)

Industry	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99	1999-00
Chemicals & Allied products	17%	10%	16%	9%	15%	9%	19%	8%
Computers	3%	2%	1%	4%	3%	5%	5%	6%
Domestic Appliances	6%	1%	12%	0%	1%	0%	0%	0%
Electronics & Electrical Equipments	12%	16%	6%	9%	7%	22%	11%	11%
Engineering	25%	9%	15%	18%	35%	20%	21%	21%
Finance	1%	11%	11%	19%	11%	5%	9%	1%
Food & Dairy Products	10%	12%	7%	6%	12%	4%	1%	8%
Pharmaceuticals	1%	13%	1%	4%	2%	1%	1%	3%
Services	1%	5%	11%	7%	1%	11%	18%	7%
Others	25%	21%	19%	24%	14%	24%	13%	35%
Total	100%	100%	100%	100%	100%	100%	100%	100%

Source: Computed from data taken from RBI Annual Report 1995-96 (p72); 1996-97 (p116) and 1999-2000 (p107); as quoted in Machiraju (2002)

Interestingly, the FDI inflows to domestic appliances and food and dairy products have recorded decline over the years while services sector, chemical and allied products, banking & finance have become relatively more attractive destinations. However, what deserves special mention here is that the FDI inflows do not seem to be coming to those industries which have been made more attractive through policy interventions by the government. Does this mean that the FDI inflows into the country are guided more by the market and profitability conditions than the incentives offered by the government? The RBI data analysed as above are important to comment on the status of FDI inflows into the country but they do not provide global perspective to the whole issue. More over, the above data also do not match with the data on FDI flows to India as available in the international publications. Yet, the issue is important enough to warrant such discussion. I, therefore, turn to the analysis of FDI data as available through World Investment Report 2001.

Relatively speaking, the FDI inflows in the world economy as a whole have tremendously increased from about 6 percent of the GDP in 1980 to over 17 percent. In case of the developed economies the FDI inflows have gone up from 4.7 percent to 14.5 percent during the same period. But the largest beneficiaries, as expected, have been the developing countries, particularly the Asian economies. It may be noticed that the FDI inflows to Asia has recorded a massive increase in relative terms as the same has increased from 14.2 percent of the region's GDP in 1980 to over 30 percent by 1999.

Compared to this, India seems to have made only marginal progress. The FDI inflows to India, which was about 0.6 percent of its GDP when the process of economic reforms and liberalization started in 1991, has increased to about 3.6 percent of its GDP by 1999. It may look impressive, but compare this with what happened in China, the only other economy of the size and complexity of India, our achievements become immediately dismal. China, during the same period has been able to attract FDI inflows equivalent to about 31 percent of its GDP [Table 5].

Table 5: FDI Inflows and Outflows as Percentage of GDP					
FDI Inflows as Percentage of GDP					
Host Economies	1980	1985	1990	1995	1999
World	6	7.8	9.2	10.3	17.3
Developed Countries	4.7	6.1	8.4	9.2	14.5
Developing Countries	10.2	14.1	13.4	15.6	28.0
Asia	14.2	17.4	15.4	17.3	30.2
China	3.1	3.4	7	19.6	30.9
India	0.7	0.5	0.6	1.7	3.6
FDI Outflows as Percentage of GDP					
Host Economies	1980	1985	1990	1995	1999
World	5.3	6.4	8.6	10.2	16.7
Developed Countries	6.4	7.5	9.8	11.8	19.0
Developing Countries	0.9	1.6	2.6	4.8	10.1
Asia	0.7	1.0	2.7	5.7	13.6
China			0.7	2.3	2.5
India	0.1	0.1	0	0.1	0.2
Source: UNCTAD, 2001;					

With FDI inflows of \$3.4 Billions in 2001, India received only a fraction of the total FDI inflows in the world that stands at whopping \$735 Billions. But in terms of growth that the FDI inflows have recorded since 1994, India seems to have surpassed all economies of the world. The analysis shows that during the period 1994 to 2001, while Asia recorded an increase of 171 percent in its FDI inflows, the growth recorded in the FDI inflows to India was in excess of 764 percent during the corresponding period. This is more than the growth rate recorded in the China. This may sound quite impressive but this is only a half-truth. As the initial FDI inflows to India have been very low, some increase in the FDI inflows resulted in a very high index number. This is also corroborated by the fact that the share of India in the World FDI inflows has remained at 0.5 percent, the level at which it was in the year 1995. FDI inflows to India as a percentage of FDI inflows to developing countries has in fact declined from 1.1 percent in 1995 to 0.7 percent in 2001. The

only point of solace in this regard could be the fact that the FDI inflows to India as percentage of FDI inflows to Asia has gone up from 2.8 percent in 1995 to 3.3 percent in 2001 [Table 6].

Table 6: FDI Inflows into India: Some Key Indicators

Host Economies	1989-94	1995	1996	1997	1998	1999	2000	2001
Index Number (Base 1989-94=100)								
World	100	165	192	239	346	537	635	367
Developed Countries	100	148	160	198	352	605	733	367
Developing Countries	100	190	256	314	316	373	403	344
Asia	100	200	251	285	254	265	381	271
China	100	257	288	317	314	289	292	336
India	100	544	658	917	663	547	588	864
Relative Share in %								
Share of Developed Countries in the World	68.5	61.5	57.1	56.8	69.8	77.2	79.1	68.4
Share of Developing Countries in the World	29.8	34.2	39.6	39.2	27.2	20.7	18.9	27.9
Share of Asia in the World	18.8	22.7	24.5	22.4	13.8	9.3	11.3	13.9
Share of Asia in the Developing Countries	63.2	66.4	61.9	57.2	50.8	44.9	59.7	49.8
Share of China in the World	7.0	10.8	10.4	9.3	6.3	3.8	3.2	6.4
Share of China in the Developing Countries	23.4	31.6	26.3	23.6	23.2	18.2	17.0	22.9
Share of China in Asia	37.0	47.6	42.6	41.3	45.8	40.4	28.4	45.9
Share of India in World	0.2	0.6	0.7	0.8	0.4	0.2	0.2	0.5
Share of India in Developing Countries	0.3	1.1	1.2	1.3	0.5	0.3	0.2	0.7
Share of India in Asia	1.0	2.8	2.7	3.4	2.7	2.2	1.6	3.3

Source: UNCTAD, 2001 & 2002

The above analysis poses the billion-dollar question as to whether India would be able to attract significant sum of FDI in higher education in near future? Given our track record for FDI in economic sector, it appears that though India is fast catching up, it still lags far behind and there is no significant edge that India has in the higher education, which will attract the MNI lock stock barrel. Even globally, though the services sector receives 63.3% of the total FDI inflows, the share of health and social services is no more than 0.1% percent.

Strategies and Further Programme of Action:

In the light of the above discussion, a decision will have to be taken at the national level by considering the pros and cons of FDI in higher education. Should the balance fall against the FDI, the government can simply invoke the existing provision of higher educational institutions

being non-profit activities and insists that all those who want to enter into the field must adhere to this guiding principle. This will effectively deter all FDI in higher education in the country. However, if the opinion is in favour of attracting FDI in higher education, sufficient conditions will have to be created to make India as an attractive destination. This can be done by offering incentives and by removing restrictions³

Most importantly, if the government decided to open the higher education sector for FDI, the national interest will have to be protected at all cost. To this end, I would like to suggest the following policy measures:

1. **Minimum Investment Norms:** MNIs tend to minimise their country risk by entering into low or medium investment options such as franchising, course-ware renting and recruiting local students for their home campuses. Obviously this would not serve the national purpose of the host country for this will effectively defy the investments in the sector. To curtail, such tendencies, the government must encourage FDIs in high investment modes in the form of establishing full-fledged campuses of the foreign universities. A minimum investment ceiling of over Rs. 150 Crores may be prescribed as a precondition for consideration of application;
2. **Capital Adequacy Norms:** MNIs also tend to raise their capital from the host capital market to take advantages of low-interest rate. This puts the host country into a disadvantaged position. It may be prescribed that the 75% of the investment requirement shall be met from foreign capital market;
3. **Academic Diversification Norms:** MNIs tend to enter into high demand markets. They may like to offer courses that sell like hot cake. This can be limited by exerting a precondition that the foreign campuses would be as diversified as the campuses of the Indian universities. For every market oriented course, they would be required to introduce at least two courses in humanities and social science discipline;
4. **Equitable Access Norms:** Higher education in India is seen as a merit good and principle of equity and social justice requires that access be provided to all sections of the society irrespective of their caste, colour or creed or purchasing power. It may be made mandatory that at least 20 percent seats in all courses shall be provided to the socially and economically backward and deprived sections of the society in a subsidized mode;

³ Please see Qamar, 2003 for a comprehensive list of incentives and restrictions that have been empirically proved

5. **National Curricular Framework Norms:** The foreign entrants would be required to adhere to the national curricular framework so that the standards and quality of education is not compromised.
6. **Financial and Academic Disclosure Norms:** Close control and monitoring of the higher educational institutions has not been effective in the country. The country must gradually move to guideline based self-regulated mechanism. This could be effectively discharged by prescribing financial and academic disclosure norms for all institutions of higher education and the MNI should not be an exception.
7. **Common Regulatory Framework:** The foreign investors in higher education must be subject to the same rules and regulations, which are applicable to the local institutions. Thus the foreign participants must fall under the jurisdiction of and would made to adhere to the requirements of such regulatory agencies as the UGC. AICTE. NCTE etc;
8. **Ethical and Professional Norms:** Stringent norms for professional conduct and ethics be prescribed for all institutions of higher education. On the top of the list should be a ban on aggressive use of marketing communication, advertising and media campaign.

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GATS and Cross Border Supply (Mode-I) in Higher Education: Strategies and Implications

Madhulika Kaushik

The world of international trade in services is at an important juncture in its journey towards progressive liberalization and lowering of barriers to cross border trade in services. While the domains of services like banking, insurance and even professional services like medicine are easy to comprehend and visualize in terms of sheer economic impact, the case for educational services is more comprehensive in its scope looking at its socio-economic role, its definition as a public good and the wide ranging implications of decisions taken now on commitments under the GATS. As things stand today, majority of nations are yet to make any formal commitments under most service segments and education emerges as the sector where least commitments have come forth. There is, worldwide, considerable uncertainty about the intended coverage and the actual implications of GATS in the Education Sector and diverse opinions about the potential risks and supposed benefits of the same. The most important issues that continue to trouble the sensibilities of both the academia and the policy makers are those concerning equity and access the question of quality assurance, mutual recognition of qualifications, accreditation, governance and credit transfer. This paper after briefly outlining the implications of GATS for the higher education sector in general, comments upon the same in context of the ODL sector and tries to identify the strategic response of the sector in respect of the unfolding developments of the GATS scenario. As the session is limited to the discussion on Cross Border Supply of Education, the paper is focused primarily on MODE I. The paper for the purposes of segmenting the focus of discussion has been divided in the following sections:

1. GATS Scope and terminology of Cross Border Education – What is at Stake
2. Higher Education Sector The specific nature of the service and implications
3. ODL System Issues and specific concerns under the GATS
4. The Road Ahead Possible scenario

1. GATS-Scope and Terminology – What is at stake?

The term “Trade in Services” has been in use for so long as tradable services have. The term, however, is relatively recent in usage so far as the educational services are concerned, therefore, open to both semantic and perceptual interpretations. This is primarily due to the largely public

good nature of educational services and the implications arising out of possible commodification of that public service. Consequently the term trade in education services has been open to interpretation, depending upon the vantage point from which education per se is being viewed. While the nature of higher education as a service will be discussed in the next section, a brief understanding of the terms and their usage in the context of trade in services under GATS is in order.

The World Trade Organisation (WTO) literature explaining the GATS underlines the enormous scope of this agreement. The GATS is the World's first multilateral trade agreement on trade in service at the global level as well on investment in services intended for international trade. This agreement in essence covers all services, including banking, insurance, health and education services, and seeks to ensure "legally enforceable rights to trade in all services". As per the WTO literature, it covers not just the cross border trade but every possible means of supplying a service including the right to set up a commercial presence in the export market¹. The agreement includes both horizontal (i.e. binding on all sectors) as well as vertical (i.e. binding on some sectors) obligations for the signatory states and has the character of the international law enforceable by the Dispute Settlement Body of the WTO².

According to the terms of the Agreement only when a service is "provided entirely by the government in the execution of government authority", can it be excluded from the preview of GATS. This is usually used as a comforter for most educationist in the public education domain, who are led to believe that public education in India is therefore, outside the pale of GATS. The definition in the agreement however is further narrowed down by adding as exclusive only "any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers".³ In essence, to be excluded, a country's higher education services must be completely financed and administered by the state without any private financing or commercial purpose, and not be in competition with any other service provider. Higher Education in India, today, like most countries presents a mix of public and private funding and represents education that is supplied in competition with other service suppliers one of which is the government. Some experts argue that charging of fee as it implies investment from private (read learner families) would qualify a given public education to be defined as inclusive

¹ WTO, "The design and underlying principles of the GATS" www.WTO/services/services.htm. April 2001

² ESIB policy paper on Commodification of Education www.esib.org/issues/gats.php

³ Articles XIX and XII as cited in Scott Sinclair "The WTO Third Ministerial meeting, Seattle, Washington, Nov.-Dec. 1999. Briefing Paper series: Trade and Investments, CCPA, Ottawa, Nov. 24, 1999.

for the purposes of GATS. This could imply that the ability of national governments to regulate and subsidize all public education can under GATS, be challenged as an unfair trade barrier to private and overseas providers.

The extent to which Education sector can be made open to international trade is, however, a matter of individual choice of nations. In this sense, GATS is in part, a voluntary agreement, where countries, through request offer negotiations, can decide which specific sector they will agree to bring under the GATS rules.

Two basic principles under the GATT however have been carried into and adapted in the GATS. These are the principles of the most favoured nation and national treatment. The first principle implies that any GATS members country, which has in exercise of any bilateral or other agreement has granted favourable treatment to another country regarding export or import of educational services would have to grant the same treatment to all other GATS signatories.

The national treatment principle, on the other hand, stipulates that foreign providers of education operating in a given country would get the benefit of the treatment “at least as favourable as the national provider in the same market.” This essentially translates to the fact that if a government in the exercise of its role as promoter of education provides funding subsidies or any other support to is “National” educational institutions, the same benefits would have to be extended to overseas providers operating in the country.

The scope of GATS in education has been provided for across the following five sub sectors:

- Primary education includes the normal notion of primary education and pre-school education services, but excludes child day care services and adult literacy programs.
- Secondary education services include high school education, technical and vocational education, and school-type services for handicapped students.
- Higher education includes two distinct groups: one relates to the teaching of practical skills in post –secondary, sub-degree technical and vocational education institutions and the other deals with more theoretical educational services provided by universities, colleges and specialized professional schools.

- Adult education refers to all education services that are not in the regular school and university systems. This includes both general and vocational subjects, literacy programs, and any education services delivered by correspondence or broadcast. It excludes any programs delivered through the regular education system.
- Other education services include anything not mentioned elsewhere, with the exception of recreational matters⁴.

The WTO has clearly also identified four main categories of trade in education that receive protection under GATS

- a) *Cross border supply of the education service* from the territory of one member country to another member country -- This is the mode where neither the students nor the providers cross national borders, only the educational programmes do. Distance education, internet based education, any type of testing service and educational materials which can cross national boundaries and be offered in another member country have been included under this mode. (Mode –I)
- b) *Consumption abroad by citizens* of one member country on the territory of another member country. (Mode-II) This is currently the most prevalent form of trade in educational services today.
- c) *Commercial Presence* refers to the presence of an overseas foreign provider in a host country; and would include foreign universities and other providers setting up campuses in the host country. (Mode-III)
- d) *Presence of natural persons* enables the form of trade resulting from the mobility and the ability of people to move between nations to provide any or all of the categories of educational services identified above.(Mode-IV)

Under the ongoing agenda of GATS, in each of the above categories barriers to trade have been identified by the WTO, with the stated objectives of working towards progressive removal of these barriers as part of the GATS agenda. An active contributor to this exercise was GATE (Global Alliance for Transnational Education) which is primarily an organisation of private, for profit education providers⁵. The kind of restrictive practices identified by WTO provide a pointer to the activities that would be under pressure for being brought under change. As this paper is restricted to MODE I, only the barriers in respect of this mode are mentioned below:

⁴ Marjorie Griffin Cohen “The World Trade Organisation and Post Secondary Education: Implications for the public systems Hawke Institute working paper Series No. 1, 2000, also available on www.bclf.bc.ca/social/globalisation/cohenpaper.html

⁵ *Ibid*

Barriers related to cross border supply of a service (in respect of Education) include

- a. Restrictive use of national satellites or receiving dishes
- b. Restriction on (the use of) certain types of educational materials
- c. Needs tests

It must be pointed out that countries often in respect of the socio-economic realities and cultural fabric of their own country, insist upon their own research and educational material as being suitable for their learners and as information germane to their own citizen. The preference of governments for nationally produced materials, could be viewed as a barrier to trade in cross border supply of services, under the existing rules.

Similarly, usage of national satellite time, preferential chunks and preferential rates to national, public providers of education is liable to be viewed as a trade barrier and under national treatment clause can be asked to be extended to the overseas provider on terms, "at least as favourable as those to the national provider."

In summary, therefore, if we recount on what is at stake in higher education trade under GATS, we must seriously assess the scope of the agreement emanating from the terminology used. The case of public education vis-à-vis privately funded, for profit education coming under the purview of the GATS and the implications thereof need to be seriously evaluated. It must be noted that it is the WTO Disputes settlement Panel which makes the decision on what is considered a public service not the member states themselves. The voluntary nature of GATS however allows national governments to protect the sectors that they do not want to open up to foreign provision, positively committing only those services and the sectors within, which they want to enter into GATS negotiation. So far only a limited number of countries have given their commitments. Table 1, giving the key dates and actions of GATS, provides a summary of the actions taken or proposed to be taken in the education sector.

Table 1: Key dates and actions of GATS

Date	Action	Notes for Education Sector
1995	GATS founded; initial commitments	44 countries (if you count the EU as one country) made commitments to Education. Of these 44 countries, 21 included commitments to higher education.
End of 2001	Negotiating proposals due	Four countries – USA, Australia, New Zealand and Japan submitted a proposal outlining their general positions related to commitments in the education sector. Japan's proposal was remarkably different as their statement highlighted quality assurance, recognition of credentials and distance education as key issues that required further consideration.
June 2002	All requested for access to foreign markets due	To date, only 34 out of the 145 WTO members have tabled their requests. It is not mandatory for a country to publish their tabled requests for market access in other countries. However, there were leaks and it is known that the USA made substantial requests of other countries to remove barriers to enable greater access to higher, adult and other education services.
March 2003	Offers from each country to provide access to their domestic market due	As of the end of April 2003, only 20 countries had submitted their offers. Argentina, Australia, Bahrain, Canada, European Union, Hong Kong, Iceland, Israel, Japan, Liechtenstein, New Zealand, Norway, Panama, Poland, Paraguay, South Korea, Switzerland, Taiwan, the United States and Uruguay. It is not necessary for a country to publish their offers and only 8 of the 20 countries have done so to date. These countries are Australia, Canada, European Union, Japan, Liechtenstein, New Zealand, Norway and the United States.
Up to January 1, 2005	Countries can submit offers and requests until end of Doha round	The end data of this round may be extended given the significant delays in the tabling of both requests and offers. Further rounds will occur. It is important to note that offers made during the negotiation phase of the Doha round are conditional up to the conclusion of the negotiating round and at that time, final offers are included in a country's schedule of commitments.

Note: Table taken from “The Observatory of Borderless Higher Education 2003” Dr. Jane Knight “GATS, Trade and Higher Education – Perspective 2003 – Where are we”?

The table clearly shows that education has not been one of the priority sectors under GATS. Only a very limited number of members have given their commitments. While the GATS has been in operations since 1995, there is no mechanism to assess the impact of such negotiation on a country’s development, member countries therefore do not have adequate data to make judgments on the basis of ensuing impacts of commitments.

Moreover under the existing rules, not only decision have to be taken in a situation of inadequacy of information, commitments once given under GATS cannot be modified or withdrawn, without offering compensatory adjustments in other commitments, which then must be extended to all member states of the WTO⁶. Countries specially developing countries, therefore need to evaluate their decisions on commitments very cautiously as any mistake under the GATS commitments can indeed be very costly to a country.

2. Higher Education – The Specific Nature of the Service and Possible Implications

Education for ages has been understood as a public good, a basic service catering to fundamental human needs. It has been, by societies access the world, identified as the key to human and societal development that prepares people for challenges in life and paves way for development through gender, racial, ethnic and economic equality. It is expected to open doors of opportunity to individuals allowing them to realise their true potential, enhance individual productivity and thus contribute as a catalyst to economic development of any given society. The entire debate among majority of academics and other educational providers on the one hand and defenders of GATS on the other, stems from the formers’ definition of Higher Education as a public good and therefore an obligation of government to equitably provide to its citizens opportunities towards access to this education as opposed to definition of education by the latter as a lucrative market. While among the teacher educators, student and a large number of citizens, education is understood as a public service the main aim of which is non-commercial, the WTO has, in its various documents seen to pursue a different construction in the matter. The systematic use of the term ‘education

⁶ Maria Riley “International Gender and Trade Network Secretariat – March 2002

market’ is indicative of the commercial approach that underlines the entire approach under the negotiations.

After commenting upon the role of education as a promoter of economic growth, the WTO points out that in the last ten years up to 1997, the public spending assigned to education has remained more or less stagnant as a percent of GNP in most countries of the world⁷. While the demand for higher education has grown exponentially, public funding for the same has not kept pace with the demand, heralding the entry of private, for profit provision of education, albeit as in the case of India, under the framework of state determined regulatory mechanisms. Worldwide data shows that in a majority of countries the public sector has remained the main source of funding of higher education and even though private participation has increased considerably in the last decade, the private sector also indirectly utilises public funding through subsidy provisions for providing education in a variety of ways.

The higher education sector worldwide is going through rapid, dynamic and irreversible changes. New modes of teaching learning methods and application of information and communication technologies in the face of burgeoning demand for higher education, have transformed the way higher education was traditionally offered and received. Distance Education and online education have rapidly moved centre stage and mainstreamed their presence not as complementary but alternative, viable forms of educational provision. Education systems have reacted to the developments in the consumer expectations and enabling environment by diversifying their syllabi, structures and the ways of delivering education. Inadequate governmental infrastructure has necessitated private sector participation and newer types of establishments ranging from societies and trusts to corporate houses and industry association have emerged, providing non-university but accredited courses, programmes, in-service packages and opportunities for customer training and development. The entire gamut of distance and open learning developments has revolutionised and perhaps changed for ever the world of higher education in the sense of creating large scale access to quality higher education for vast multitudes. In many countries, including India, learners involved in ODL programmes in the public domain and those enrolled in other non-traditional domains whether public or private contribute, a significant proportion of student population in higher education (20%+ in India). In all these countries, however, higher education is primarily publicly supported, offered as a

⁷ World Trade Organisation, Council for Trade in-services, Background note by the Secretariat on Education Services, September 1998 as quoted in the WTO and the Millenium Round – What is at Stake for Public Education – EI/PSI Joint Publication. www.ei-ie.org/pub/english/epbeipsiwt.html

not-for-profit kind of service to pursue the goals of overall educational development of the country.

The GATS perspective is however a little different. Education sector, typically, in the background papers by the WTO, has been viewed as a market, education as a tradeable commodity and the world of deficit education provision as the land of opportunity for those with trade surplus in the education sector.

Internationally education today is a trillion dollar industry. Education industry groups have been for the past decade, been very active in pressurising the governments, through the instrumentability of trade bodies like the WTO to push for more deregulation in the field of education services, to progressively open up the national markets to foreign, private education initiatives. GATS as noted earlier, covers the educational services of all countries, where educational system are not a matter of exclusive public domain. Since total public monopolies in education are rare in occurrence, almost all of the world's education, across primary, secondary, tertiary and adult education sectors, including support services like testing, training and consulting fall under the purview of GATS. In the context of developing countries, while the need to genuinely benefit from international collaborations and cross border provision of education is both critical and apparent, the need to be vigilant about national interest is equally so. Most developing countries see both benefits and risks associated with globalisation of trade in education. To quote the Minister of Education in South Africa "it is important that we remain vigilant to ensure that increased (International) trade in education does not undermine our national efforts to transform higher education and in particular to strengthen the public sector so that it can effectively participate in an increasingly globalising environment". Trade consideration cannot be allowed to erode the public good agenda for higher education". Parochialism, however, he said needs to be avoided if the country is to benefit from international collaboration in education.⁸ Muhammadbhai, VC, University of Mauritius contends that while foreign providers have helped to provide courses locally, at a much lower cost than traveling abroad, they do not share the same national values and priorities as their primary objective is to provide education in the most cost effective and efficient way for them⁹. The genuine concern is that developing countries may be flooded with foreign and private providers delivering professional, profitable subjects

⁸ As quoted by Linda Ensor, Business Day. 1st Edition, March 6, 2003 and cited by Dr. Jane Knight in GATS Trade and Higher Education – Perspective 2003 – The Observatory on Borderless Education, International Strategic Information Services, UK.

⁹ Muhammadbhai, G. (2003) "Globalization and its implications on Universities in Developing Countries" in G. Breton and M. Lambert (eds.) Universities and Globalisation: Private Linkages, Public Trust, UNESCO, Paris, France.

and creating serious competition for local Universities, while leaving the “non profitable” subjects the arts humanities, basic sciences, etc. for the local Universities to provide, which as public providers they cannot deny to do as these are vital to the society’s balanced development.

India presents a unique case for both tremendous advantages and tangible risks emanating from increased trade for educational services. Services now account for nearly two-thirds and a major share of the FDI flowing from the developed to the developing countries goes to services sectors such as telecom, financial services and tourism. Despite a vast pool of skilled human resources and people who are increasingly mobile, India has still not realized its potential in the world trade in services except for IT.

According to WTO data, in 12 years between 1990 and 2002, export world-wide of services rose by 190.8% to \$1540 billion. About 60% of service trade is concentrated among the 10 developed countries of the world. India has a 1.3% share in global services trade (0.78% in goods) and holds the 21st rank (30th in goods) as an exporter. As an importer of services, India’s position is 27th in the world.¹⁰

With a large pool of trained manpower, strong established network of educational institutions in the Higher Education sector, both ODL and conventional, India is in strong position to benefit from export and import of higher education. The availability of the human resource pool and huge experiential resources in providing good quality higher education would place India in advantageous position “ both economically and politically by exporting education, especially to the developing countries that have substantial Indian diaspora. On the other hand local provision of education may benefit from international collaboration with quality institution and competition with them. If, however, the influx of foreign, for-profit private providers dominates, with degrees of doubtful quality or with inadequate academic rigor, quality of education being provided may actually be eroded.¹¹ Another issue of grave concern in higher education is that when under the GATS regime, international, reputed providers enter the country with high quality programmes, the educational access to these will be open to be privileged few with the economic means to pay for such education. It has been argued that overseas providers are more likely to be interested in education which prepares learners for specific profession and therefore guarantees entry to a given profession. If access to such education is limited to those with means, the very purpose of education to create a

¹⁰ India to Showcase Services Potential. Times News Network, ToI 7th August, 2004.

¹¹ Powar, K.B. (2002) WTO, GATS and Higher Education: An Indian Perspective. Paper prepared for the meeting convened by the Association of Commonwealth Universities, Perth, Australia.

more equitable society is put to test. Added to that, if in the globalised trade regime, the transnational corporations start placing an undeclared preference for “transnational” qualifications, the case of equity in educational opportunity and employment opportunity will be further jeopardized.

Higher Education is to a significant extent still publicly supported in India. There is however a progressive withdrawal of public support for higher education in preference to the support for compulsory primary and secondary education, with understandable reasons. GATs in its wake is likely to affect the private and public domains in higher education differently. As the relative willingness and flexibility to benefit from the primarily economic benefits of franchising, twinning programmes or simple import and joint provision of degrees is much higher in the private sector, than the far more regulated public (read University) sector, the private sector will be in a position to respond more positively to incoming cross border provision by joining the bandwagon and riding on it. As the private sector starts getting increased investment from overseas providers, the government support to public education is further likely to reduce as a proportion. The public provision of higher education then may start languishing in comparison to a dominant and profit earning private sector, which may create for them an economic surplus but may not be necessarily occupied with concerns of national interests and development.

The opportunities in cross border export in higher education, on the other hand, exist and can be capitalised upon. India therefore is in a position of being both the beneficiary and open to risks of globalisation on account of its position as a huge consumer market for all types of educational services, the aspirations of which at present are not being adequately met by the available infrastructure.

Implication of GATS in higher education include the following:

1. As the article 1.3 states that only those services supplied in the exercise of government authority and those not in competition with other service providers are exempt from GATS, are Universities likely to come under its purview. If yes, we need to seriously assess how many of the hundreds of university are capable of effectively facing the onslaught of reputed foreign providers with quality programmes, given the penchant of Indians, for “foreign” qualification. As the overseas providers are likely to be unable to match the price tags afforded by the Indian Universities, two distinct classes of learners would emerge. Those with capacity to pay will flock to the overseas provider with prices to match the quality offered. Those that want quality education but cannot afford to pay would fall back upon the

local universities. The desirability of this scenario in the context of equity, is open to question.

2. A more serious implication emanates from Article 6.4 of GATS, in respect of a host country's ability to create and implement domestic regulations in defining qualification, quality standards and licences. The article provides that it must be ensured that "qualification, requirements and procedures, technical standards and licensing are not more burdensome than necessary to ensure the quality of services". The terms "more burdensome than necessary" and 'quality of service' have not been defined as this is one of the Articles that are still 'under development'. It is also not clear who would determine whether a regulation is 'burdensome' or not, and the article, at least as of now, puts a question mark on governments' prospective ability to regulate some of the above concerns once the GATS commitments are signed.
3. Another serious concern stems from the huge proliferation in the international markets of the diploma factories and canned degrees. These already exist in abundance and will only receive a fillip under the liberalised international trade climate. There is a widespread apprehension that the regulations that exist for licencing of such foreign providers or that are likely to be promulgated will be seen as barriers to trade and would come under pressures for dilution. The role of the government in protecting the gullible masses against these canned degrees and the ease of acquiring them is likely to become a crucial factor. It is also important to understand the capacity of national governments to establish and monitor vigorously the systems for registering new private overseas providers. It is interesting to note that even public providers when they cross borders and offer education on a for profit basis, get to, either for tax reasons or other economic considerations, acquire the status of a private provider. Regulations and policies to govern large number of such providers is a concern on which the governments would need to pay serious attention.
4. Mutual recognition of qualification across national borders is another implication arising out of GATS commitments. If the programmes developed in one of the country are offered in another member country, what, if any, are the mechanisms, put in place for recognition of such qualification, specially if the overseas provider is either not an accredited institution in his own country or does not offer the same programme in his own country?
5. The last issue that merits consideration is that of quality assurance mechanisms to be put in place to assess and ensure the quality of

cross border provisions of education. While internationally accepted standards like the ISO-9001 certification and the Balridge awards are popular among international education providers, their exact translation to the needs of quality desired by the requirements and concerns of a national populace may not materialise. While national quality assurance and accreditation mechanisms exist in most developing countries, it is yet to be tested whether they will be allowed to be applied to the foreign providers in toto or would be seen as yet another non tariff barrier, impeding the unrestricted flow of trade in educational services.

3. ODL and the Cross border supply in Higher Education: Issues and Concerns

Most ODL systems do not consider national boundaries as significant barriers to delivery as far as their programme offers are concerned. The most successful ODL systems have been those that have actively, though a spirit of collaboration and networking and harnessing of technology as an enabler, sought to create access for their programme wherever interested learner population are and these could be across national boundaries too. Most of the Mega Universities in the world today, including IGNOU, have significant cross border presence facilitated by the existing regulatory framework in the region, both domestic and in host countries. It may, however, be appropriate to note here that the Open University's most successful cross border offerings have been where the offer was made in response to an invitation by host country educators on account of unmet higher education needs in that country or wherever there are large non-resident or expatriate Asian population looking for desirable Indian qualification from reputed and established provider. To illustrate IGNOU's own example, the university operates in the cross border supply mode in 29 countries, offering its programmes through the instrumentality of local partner institutions.

The broad framework for partnership arrangement is settled through a Memorandum of Understanding that defines the obligations of IGNOU as well as of the partner institutions. Briefly, the MoU envisages the Partner Institution to assess the demand for specific programmes in the country, admit students based on eligibility criteria prescribed by IGNOU and seek IGNOU's approval for the admitted students, collect the prescribed fee, distribute the course materials and assignments, identify academic counsellors for different courses and seek approval of IGNOU to appoint them as counsellors, collect and despatch completed assignments to IGNOU for evaluation, schedule and conduct counselling sessions and make arrangements for the conduct of the examinations. IGNOU on its part ratifies the admissions made by the PIs, courier all the course materials and assignments, scrutinized the applications of the

prospective academic counsellors and accords approval, conducts orientation programmes for the approved counsellors with IGNOU's academics as resource persons, evaluates assignments and term-end examination papers and awards qualifications. The fee collected from the students is shared equally between the Partner Institution and IGNOU.¹²

IGNOU is looking forward to active collaboration with other global education providers for developing professional and vocational programmes. One such collaboration led to the development of an information technology programme at Bachelor's level. EdExcel, U.K. based education provider makes 55% of the curricular inputs available to the Bachelor's programme in Information Technology, and the remaining 45% is developed by IGNOU.

Yet another approach that IGNOU is currently following relates to offering of programmes with a curriculum common to specific regions of the world. Under the sponsorship of Commonwealth Secretariat and COL, and in collaboration with South Asian Open Universities, IGNOU evolved a common curriculum for a Certificate Programme for Laboratory Technicians. Another step in this direction is implementation of a common curriculum in Asian countries of the Commonwealth for the Certificate Programme in Youth in Development. Again under the sponsorship of COL, IGNOU in collaboration with the Open Universities of Bangladesh, Pakistan and Sri Lanka has developed two post-graduate programmes with common curriculum – Commonwealth Executive Master of Business Administration (CEMBA) and Commonwealth Executive Master of Public Administration (CEMPA). Here again IGNOU worked closely with Commonwealth of Learning which provided course material for a number of courses. Development of common curriculum is the first step towards attaining educational equivalence across the countries and comparable global standards.

Under the GATS regime, however, it is apparent that once commitments are made in higher education and consequently distance education, the existing ODL system in the country will need to brace itself to international competition in its own backyard. On sheer economic consideration and suitability to Indian learning needs there is not much room for concern, as few providers will be able to match the sheer width and range of the ODL educational provision in the country, at the value proposition at which it is presently on offer. The chief issue of concern, as noted earlier are on account of the provisions related to the most favoured nation and the national treatment. As the national

¹² Material taken from the IGNOU document on Internationalisation of Higher Education: The IGNOU experience prepared by Dr. V.V. Raghavan, International Division, IGNOU after permission from the author.

provider also responsible for the promotion of quality open and distance education, IGNOU has taken a very positive role in supporting the cause of distance education in SAARC region and the African region by allowing them very favourable rates for licensing of material and offer of programmes. Such 'favoured nation' positions, are likely to come under stress as unfair trade practice, and either would require to be extended to all member countries or be withdrawn from these regions as well in pursuance on the MFN clause of the GATS rules.

The implication arising out of national treatment is far more serious. If the national and state providers of distance education in the country are considered inclusive for the purposes of GATS, it has grave fallouts for the government support being provided for the national providers. The funding support and preferential treatment in terms of facilities like a satellite time and transponder space; use of national broadcast facilities and receive sites, as well as preferential rate structure for use of communication infrastructure be seen as "non-tariff barrier to open competition by overseas providers and a treatment 'at least as favourable' can be demanded by such providers. That is, if we agree to give our commitments on the higher education sector, including distance education.

Some other issues of concern specific to cross border supply of ODL programmes including the following:

1. *Customisation vs. standardisation* – One of the chief reasons for cost effective operations in distance education has been the development and delivery of high quality standardised materials to large number of learners. These materials in their country of origin have been carefully developed after a astute assessment of learner needs and expectations as well as the concerns of the employer groups. When the distance learning programmes are offered across national borders, the issue of customisation to local needs, would either have to be met by the provider institution (which is a desirable cause of action in the interest of quality assurance) or be provided by the local host institution as part of the terms of the agreement. While 'localisation' or adaptation to host country realities is needed in order to maintain local relevance and credibility of the material, the costs to be incurred in countrywise customisation may rob most distance education providers of their cost advantages emanating out of economies of scale.
2. *Quality and Governance Issues* – The quality of ODL systems is a function of both the technical quality and the process quality components in the education service delivery. While the quality of the

materials provided being a tangible component can be strictly monitored by the provider institution, the quality assurance and monitoring of local delivery of learner support systems across multiple transnational locations, by different local partners operating under varying socio-economic, regulatory and infrastructural environments, will present a serious challenge to ODL providers. Learner feedback mechanisms and information flows, sensitive to the local learner and institution profiles will have to be put in place, which is a task of significant magnitude if substantial cross border supply across varying country profiles is to be made.

As far as the Indian response to the incoming cross border supply in ODL education is concerned, quality assurance mechanisms and licencing systems used for enabling the local providers to operate responsibly would need to be extended to the incoming overseas providers. The concerned regulation for foreign ODL providers are still at a formative stage and yet to be tested on the GATS firmament. In the possible event of presenting higher education for listing our commitments under GATS, it would be premature to comment upon the ability of the national legislation to effectively regulate the operations of the overseas providers under the liberalised trade regime.

Pricing

Cross border supply of ODL programmes in terms of pricing would need to be responsive to local realities in terms of the learner populations' capacity and willingness to pay. Developmental consideration so far have sometimes guided the pricing decision for developing countries, specially by IGNOU, which as noted earlier may come under pressure under the most favoured nation requirement of GATS. Another reality likely to emerge is on account of unleashing of competition in overseas markets from a variety of providers, both private and public. As education is a highly intangible service, value propositions in terms of service provided would not only have to be justified against 'customer' expectations but also against competitive offers of all hues and shades. An established brand identity, acknowledged reputation for quality programmes and services and internationally accredited certification, will serve to insulate ODL providers from direct price competition but there is significant amount of groundwork to be done for accomplishing some of the above outcomes.

Credit transfer and mutual recognition of qualification

As cross border supply of education by multitudes of providers proliferates across the world markets, systems and mechanisms to facilitate credit transfers of courses/programmes completed through ODL systems would need to be worked out across the countries, often with varying local regulations, between the overseas ODL providers and

the local educational systems, to enable learners to access higher learner opportunities. Similarly mutually accepted provisions for mutual recognition of qualification for the purposes of further education or employment will need to be put in place. Looking at the sheer diversity of educational systems and qualifications, the task seems onerous but is something that is a pre-requisite of responsible international trade in higher education.

Tutor training

As noted earlier, the quality of ODL system is highly dependent upon the quality of learner support services, a key component of which is the quality of tutors/counsellors available in the host country, to deliver the ODL programme. It is in the interest of ODL providers engaged in cross border supply to take on the responsibility of continuous tutor training as the quality of its own programme delivery and consequently, its stake as an overseas provider cannot be allowed to be undermined by a lower order of tutor service quality than desired by the provider. The mechanics and operationalisation of continuous tutor training across the different countries and varying tutor profiles is again something that requires investments in terms of onerous effort, resources and time, but is too critical to be left to local partners or outside agencies.

Equity issues

One of the solid foundations on which the tremendous success of ODL systems is built is the equity of access and opportunity that these systems have been able to provide. In the post GATS scenario, if the commitments on higher education do get listed by the developing countries, some with their own well developed ODL systems, the likelihood of overseas providers rushing to these countries owing to the large size of their markets is high. While it is unlikely that sizeable local learner population will be attracted to highly priced overseas provider, where high quality, value for money provision of higher education is available through national and state ODL providers, high prices, specially by internationally, renowned provider may actually be preferred by those with capacity to pay. As multiple overseas providers are likely to operate in large markets offered by developing countries with varying pricing options, the market forces and paying capacity would often be able to determine access to certain types of programmes eroding the contention of equity of educational opportunity for all.

The issues discussed for ODL systems under GATS in this section are over and above those discussed as implication under the higher education section as those continue to impact ODL systems as well, while the ones mentioned above are specific to the distance learning system. The larger areas of prospective work for ODL institutions that needs to be address are mutually acceptable frameworks for quality

assurance and governance, internationally acceptable norms and mechanisms for seamless credit transfer and recognition of qualifications within and across educational systems, besides the need to address issues emanating out of the provisions for national treatment for most favoured nation clauses.

4. The Road Ahead

Annexure 1 gives an idea of the type of commitments already made by various countries under the GATS agreement so far. India is yet to table its commitments on education and therefore, both educators and the government have time for serious introspection before such steps are taken.

As things stand today, the GATS for Education services applies only to the 40 odd countries which have agreed to its provisions. Most of these have, through provisions, chosen to limit the scope of both national treatment and the most favoured nation. As nations and institutions prepare for the next rounds, the corporate educational paradigm is getting more tangibilised. The paper drafted by the Korean Labour Ministry for the APEC summit provides a pointer to the shape of things to come – “The emphasis on education for itself or on education for good members of a community without a large emphasis on preparation for future work are no longer appropriate”.¹³ The long held perceptions of education as a building block for democratic culture or a key determinant of betterment of humanity no longer seems to be popular perceptions, at least among those interested in exploitation of the seemingly unlimited market opportunity in the international trade of education services. Let us summarise the developments/factors which would propel the prospective or existing signatories towards export of education services under Mode I. In a nutshell these drivers would include:

- Motivation to leverage the benefits of experiences earned in higher education in domestic markets and benefit from it economically.
- Generation of greater economic returns.
- Establishment of international brand equity and repute.
- Extension of market opportunity through collaboration and networks in host country.
- Strengthening of institutional position, both domestically and internationally.

¹³ As quoted in Dr. Jane Knight “GATS, Trade and Higher Education – Perspective 2003 – Where are we”?

The 'drivers' for import of education under Mode I, on the other hand would include:

- Unmet demand for higher education in the domestic market.
- Creation of access to specialised skill-based knowledge and or training not presently available within the country.
- Development of human capital and saving on national resources presently been drained out of the country under the consumption abroad mode.
- Desire to upgrade the quality of higher education through alliances with acknowledged world leaders in a given domain.
- Desire to improve quality of domestic institutions through international competition.
- Desire to access trade related development projects and funds as a consequence of importing training tied with such projects.

The motivation of different countries and stakeholders within the countries vary across a wide range. Most developed countries which are trade deficit countries like the US and Australia, but have a tradeable surplus in education services, have little to lose and much to gain from a progressive liberalisation of trade in such services on account of the access they will get to vast untapped markets in the developing and transition economies. Developing countries on the other hand need to carefully balance their national interests with opportunities and risks emanating out of the GATS imperative. While exemptions are available to governments in the form of limitation that can be defined at the time of tabling one's commitments, educators and public stakeholders need to carefully assess their options before articulating national commitment. Dr. Jane Knight in her report has succinctly¹⁴ pointed out the following:

- GATS which has existed since 1995, will not go away.
- The (primary) purpose of GATS is to reduce or eliminate barriers to trade.
- The fact that education is one of the 12 primary services under GATS is not going to change.

¹⁴ *Ibid*

- GATS is a new and untested agreement with certain key articles still under development, which include those dealing with subsidies, domestic regulation and government procurement.
- Each round of negotiations will create increase pressures for further liberalisation of trade in education services, though individual countries have the choice to define the degree of market access to their various subsectors, which ranges from no access to complete elimination of barriers.
- Exemption to both most favoured nation and rational treatment are allowed.

As emphasised in the beginning of this paper, GATS as the first multilateral agreement on both trade in services and investments, is still an evolving, largely untested agreement. There are undefined articles and disciplines under development, and consequently a spate of unanswered questions. Does the GATS scenario predict that national quality and accreditation mechanisms need to be complemented with international ones or a Pan World, globally accepted framework for the same would be the need of the future? If so what is likely to be the shape of localised, country specific requirements of human resource development in view of given national/ regional realities? The socio-economic impacts of the liberalisation proposed under the GATS scenario for a given country are yet to be assessed comprehensively. While the national governments with accountability to their subjects will have the highest burden of evaluating the risks and benefits to be able to define national commitments, educators and academics have the obligation to utilise this time to become better informed about the possible outcomes based on a sensitivity 'what if' analyses of alternative scenarios, so as to be able to contribute to the thinking and deliberations about the future course of action and general direction in which to move ahead on the GATS agenda.

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As quoted in Dr. Jane Knight “GATS, Trade and Higher Education – Perspective 2003 – Where are we”?

Ibid

Annexure 1

Summary of Specific Commitments: Education Services

Countries	Primary	Secondary	Higher	Adult	Other
Australia		X	X		X
Austria	X	X		X	
Bulgaria	X	X		X	
Congo RP			X		
Cost Rica	X	X	X		
Czech Republic	X	X	X	X	X
European Community	X	X	X	X	
Gambia	X			X	X
Ghana		X			X
Haiti				X	
Hungary	X	X	X	X	
Jamaica	X	X	X		
Japan	X	X	X	X	
Lesotho	X	X	X	X	X
Liechtenstein	X	X	X	X	
Mali				X	
Mexico	X	X	X		X
New Zealand	X	X	X		
Norway	X	X	X	X	X
Panama	X	X	X		
Poland	X	X	X	X	
Rwanda				X	
Sierra Leone	X	X	X	X	X
Slovak Republic	X	X	X	X	X
Slovenia		X	X	X	
Switzerland	X	X	X	X	
Thailand	X	X		X	
Trinidad and Tobago			X		X
Turkey	X	X	X		X
USA				X	X
Total Number of Schedules	21	23	21	20	12

Trade in Education Services under GATS with particular reference to Mode 3 Commercial Presence and Mode 4 Presence of Natural Person*

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Abstract

This paper addresses some of the infirmities related to education services under the General Agreement on Trade and Services (GATS) and addresses the issue of education services under the Mode 3 and Mode 4. Developments in education in the last decade particularly in relation to trade in education across the boundaries provide the most useful context to think and rethink on the role of GATS. It is now evident that the boundaries in education services are falling fast and education is moving from a defined national context to a globalised education context. This paper recalls some of the debate on education services under the GATS but also raises the issue of GATS becoming irrelevant in fast changing education scenario. While the world moves towards economic integration, education services are poised to go in the same way. No barriers are likely to work as the emerging scenario will be determined by consumer choices.

Understanding GATS

After World War II, the major powers worked together to liberalise trade, focusing on industrial goods in eight rounds of multilateral negotiations under the General Agreement on Tariffs and Trade (GATT). The GATT agreement began in 1947 with a small group of the world's major trading powers; by 1974, it had expanded to 128 members. In 1995 during the Uruguay round, the GATT was replaced by the World Trading Organisation (WTO). At that time a decision was taken to broaden the talks to include trade in services and expand participation. That was done under the umbrella of the WTO through the General Agreement on Trade in Services (GATS), set up as the framework for negotiations about trade in services. GATS is a voluntary agreement designed to facilitate trade in services. Once a nation becomes a member of GATS, it is subject to *general obligations* of GATS and makes specific

* Views expressed in this paper are of the Author and in no way reflect the views of the organization the Author works for.

commitments regarding *market access* and *national treatment* in specific sectors (such as education). There are costs to not signing GATS; a country outside the agreement risks not having equal access to those markets and losing favourable or unfettered access to markets in critical export areas. Currently 144 nations have agreed to participate in GATS, 44 have agreed to include at least one sector of education under GATS.

How does GATS Works?

The GATS consists of three core components. The first is a framework of rules that lays out the general obligations governing trade in services, which it does in much of the same way as the GATT does for trade in goods. It provides for disciplines on transparency (of considerable importance given the regulatory density of service trade), most favoured nations (MFN) treatment, market access and national treatment. The framework is still incomplete, and rule making efforts on certain issues, such as emergency safeguards, subsidies, government procurement and perhaps most importantly on domestic regulation, are still underway.

Second, the GATS includes annexes on specific service sectors as well as the movement of natural persons.

The third element consists of the schedules of commitments detailing the liberalization commitments of each WTO member.

The 144 participants agree to abide by the basic general obligations of GATS members (eg most favoured nation treatment) and make commitments for specific sectors to eliminate or reduce tariffs and other impediments to trade in services. There is a hierarchy of obligations with general obligations applying to all members, followed by specific commitments specified by each member. National commitments serve as the basis for negotiations between member countries that are signatories to GATS. The two level of commitments are:

General Obligations. These obligations apply to all services. For example *most favored nations* treatment requires that members extend equal treatment to each other's service suppliers. Thus GATS members are entitled to conditions of access equal to the most favourable given to any other nation.

Specific Commitments. These refer to member country commitments to *market access* and *national treatment* for specific sectors. Each Government identifies these in its *Schedule of Specific Commitments*.

Government commitments to date have ranged from a few to 120 of the approximately 160 service sectors.

National Treatment: Treatment of GATS partners in the same way a nation's own citizens are treated.

Market Access: A negotiated market commitment in specific service sectors. It may be subject to various limitations such as number of service suppliers, values of transactions, total number of service operations, total number of people that may be employed in a particular service sector, and limits on participation of foreign capital. Members are free to tailor sector commitments as they wish as long as limits are stated at the outset. They may encounter pressure from other members regarding such limitations. Each member may mark additional commitments to provide access beyond the listed measures.

Trade in Education Services

Although trade in higher education is not a new phenomenon, the inclusion of education in the General Agreement on Trade in Services (GATS) has introduced new issues for the higher education sector. One of the unexpected consequences is the growing use and perhaps unconscious adoption of trade language and trade policy frameworks in higher education. One of the most important key word which is being used in a variety of ways and contexts is internationalization. Under the GATS internationalization is defined as "the process of developing/implementing policies and programs to integrate an international, intercultural or global dimension into the purpose, functions and provision of post-secondary education." While it has a very broad connotation which has led to different interpretation, in an objective way it refers to processes, any may be outcomes, that add a international dimension to education in terms of increasing access to courses/programs/projects which consumer consider the best for their education requirement. One of the negative interpretation is the one that sees internationalization as a means to increased export. It is true that the export earnings from education have increased significantly, these are the off suits of internationalization rather than a means of internationalization.

Education services are one of the least committed area under GATS negotiation. Education is also one of the subject under the GATS where a significant confusion exists on what it ought to be. While negotiations are still continuing, the world of education is fast changing notwithstanding current negotiations. And the way these changes are taking place may reduce the GATS negotiation to a mere formality. The most potent change is the capacity of new education paradigms to

respond to global challenges in the economic outlook necessitating demand for appropriate skills and the societal change which now regards investment in education as a socially good.

The last decade was witness to fast growing trade in education and particularly professional higher education covering all modes of education. There were innovative models of delivery for a range of courses covering private and public institutions and encompassing developing and developed countries. While the scope and canvass of trade in education services is big, it will continue to grow as a consequence of demand for quality and as the societies will continue to enhance their investment for human capital formations. It is now amply realized that education is the most potent pull to shape human capital formation and there no barriers to acquire new professional skills needed to realize the fruits of economic integration.

Some of the new education paradigms in trade in education include:

1. Emergence of corporate training as a provider which emanate from the need felt by big multinational players to train their employees in new skills across the world and in doing so include other customers willing to undertake these training. This not only compensate cost of training but also result in estimating the new skill demand areas
2. Institutions run on 'for profit' basis delivering customer focused training in modular form to meet specific demands of education skills.
3. Virtual universities, representing ICT based distance learning.
4. Traditional universities going offshore to deliver courses in the form of self governed campuses as well as through partnerships with local providers.
5. Traditional universities developing for profit channels on delivering courses on for profit basis, some time seen as a mechanism to cover the cost of delivery of public funded not for profit courses.
6. New examples of public-private partnerships

The current negotiations are taking place in an environment characterized by very poor commitments for liberalization of education services. There are examples of over cautious approaches amidst strong opposition particularly from the propagandists of public education particularly in OECD countries. And not to mention strong opposition by the anti GATS student lobbies.

The extent to which GATS will have an impact on public services such as education is controversial. GATS comes into the equation when countries decide to allow foreign private suppliers to provide services.

Opponents of GATS are convinced that it will limit a state's sovereign powers to protect human health, and ensure provision of good quality, affordable education services. Specifically, they fear that progressive liberalization of services under GATS will force WTO Members to privatise education services currently provided by governments and that these changes will be irreversible. They are also concerned that the capacity of states to regulate education-related services will be eroded.

The counter-argument stresses that GATS allows WTO Members to decide for themselves which sectors will be liberalized and to define country-specific conditions on the form that liberalization will take. Some WTO Members have already indicated they will not be requesting or offering commitments on education services in the current negotiations. Those states that do proceed are not obliged to respond positively to any particular request. Nor is there any requirement for reciprocity. Moreover, the Doha declaration specifically reaffirmed the right of Members to regulate or introduce new regulations on the supply of services. Defenders of GATS therefore argue that national control over policy and practice has been enhanced.

The political dynamics around GATS may be somewhat different from that affecting the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement. Many developing countries are keen to welcome foreign direct investment and to secure access for their professionals. Many developed countries, on the other hand, are nervous about the political and economic effects of liberalization on publicly-funded education services.

GATS is a complex treaty and it does not lay down minimum standards as TRIPS does. Rather, it takes shape through the process of negotiation. Overall, there is lack of empirical data on the level of international trade in education-related services, as well as on the effects of liberalization in specific countries. Finally, trade in services is increasing in any case (often through bilateral negotiations), thus making attribution to GATS very difficult.

Barriers in trade of services

Obstacles to trade in education that have been generally cited are:

- Legislation that discriminates against foreign providers (for instance requirement of majority local ownership)
- Licensing requirements unique to external providers
- Accreditation or quality assurance standards that differ from those for local providers, little or no access to local accreditation
- Custom duties for educational material that crosses borders
- Taxes (in excess of local competitors' on earnings or limitations on repatriation of profits.
- Government red tape for foreign providers
- Citizenship requirements in order to teach or offer certain subjects.
- Telecommunication restrictions on foreign access to the Internet or phone service.
- Visa and other travel restrictions on foreigners that affect education.

Modes of Trade in Education Services

Four methods of trade supply used in GATS are: Mode 1: "cross-border" supply focuses on the service crossing the border, which does not require the consumer to move physically. Examples in higher education include distance education and e-learning. Mode 2: "consumption abroad" refers to the consumer moving to the country of the supplier, which in education means students pursuing all or part of their education in another country. Mode 3: "commercial presence" involves a service provider establishing a commercial facility in another country to provide a service. Examples in higher education include branch campuses or franchising arrangements. Mode 4: "presence of natural persons" means persons traveling to another country on a temporary basis to provide service, which in education would include professors or researchers.

Mode 1 and 2 are generally free from debate and controversies with the exception of the issue of recognition of qualification across the borders. It is Mode 3 and Mode 4 which are subject to debate.

Mode 3 Commercial Presence

This Mode under the GATS is defined as the supply of a service “by a service supplier of one member, through commercial presence in the territory of any other member.” GATS speak for foreign direct investment. In more operational terms this Mode deals with foreign education institutions of one member country willing to provide education services in the territory of other member countries through establishment of their independent campuses or in partnership of local education provider.

Currently there are regulations and/or restrictions which govern the operation of such institutions and are designed to suit the local specific situations. These are also meant to check the deterioration in education standards and to make sure that the consumers have a faith in the credibility of the education system. But at the same time there may be restrictions that simply work as deterrent for foreign education institutions to operate in a country.

GATS considers government monopolies to be a barrier to service trade. Many nations have systems of higher education that are largely, if not exclusively, a governmental function. Strict adherence to the principles of full service liberalization could make abandoning governmental monopolies of higher education an imperative, leading the way to substantial privatization and withdrawal of government support from public institutions of higher education.

Another barrier to service trade delivered by a commercial presence is subsidization of local institutions. It is hard to think of any nation that does not engage in substantial subsidization of local institutions of higher education. In some part to compensate the taxpayers who provide the funding for this, often these state universities provide reduced tuition to in-state residents.

Full adherence to service liberalization in this case could well mean that domestic governments would have either to extend the full range of subsidization to foreign affiliates, or cut off these subsidies for native institutions. This would fundamentally change the system of higher education. These imperatives make the Mode 3 of trade in education services of fundamental importance as it has far reaching consequence.

Some of the prime issues on which member countries may not make any compromises are:

- Public funding to institutions of higher education will continue
- No government will be willing to subsidise the operations of a foreign education provider unless considered deemed fit in the nation's interest.

These technicalities apart, 'commercial presence' is an important aspect of contemporary education landscape and irrespective of GATS or no GATS, its scale and coverage will continue to increase.

But at the same time commercial presence of foreign education institutions is being opposed as it is being seen as an onslaught on the country's education system. It is also being termed as cultural imperialism.

These are misconceived notions and are far from the reality. These also negate developments in education emanating from the demand for quality skills. Integrated economic world, globalised economies are some of the jargons of economic liberalisation that also have relevance to education. It is now evident that the consumer as well as employers' emphasis has shifted from the notion of recognition to skill. Skills are linked to productivity and the employers are looking for personnel who can contribute to economic gains through increased productivity levels.

Consumers of education today have profound influence on education system. They in a way dictate what education ought to be and look forward toward providers who satisfy their aspirations. It is in this context that the structure of education system, quality of their products and their market values are the key factors.

The divide between developing countries and developed countries is clear. While developed countries have consolidated their education system and have made changes to respond to global demands in a competing framework, developing countries remain vulnerable as the quantitative expansion has not been accompanied by quality improvements. Curriculum remain stereotyped, teaching dominates learning and innovations in curriculum transaction are rare. As a result graduates of a large number of institutions remain unacceptable for the employers. In a nutshell, competition and quality are the key words which define the success or failure of an education institution.

The Mode 3 of trade in education services is to be analysed in this context. There is a strong space for the commercial presence of foreign education institutions in another territory particularly in developing countries and India being no exception. This space is far less in developed countries. While in developing countries it is the question of filling a vacuum, in developed countries it the question of a variety. Developments of the past decade have amply demonstrated this.

The issue therefore is whether Mode 3 needs to be left to market forces or there is a need for control. It needs to be a combination of two. If it is left to market forces alone, then it is likely to a free for all situation and the quality of product will be lost in the foreign brand. Consumer ultimately suffer. On the other hand if there are controls and controls, then it become a deterrent for education institutions to operate.

An ideal situation will be where governments provide a favourable climate for the operations of foreign educational institutions but at the same time it is ensured that:

- The courses have a universal acceptability
- There is no differentiation between the courses at the parent campus and offshore campus.
- The courses have been accredited by an acceptable accrediting agency.
- The institutions have capacity and infrastructure for the delivery of courses offshore.

While the negotiations are on, it may be pertinent to briefly comment on the regulation of the All India Council for Technical Education for operation of foreign universities. It is said that these regulation are deterrent for foreign universities. One may agree with this formulation to the extent that it involves a process that may be construed as a barrier but at the same time it provides a framework for checks and balances.

Mention may also be made of the Australian Governments National Protocols for Higher Education Approval Processes which provide a framework for all education institutions, domestic and international, to provide higher education courses in Australia. It defines benchmarks, which need to be met by any provider (www.mceetya.edu.au/pdf/protocols.pdf).

Mode 4 Presence of Commercial Person

A large number of educational workforce is active in a country other than their own. The only direct attempt to regulate this migration trend at a global level is through GATS. Many analysts believe that only the GATS has the regulatory potential to facilitate temporary, short-term movement of individuals for work (as distinct from permanent migration) in an orderly, systematic, and mutually agreed upon manner.

However, agreement on GATS approach to this aspect seems more difficult. There is even resistance to talk of liberalizing the education under GATS because some countries suspect others of seeking changes for their own benefit. A significant debate centers on a rather small portion - regulated movement referred as Mode 4, by which academics enter another country's job market to provide services there.

Why Mode 4?

In recent years, the world's post-industrial economies have gone through considerable changes in education spectrum. A thrust on new curriculum and a greater use of information, communication technologies are creating a demand-supply continuum. The development of high-speed communication and lower-cost transport services underpins an increased movement of educational professionals.

Economic analysis shows that developed-country populations are aging, their levels of education and training are rising, and that these countries are facing a growing scarcity of qualified educational professionals. This demand is felt more in areas like ICT.

The limited Mode 4 commitments that have already been made pertain almost totally to highly skilled personnel, in particular to the category of intra-corporate transferees who are basically an adjunct to foreign direct investment. These commitments, at present, have limited utility for developing countries because their "comparative advantage" lies in low and medium-skilled services. Thus, the less skilled have been markedly marginalized in trade negotiations. And this is true for education as well.

In this context, expanding short-term individual movement of educational professionals such as that provided for by Mode 4 has been labeled "key" to the ability of developing countries to tap a competitive advantage in services. Greater commitments on market access could allow developing countries to compete more effectively in cross-border trade, especially when it is not linked to Mode 3 "commercial presence" through ownership or lease of premises abroad to provide a service.

The Mode 4 Debate

Within the GATS, Mode 4 is unquestionably the most politicized of all the four modes of service supply across sectors. Today, national immigration policy is not only about the individual composition of a single state; it is also an economic policy that is directly linked to increased global trade capacity. Mode 4, despite being originally conceived to deal with trade, not migration, is therefore at the epicenter of national and international debate on migration issues.

At the same time, of all the modes, the fourth is the most poorly understood. Basic factual errors and common misconceptions prevent a meaningful comprehension of the economic and social implications of Mode 4 and, for that matter, the GATS. As a recent study by the Organization for Economic Cooperation and Development (OECD) states: "If the economic impact of Mode 4 is difficult to assess, it is essentially because the definition of this mode, and the instruments used to measure it, are very imprecise. In fact, Mode 4 is a fear of the unknown."

In case of India, as well as other countries, scale of Mode 4 is not large. But as we make progress in the sphere of education without borders, the scale may increase but will never be at comparisons with Mode 3.

Looking at the present scenario, India does not have a significant presence of educational personnel from across the borders which is largely linked to attached wage structure. On contrary India has been a source for providing education manpower to developed countries. It is unlikely that India will become a place for education professionals to come on short term assignments. Although it may change if the education institutions are allowed to operate on international standards and are allowed to determine their fee structure to recover the cost of education. That may generate an upsurge in demand.

Even Globally Mode 4 has hardly grown since the GATS took effect and remains insignificant. Although this may have substantial welfare gains particularly for developing countries like India.

Potential to facilitate permanent migration. A strong debate centres on the capacity of temporary migration to turn into permanent immigration and that is a concern of the developed countries. While in terms of GATS Mode 4 does not imply migrating on a permanent basis nor seeking permanent entry to the labor market of a host country, it does have a potential to lead to permanent migration. But it is one of the possible outcomes and in any case can not be stopped unless there are serious restrictions which may not be in line with GATS. Through a process known as "scheduling," each country makes commitments not to impose

greater restrictions on the supply of services in the future than what they have already specified. A recent OECD study states that, in practice, most WTO member countries have scheduled commitments ranging from several weeks up to 3-5 years, depending on the countries, sectors, and professions involved.

Chance of increased unauthorized migration. Critics of Mode 4 liberalization feel that more movement of this kind will facilitate unauthorized migration. However there is not much scope for unauthorized migration with respect to education personnel. The OECD's analysis suggests that Mode 4 has the inherent capacity to be an effective instrument of controlling immigration, if used effectively and if the host country adjusts its visa regimes and other regulations to include cross-border service provisions and short-term foreign workers' schemes. Currently, what is undisputed is that many countries do not have special visa categories for short-term business visitors. Service providers, therefore, are forced to choose between a tourist or a permanent migration visa.

Potential to create unfair competition for local population. Protectionists fear that a flood of Mode 4 movement will drown local educational professionals. The way education landscape is changing across the world, it is unlikely that restrictions will be able to curb the temporary movement of education professionals. International competition is growing and best institutions will be inclined to hire faculty globally. It is the question of the survival of the fittest. From a competition point of view, Mode 4 poses no problems as it is merely another way of supplying a service in a global economy.

Potential to cause brain drain. Concerns have been raised that Mode 4 would unleash brain drain. These fears, however, are unfounded, especially in the case of education where the country of origin can actually benefit from new skills acquired upon the academics return. In fact Mode 4 may emerge as a solution to brain drain, rather than a principal cause of the malady. Under GATS by definition, a education professional's length of stay is limited and therefore it is up to the home country, then, to produce sufficient inducements for its most highly valued academics to return

Mode 4's Future

There are divergent views on the future of Mode 4 under GATS negotiation in education and the progress is too slow. In the event that some progress is made, the proposal for a GATS entry visa seems likely to gain most momentum. India initially suggested the GATS visa, or at least, a special sub-set of administrative rules, to fall within the overall rubric of national immigration policy and regulation. Developing

countries will seek to clarify Mode 4 administrative procedures, introduce work permits and obtain the mutual recognition of qualifications.

Between now and the next WTO Ministerial Conference in 2005, member countries have been urged to continue working on outstanding issues so that new commitments can be formally scheduled in the GATS. If this is to happen, difficult concessions from both developed and developing countries will be necessary. Developed countries will have to allow sub-contracting schemes to include the movement of academics with lower qualifications and formally distinguish between temporary and permanent movement. In turn, developing countries will almost certainly be forced to further liberalize access for the categories of intra-institutional transferees and business visitors.

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Paradoxes and Pitfalls in Internationalisation of Higher Education under the WTO Regime of Trade in Services: A Critical Analysis of Mode III and Mode IV

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Introduction

The economic theories of *gains* from international trade on the one hand and the functionalist theories of education *for development* on the other cannot be said to have any common concerns, though both occupy their own respective spaces in development discourses as broad fields of inquiry and policy.⁴ This dichotomy has persisted, strangely, despite the same international donor agencies like the World Bank and others influencing national policies in both education and trade in the world for decades. However, with the General Agreement on Trade in Services (GATS) under the multilateral framework of World Trade Organization (WTO) beginning to cover in its fold educational services, it is time that educationists and economists started talking to each other, revisited their knowledge paradigms, and sorted out the paradoxes that came to surface in the race towards globalisation. It is in this context that the development of multidisciplinary paradigms must be accorded due priority if experts in education and economics were to reach a common platform and make positive recommendations for policies which were not skewed towards partisan groups or regions in the world. This short paper is an attempt to highlight the issue of international trade in higher education through offshore services, keeping in mind the peculiarities of education from other conventional services like telecommunication, insurance, banking and so on.

Modes of Trade in Educational Services

Before I proceed on to the dichotomies in the established theoretical constructs, however, let me very briefly delineate what 'offshore education' means under the GATS mechanism that is being

⁴ Traditionally, so far trade has hardly ever been perceived to be the domain of education, excepting cursorily in economics of education when it comes to the problem of brain drain, an area which itself is not a prime territory of scholarly or policy oriented explorations for the mainline educationists (Khadria 1999a). Similarly, traces of educational concern could only be tangentially seen, if at all, in international trade theory when the not-so-significant case of skilled labour migration as a case of movement of factors of production between countries is discussed.

evolved in the WTO regime. The WTO has identified four main modes of trade in educational services under GATS:

1. **Consumption Abroad** involves mobility of students for education overseas, a predominant form that now comes under trade in educational services. The rising competition for foreign students, due not only to economic reasons but also because of the aging structure of the population in the developed countries, has been accompanied by initiatives in the marketing of higher education institutions. Such initiatives, sponsored by governments, universities, or private firms, include dissemination of information on the institutions recruiting students. For example, the so-called "education fairs" are one of the most common mechanisms used by governments and institutions, either directly or through education marketing agencies (WTO 1998).
2. **Cross-border Supply** mainly involves distance learning, any type of testing service, and supply of educational materials through the internet as well as postal services for crossing the national borders. Ample demand for higher education, triggered by the needs of the labour market, and the emergence of new technologies are rapidly expanding the market share of distance learning through cross-border supply.
3. **Commercial Presence** is a more recent form in which the education providers provide education services through setting up of facilities abroad. It involves actual presence of foreign educational investors in a host country through direct foreign investment and joint ventures. This includes foreign universities setting up courses or entire institutions in another country. The so-called "twinning arrangement" for franchising also comes under the category of trade in educational services through commercial presence.
4. **Presence of Natural Persons** refers to the "freedom" for people to move between countries to provide education through temporary stay, not well defined but roughly for six to ten years period.

Five levels of education have been classified for trade, viz. Primary Education, Secondary Education, Higher Education, Adult Education, and Other Education not classified under any of the other four (WTO 1998, Annex I).⁵ It is, however, the last three that have drawn the maximum attention as tradable education, the other two still being restricted to domestic providers. Of the four modes of trade in educational services, 'consumption abroad' has existed for centuries when students used to go abroad for further studies. In fact, it has been

⁵ These are based on the UN Provisional Central Product Classification (CPC), and the activities under each category are defined through reference to CPC codes. The definitions in CPC do not differ substantially from those approved by the UN Statistical Commission in February 1997 as CPC Version 1.0 (CPC Rev.1).

tagged along with brain drain of professionals migrating for employment. 'Cross-border supply' is also not utterly new; it has existed at least for decades in the form of distance education, excepting that the modes of communication have changed with new technology in recent years, and the question of mutual recognition of degrees and diplomas has become more prominent. 'Presence of natural persons' is also not new because again brain drain inherently implied movement for employment in jobs abroad; excepting that the scope here is limited to movement to and presence on foreign soil exclusively for (a) the purpose of providing a service rather than for producing goods, and (b) temporary stay rather than permanent residency. Thus, what is new in terms of modes of educational services in a foreign country under GATS of WTO is supply through commercial presence. Although commercial presence of foreign entities of education providers (Mode III) itself may lead to cross-border supply (Mode I), presence of natural persons (Mode IV), and even part-consumption abroad through student exchange programmes (Mode II), in the case of higher education, it may be said that Modes I and IV entail what I would call 'embodied internationalisation' of education whereas Modes II and III lead to 'disembodied internationalisation' of education (Khadria 2002b). It is because of such reclassification that a discussion on Mode III and Mode IV would be equally applicable to the other two modes, which can be clubbed with these two modes respectively.

Dichotomy between Endowment and Utilization of Resources

Although there is a lot of talk about poverty and poverty alleviation of late, one can distinguish between two types of poverty facing the world today: Poverty of People, and Poverty of Nations. The challenge before education has so far been limited *mainly* to fighting the poverty of particular sections of people within a country - whether through International Development Targets, Jomtien, or Dakar goals. The significant departure from these in the 21st century is the *growing recognition* of the role of higher education in determining the comparative strength (and therefore, comparative poverty too) of nations.⁶ Strangely, though not surprisingly, this development has also led to some kind of a rush amongst the developed countries, so to say, for overseas recruitment of IT professionals, doctors, nurses, and last but not the least teachers in developing countries, quite significantly in India lately. It is in this context that the 21st century could be perceived as ushering an epoch of knowledge as power, and therefore change of values and rethinking in policy (World Bank, 1998).

⁶ See DFID (1997, 2000).

In certain parts of the world, however, there is a paradoxical separation, sometimes leading even to conflict, between (a) the *endowment* of the factor inputs required for generation of scientific and technological knowledge, and (b) the possession of the generated knowledge (embodied as human capital) as *usable* intermediate 'factor' of production *for final goods and services*. To understand this paradox, one may have to first go back to the basic question that the theory of international trade has to answer in terms of what determines trade. In other words, why do countries gain by trading? The textbook answer in economics goes back more than 150 years - in the theory of comparative advantage, one of the oldest and still unchallenged theories in the knowledge paradigm of economics (Sodersten 1970). According to the Ricardian version, which is the oldest version of this theory, trade offers each of two trading countries the possibility of specializing in the line of its comparative advantage and then exchanging for those in which it has a comparative disadvantage. Thus, the basic argument of Ricardo and the classical school of economics is that each country can consume more by trading than in isolation with a given amount of resources. The Ricardian theory is, however, based on productivity differentials of only one factor of production - labour, across the trading countries. Modern trade theory, on the other hand, offers another explanation for causes of trade: The Heckscher-Ohlin theory, for example, says that trade is caused by the fact that different countries have different factor endowments. It is being said that this is "a more fruitful approach than Ricardo's, as it brings factors of production explicitly into the picture and forces us to study in a detailed fashion the interrelationships between commodity and factor prices, between amounts of inputs and outputs" (Sodersten 1970, p.45). Taking only two factors of production, capital and labour, the theory says that countries that are rich in capital will export capital-intensive goods, and countries that have much labour will export labour-intensive goods. The limitation of the theory of comparative advantage, however, is that it is a static type of theory; it cannot give any indication about how the economy would develop if production conditions were to change. It is at this point that the role of education becomes important in giving rise to a paradox not only because education, particularly at higher and technical levels, is a major determinant of change in production conditions through generation of human capital and knowledge, but also because education produces commodity *manufactures*, service *providers* and knowledge *generators*, and not commodities or services. The paradox gives rise to a dichotomy between *endowment* of a factor and *use* of that same factor in a given country.

I look at the above dichotomy between factor-endowment and factor-use as a significant paradox in knowledge paradigms. Whereas the first (i.e., endowment) by itself does not necessarily lead to application of modern science and technology for betterment of the conditions of life, the latter (i.e., utilization of endowment) acts as a fundamental determinant of the 'wealth of nations'. Such an imbalance arises when the knowledge-inputs getting produced primarily in poorer parts of the world get utilized in the richer parts for production of scientific knowledge and the state-of-the-art technologies – in information and communications, biotechnology, and so on. It is here that the distinction between educational services vis-à-vis other services like telecommunications, insurance, banking, shipping etc. becomes central to the issue of offshore education. To my mind, the most fundamental difference between educational services and other services is that whereas most other services are geared towards production of goods or services, educational services are geared towards production of more producers of commodities and providers of services endowed with knowledge and skills rather than production of goods and services *per se*.

Relegation of the Skill Factor into the Background

Why then there is a neglect of this fundamental characteristic of education in the discourse on policies for internationalisation of higher education services through trade under the WTO? In answering this question, I suppose in terms of the conventional four-factors-of-production classification, the knowledge-inputs too can now be classified into two types: (1) Land-based physical inputs like flora and fauna, which get produced as gifts of nature, and (2) Labour-based human capital differentiated by levels of education and training. In economic theory, the first type had ceased to draw much attention after man-made physical capital came to be considered as the main factor of production. Following the early writings of Malthus and Ricardo, it may be said that this was partly because the availability of 'fertile' land got exhausted due to growth of population, and partly because technological innovations led to substitution of land as 'gift of nature' by exploitation of seaspace (e.g. dams, hydro-agriculture, sea-graves, floating airports, etc.) and aerospace (e.g. skyscrapers, satellites etc.). Both these types of inputs remained relegated into the background in the second half of the 20th century when the remaining two factors of production, viz. capital endowment (due to Solow 1957), and managerial entrepreneurship (due to Schumpeter 1967) dominated the scene as the prime movers of growth and development. In the 1990s, whereas 'land' can be said to have staged a comeback in the context of the frontier environmental questions, 'labour' – particularly in terms of the endowments of scientific and

technical personnel or the 'knowledge workers' *a la* Peter Drucker - is beginning to receive its due recognition only in the 21st century.

As the awareness about 'knowledge as an engine of growth' has grown in the developed countries, education has come to be considered as a tradable service under the WTO regime in a retrogressive piecemeal way as far as the interest of the developing countries is concerned. For example, there is no matching consideration of safeguards for the international mobility of educated people - both professionals and students - despite the topicality of brain drain for a considerable period of time now (Khadria 1998, 1999a, 1999b). While immigration restrictions on the mobility of professionals are made selectively flexible, one notices the growing marketization of education by many developed countries, e.g., Australia, France, USA, U.K., and the others, in developing countries, particularly India - in terms of (a) student recruitment locally and (b) establishment of offshore campuses in India (WTO, 1998). Whereas the first seemingly represents the demand side, the second represents the supply side of such internationalisation of education. This is happening because the developed countries already having an edge in the ownership of stocks of higher education infrastructure require economies of scale (which is otherwise dwindling because of lack of demand from the domestic student clientele, partly due to aging population structure in most developed countries) to sustain it. In contrast, the developing countries have not considered this at all. To quote Dreze and Sen, 'Somehow the educational aspects of economic development have continued to be out of the main focus, and this relative neglect has persisted despite the recent radical changes in economic policy.... Even lucid discussion of the challenge of economic reforms is entirely silent on the subject of education [and health] and their possible roles in promoting the use of the economic opportunities that may be created by the reforms. Their discussion of the problem of "infrastructure" ... is confined effectively to transport and power generation. An opportunity is missed here....' (Dreze and Sen 1995, p.13).

What is important to realize here is that the developing countries are not aware that there could be a pitfall in the name of internationalisation of higher education when they are offering their talented 'knowledge workers' to the developed countries on a platter. For example, higher education, being one of the largest service-sector activities in India, also facilitated the large-scale supply of Indian knowledge workers to the US - estimated to be 100,000 a year (UNDP 2001, p.91). Other developed countries, like Germany and the UK too, changed their immigration laws by introducing 'green cards' (30,000 initial offer for Indians in 2000) and 'flexible work permits' (100,000 per annum) respectively, for wooing the Indian and other developing-country skilled professionals and students. Whatever few restrictive immigration

clauses the US had since 1992, faced with a decline in the number of undergraduate degrees in key science and technology disciplines, an acute shortage of staff in high-technology industries, like software development, and the exhaustion of worldwide annual quota of 65,000 visas quickly in 1998 (42 percent going to Indians, of which 80 percent to computer professionals; 120,000 professionals in eight years), the US Senate had cleared a bill for a limited expansion of these visas to 337,500 during the period 1999 to 2001 (Khadria, 1999b). Notwithstanding the restrictions on numbers in the U.S. following the 9/11, it is the selectivity of the immigration policies of the receiving countries, which allows only those qualified in skills relevant to host-country labour markets to get priority in entry. The semi-skilled/unskilled 'service workers', *a la* Peter Drucker again, are being prohibited from entering the world labour market. For example, presently it is the generic skills like IT and teaching, which are usable across disciplines and as diverse areas of applications as medicine, engineering, law, accountancy, architecture etc. that are given priority for immigration. This is paradoxical in terms of the development values inherent in the welfare economic theory: Whereas educational services are recognized as services for the purpose of adding to the factor-endowment in developing countries, the factors actually get utilized for generation of knowledge and innovations in the developed countries.⁷ Even remittances, which are considered to be the gains from brain drain, are flowing back to the developed countries as overseas fees that foreign students from developing countries pay. It is, therefore, important to probe into the changing aggregate motivations and values behind this dichotomy before one undertakes to deliberate on the policy perspective.

The short-term implication of proliferation of foreign universities in developing countries like India could be a simple gainful trade in a service. But the long-term implications could be indeterminate. In the long run, it may lead to two revelations: (a) a rise in the brain drain of generic skills as the educational ethos and values of the students and their parents get guided by an *ex ante* choice in favour of pursuing that education, content-wise, which is likely to get internationalized in the developed labour markets of the North countries. Such an impact has, in fact, been visible in India lately, for example, through shift in the choice of "majors" by students entering the senior secondary schooling (after class X), and colleges in favour of Commerce and away from Science in the last three or four years. (b) A sustaining of the infrastructure and inputs of higher education in a developed contracting source country at the cost of those in the developing countries through a period of domestic recession in the higher education sector in the developed countries as,

⁷ See *The Economic Times*, "In Alien Students America Trusts, Needn't Prove They'll Return", 13 August, 2004, New Delhi.

for example, an educational agency like the U.S. Educational Foundation in India or the British Council Division of the British High Commission in India would confirm (Khadria 2001a, 2001b).⁸

Concluding Remark

What needs to be looked into, therefore, are the policies that determine the *content* and the *curriculum* of these foreign universities supplying offshore education through commercial presence in developing countries: To make sure that these are geared towards the needs and requirements of capacity building in the target developing countries rather than concentration of future global knowledge in the developed source countries. This brings me to the cornerstone conditions of world development through globalization. In economics, normally two conditions are required for testing a proposition: a necessary condition, and a sufficient condition. For successful globalization of education through international trade under the WTO regime, the necessary condition could be a global physical presence of the service providing entities of education like Indian teachers going abroad under Mode IV, or foreign universities coming to India under Mode III, but the sufficient condition would be that the contracting countries must both gain from that physical global presence of their respective entities. The paradox here is between the short-run and the long-run gains. In the short-run, it seems the global physical presence of Indian teachers abroad would be gainful for India in terms of employment, income, remittances and so on, but the long-run implications could be depletion of India's capability to produce the kind of IT professionals, the doctors or even the teachers who train more of IT professionals or doctors that the world would like to import from India in future, or the shortage of IT professionals possessing generic skills applicable in all types of knowledge-generating and research activities. The schools and the universities, the teachers and the students are inputs in the production of an intermediate product - the commodity producers or service providers, not a final product that other services like banking, shipping, insurance, or telecommunications produce. Given this dichotomy, the paradox between factor-endowment and factor-use inherent in trade in education services must be recognized and taken care of in the new knowledge paradigm that may emerge by the joint efforts of the educationists and the economists concerned with education for world development.

⁸ In fact the predominance of the interest of the developed source countries is deep-rooted in the temporariness of presence of natural person because of strategic motivation of the "safety-valve" as well as the labour market motivations of what I have stylistically called "of age, wage, and vintage". In contrast, the developing countries are oblivious of the implications in terms of making the family 'nomadic' (Khadria 2002c).

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Judicialization of Higher Education in India: A Bane or a Boon?

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The debate initiated around the neo-liberal themes of denationalization, privatization, deregulation and liberalization has already extended to higher education both in the developed, developing and post-communist societies. Today we live in a world where information is available instantly through Internet and e-mails. Here comes the role of education. It is no longer sufficient to get the information. What really matters is the effective use of the same.

With the emergence of knowledge driven economies, the demand for higher education and technological skills is naturally on the rise. The higher education itself provides more than US \$2 to 3 trillion business the entire world over. It is likely to quadruple by the year 2025. Asia is likely to make up to 70% of international demand led by India and China (Throne, 2004). Whereas The US happens to be the biggest exporter of higher education India happens to provide the biggest contingent of foreign students to the US.

The US has an extensive higher education system, equally split in terms of public and private, with approximately 4000 HEIs catering to 15 million students and spending \$225 billion of GDP sourced roughly half-and-half between the taxpayers and the students and their families. Contrary to popular perception, out of 7.5 million full time undergraduates, only 25.5% are under private HEIs (Palfreyman, 2004: 31).

Despite the constant rise in the demand for the private higher education and vocational training due to shift from elitism to massification and from massification to commercialization of tertiary education during past 20-25 years, only 15 % of the youth in the cohort of 18-24 have access to higher education. There is a projected shortfall of campus-based education opportunities to over 100 million youth in the relevant age group as of today, an unmet demand estimated at US \$111 billion (Aghi, 2004).

Whereas the demand for higher education is rising, the public expenditure is higher education is declining in most of the countries. To Ronald Parkinson, during 1996-2000, the public investment into higher

education declined from 87% to 82%, whereas the private investment, including household grew from 13% to 18% (Parkinson, 2003). Quite paradoxically, the pressures in terms of public accountability are rising, whereas the share of public expenditure is declining. India is no exception to this trend worldwide. India has the credit of running the second largest higher education system in the world and having the second largest reservoir of skilled person power.

It is a surprise how could India achieve the status of one the IT Giants, an attractive destination for global software (from a modest base of 6800 knowledge workers during 1985-86, India had 5,22,000 knowledge workers during 2001-02) despite the fact that a mere 7.4% of the youth in the age group of 18-24 have access to higher education in India. Despite the literacy rate at 67.4%, India is the fourth largest economy in the world with second largest GDP among the developing countries based on Purchasing Power Parity. Despite very low literacy rate, India happens to be one of the five giants in terms of information technology. Though it started with a modest figure of 6800 knowledge workers during 1985-86, the number rose to 5,22,000 during 2001-02 (NASSCOM.2004).

India happens to be a country, where apparently contradictory characteristics and structures exist simultaneously. We find development and underdevelopment at the same time, we find extremely rich and very poor people coexisting, we find feudal and capitalist structures coexisting in an uneasy harmony. In the absence of single enduring synthesis, we find mixed political cultures, structures, functions and processes amounting to the coexistence of mutually opposing forces.

In terms of social complexities and cultural diversities, India cannot be compared with any other country except perhaps China and former USSR. It is more than a state, larger than a nation and bigger than a country. It is the second most popular, going to be the most populous country soon, and territorially world's sixth largest country. Its continental dimension, survival and continuity for more than 3000 years of recorded history and perhaps 1000-2000 years of prehistory together with its socio-cultural complexities makes it the world's oldest, largest and most tenacious pluralistic society, unique to the human history (Gupta, 2000).

It is very difficult to arrive at a consensus or attain legitimacy in such a complex situation. Like the ongoing debate on privatization in general, and public services like education and health in particular, we find two opposing camps: (1) those who support the new economic policy launched in July 1991 based upon globalization, liberalization and privatization, and (2) those who oppose full-fledged privatization on the

ground that market forces based on *dirigiste* dogma cannot be suitable for a country like India where wide socio-cultural and economic disparities prevail.

There is one group represented by Birla-Ambani, the business tycoon that believes that the state in India should completely get out of higher education sector. There is another group represented by Prof Tilak et al., that believes that state in India should not be allowed to shirk its responsibilities towards education, including higher education. The second group has been insisting that the government should increase the share of higher education substantially. Though the first group despite its tiny number exercises more political and economic powers, the second group represents the vast majorities and cannot be easily sidetracked in a democratic polity with the strong tradition of independent judiciary. So the education war is on and is not likely to be resolved in favour of either group in near future.

Unlike the USA, where 90% of the people pay income tax and only a tiny number of people depend upon social security, in India only 10% of the people pay income tax and the vast majorities depend upon public services provided by the state including the middle class. In India, only 8% of the people are under the organized sector and the rest are still under unorganized sector. About 55% of the people still depend upon agriculture and 45% live below the poverty line. Unlike the retreat of the welfare state in advanced economies, the state in India cannot absolve itself free from its basic responsibilities towards the developmental role and the well being of its people.

Despite having a very large system of public higher education, India is not able to meet the ever-growing demand for higher education. India had 304 universities including 62 deemed universities, 14600 colleges, 11,000 polytechnics, 8.9 million students and 0.4 million teachers during 2002-03. There is a substantial increase in the number of universities and colleges since independence in 1947. During 1950-51, the government share in higher education was only 49.4% but it rose to approximately 80% during the 1980s. However, with the launching of structural adjustment programme in early 1990s, the share of public expenditure on higher education started declining.

Though the national mind is in favour of privatization, the national heart refuses to accept the same. Moreover, we find wide gaps between the constitutional provisions and the ground realities. It has led to lot of confusion and waywardness. It is reflected in the form of various litigation over disinvestment of public enterprises and public utilities over the last 10-12 years. For instance, the ENRON deal signed with the Maharashtra government had to be cancelled after the court decision

against it. We find the court intervening into the realm of higher education from time to time due to prevailing controversies and widespread confusion over the emergence and functioning of private higher education institutions in the absence of clear national vision, legislation or direction.

India has a long tradition of private higher education. Prior to independence, the social reformers, philanthropists and the missionaries set up many private colleges. Their sole aim was social leadership and transformation rather than monetary gains. After independence, the Indian constitution provided the language and religion based minorities to establish higher education institutions of their choice under Article 30(1). Article 30(2) ensured that such institutions were not denied aid on ground of being minority-managed institutions. Generally, this Article was seen as an extension to Article 29(1), which gives the right to any section of the citizens residing in India or any part of it, having a distinct language, script or culture of its own, to conserve the same. Article 26, on the other hand, provides the freedom, both to the majority and the minority communities, to establish and maintain institutions, including educational institutions for charitable purposes (Constitution of India).

Taking advantage of these provisions, some private higher education institutions were set up by the linguistic or religious minorities apparently on non-profit basis, especially in the southern and western parts of India. States like Andhra Pradesh, Tamil Nadu, Maharashtra and Karnataka had the advantage of Christian population and English as medium of instruction due to historical and colonial legacy. Caste also played an important factor. Some Hindu organizations set up private higher education institutions to accommodate those students who could not get into the public higher education system on merit basis and open competition. As early as 1956, the state of Kerala passed an education bill reserving seats on caste basis in medical and professional colleges. It was challenged in the court and the Supreme Court declared 14 provisions of this Act null and void (Gupta, 2004a).

Gradually caste replaced the class. The private sector started focusing on those students and their families who could not get into the professional colleges, especially in engineering and medicine, the aspiration of the most of the middle-class families. We can divide the vast population in India in four categories for higher education purposes – (1) those who have money to afford higher education and also merit, (2) those who have the money but not the requisite merit, (3) those who have the merit but lack the money and (4) those who lack both the merit and the money. Those who have merit, with or without money, can hope to get into the public higher education system, which is highly subsidized. Due to political reasons, the tuition fee remains more or less the same

since independence. The private higher education sprang up primarily to meet the aspirations of those who have paying capacity but lack the requisite merit to get into the private higher education system. Those who have neither money nor merit are hardly bothered about higher education and rely on the informal sector.

With the rise in the number and the paying capacity of the middle-class aspirants, the private sector in India entered the business of higher education in a big way. The opening of the economy in 1991 and the lack of national legislation restricting or regulation their entry to higher education sector provided a boost to their enterprise. Today, India has about 350 million people in the middle-class category and about 60% of its population are under the age of 25 (Pillai, 2003). No wonder, both the domestic and foreign higher education providers are vying with each other to capture this highly lucrative market.

In India, there are reports of huge amounts of money being charged in the form of capitation by the nexus of unscrupulous business, academia and politicians for providing professional higher education. There used to be bargaining, auctioning and underhand dealing for each seat in private medical, engineering or professional colleges. Up to 75% of higher education institutions are supposed to be under private control and two-third of all higher education institutions is supposed to be publicly funded (Patrinos, 2002). The exact number of the private higher education institutions working in collaboration with public universities or foreign institutions is not exactly known as these institutions can register themselves under the Societies Registration Act of 1860, Waqf Board or any other corresponding law for the time being in force in a state or a public trust or a company registered under Section 25 of the Companies Act 1956. For instance, the National Institute of Information Technology (NIIT), a for-profit private institution, having offshore centers, is registered under the Companies Act.

The private sector was also able to take advantage of the lack of coordination and any comprehensive policy on higher education at the national level. Prior to the 42nd amendment in 1976, education was a subject under the State List. Now it falls under the Concurrent List (Section 25 of the 7th Schedule), implying that both the center and the state governments can pass legislation pertaining to education including higher education. The idea was to empower the central government to be able to device a national policy and guidelines for higher education and also regulate the same.

The major responsibility of providing and funding higher education remained with the state governments. Contrary to the practice of most advanced economies, the share of central government is very little as for

as higher education is concerned. Under the 9th Five-Year Plan (1997-2002), the Government of India declared higher education a 'non-merit' good, and therefore, not a fit case for public subsidies. Though the government promised to spend 6% of the GDP against the perceived need of 10% on education, it actually spend only 4.8% and the share of higher education fell to an all time low – 0.4% (Sikidar and Ghanashyam, 2004).

The government was under tremendous domestic and international pressures to do so. It was asked to give topmost priority to primary education in view of a large number of illiterates despite 50 years of independence. In 1992, the government made it a fundamental right to get free and compulsory education up to the age of 14. The government has not been able to fulfil its obligation towards universal education despite its being mandatory and a constitutional obligation.

During 2003-04, the government sanctioned an amount of Rs.17, 000 crore, approximately US \$3400 million, just for the universal education programme known as *Sarva Shiksha Abhiyan*. It fell short of Rs.15, 000 crore, approximately US \$3000 million (Venugopal, 2001). Though the government has actually enhanced the share of higher education during the 10th Five-Year Plan (2002-2007), it is not sufficient. The government has no other alternative but to rope in the private sector and foreign providers through franchise, distance and online education in a big way. It is neither willing nor able to meet the excess in higher education demand on its own.

Some of the state governments and private higher education institutions took advantage of this scenario. There were substantial fee hikes by private professional colleges. There were cases of fake universities providing fake degrees and certificates on their own. Some of the foreign bodies were found providing degrees to students in India, which were not even recognized in their home countries. No wonder, approximately 100,000 students leave to study abroad at exorbitant cost to their families, especially to countries like the USA, UK, Australia, New Zealand, France, Sweden and Singapore (Chaudhari, 2004).

India, who has the potential of being an educational hub itself, like Malaysia is incurring huge losses both in terms of brain drain and capital loss due to the lack of a coherent policy by the central and state government and wavering views of the judiciary. It is a pity that government has not been able to regulate the mushroom and unwarranted growth of private higher education through legislation nor could the judiciary recognize the genuine need of the private higher education institutions for profit and autonomy.

The government tried to facilitate private higher education in India by introducing a bill on Private Universities (Establishment and Regulation Act) in the Rajya Sabha (the upper chamber, not as strong as Senate in US) in August 1995. The bill could not be passed due to lobbying and resistance by the private sector itself over the requirement of huge endowment fund, up to 30% of free seats to the poor but meritorious students and regulation by the requisite state government and or central bodies like the UGC and AICTE. Instead of pursuing this bill during the past few years, the government found a via media. It started granting the status of a 'deemed university' to those private higher education institutions that met the national aspirations and the goals, on the one hand, and fulfilled the requisite academic criteria and the needs for infra-structure, on the other.

Instead, some of the states, such as Chattisgarh and Uttaranchal, succeeded in passing the Private Universities Acts in 2002. During past two years, 4 private universities have sprung up in Uttaranchal, (a newly formed state itself) and more than 100 private universities have emerged in the new gnomonic state of Chattisgarh. Though the state of Uttaranchal succeeded in creating space for the private universities by amending the legislation of its parent state, Uttar Pradesh, the state of Chattisgarh succeeded in creating hundreds of private universities by mere executive orders announced through official gazettes and publicized through local and national newspapers.

Some of these universities were started without proper ordinance (a legal lacuna), faculty and infrastructure. Despite popular protest and resistance from the health department, two new private medical colleges have been given approval by the Chief Minister of Maharashtra. There is resistance against the launching of new private and engineering colleges in Tamil Nadu and Andhra Pradesh because of the mismatch between the demand and supply. The state governments are not absorbing the doctors trained from private colleges and many engineering seats are lying vacant in private colleges in Andhra Pradesh.

Such private colleges are being pushed in by the business politician nexus with the help of the academia often retired vice-chancellors and other high officials under public universities. These are run in para-professional manner and the quality of education is under doubt. Unlike public trust in private higher education in the US, we find public distrust in private higher education in India. The private higher education institutions also depict distrust in the quality and relevance of the education being imparted by public universities and colleges. Whereas private schools enjoy public credibility, private colleges lack the same.

Earlier, the private sector took interest in higher education in order to divert their funds and reap the benefits under the income tax by donating funds to private trust or societies running these institutions on non-profit basis and as a social charity. Now the private sector wants to reap profits out of it by hook or by crook. Most of the private colleges made profits by charging huge amounts as capitation fee. The politicians depend on such income from private colleges and the private colleges also depend on political support. It explains why the government kept silent all these years over this issue and the students and their parents had to seek the help of the judiciary to protect their interests.

For instance, in *Mohini Jain vs. State of Karnataka* case in 1992, Miss Jain, hailing from a small town of Uttar Pradesh, filed a writ petition against the Karnataka State Notification of June 1989, which made students from outside Karnataka pay Rs.25, 000 per annum whereas the students from Karnataka had to pay only Rs.2, 000 per annum under the fee category. The fee varied from 0.1 to 0.4 million rupees in the category of paid seats. It was 4 to 16 times more than the regular fees. It was found discriminatory and the Supreme Court of India declared the Karnataka State Notification null and void. Instead it fixed the fee at Rs.32, 000 in the case of private medical and engineering colleges. However, the underhand dealings still continued. But since then the concept of 'self-financing' college has got legitimacy.

Later on, the concept of 'self-financing courses' also emerged in some of the public universities. Surprisingly, in a country like India, private students are allowed to appear for public examination conducted by the government-funded universities and colleges. Such universities and colleges, on the other hand, are allowed to run vocational courses on self-financing basis with the help of part-time private faculty. Another interesting development is that most of the students enrolled with public arts and humanities colleges pursue vocational courses simultaneously at various private institutions. It is difficult to judge how much economic value is added to one's education due to public or private education. It is equally difficult to say how higher is higher education and whether the public and private higher education institutions really make a student educated by providing him or her the 4 Cs – character, confidence, competence and credibility.

There are 4 types of self-financing colleges in India – (1) the Manipal model, (2) the marketing model, (3) the sponsoring model and (4) the franchising model. The Manipal model is based upon the philosophy that those students, who are willing to pay for their education, should be provided the facilities to pursue the course of their choice. The Manipal Academy of Higher Education is totally self-financed and recognized by

the UGC as a deemed university. It is the status given to those private institutions that meet the criteria laid down by the UGC and other statutory bodies. Under Section 3 of the UGC Act 2000, the deemed universities are required to have financial viability and a management capable of contributing to university ideas and traditions.

Under the marketing model, both the central and the state governments are allowed to start professional course at undergraduate level on self-supporting basis. Usually such courses are managed with the help of part-time faculty. The sponsoring model is a favorite of the corporate sector. It provides the requisite managerial and executive training to the candidates sponsored by the corporate sector. It also helps in re-orienting their personnel in terms of latest knowledge and technology by the public or private universities at a fix fee, usually quite high. For instance, the Indian Institute of Technology at Delhi provides a course in telecom technology to a batch of 10 students sponsored by Bharti Enterprises, at the cost of approximately US \$3000 per student.

Some other private self-financing institutions work on franchise model. Most of them conduct courses on information technology, power generation or telecom technology on the basis of the norms prescribed by the affiliating universities. Many a foreign universities, both public and private, are also working on franchise model. Similarly, some of the Indian universities, both public and private, are also seeking foreign collaboration through franchise. For instance, the NIIT, a private for-profit institution providing training in information technology, recently bought the franchise rights to operate in China. We find a mushroom growth of self-financing institutions, especially in the southern parts of India.

With the decline of government support and the rise of powers of the state governments through the recent Private Universities Act, the central government is unable to regulate these institutions through its statutory but advisory bodies such as the UGC and All India Council for Technical Education (Mehta, 2004). They are defying by not following the UGC Interim Policy Regulations of 2003 pertaining to fee structure, management quota and admission policy. For instance, the *Times of India*, the leading national newspaper in India, inserted a full-page advertisement in February 2004, announcing an MBA course sponsored by it, which is neither recognized by the central or state government nor approved by the UGC or AICTE. Some of the states are also taking the stand that since education falls under the concurrent list, they are free to have their own policy over private institutions providing higher education and such institutions can have their own policies with regard to fee structure, number of seats, admission policy, management quota, etc.

In the landmark judgment of *Unni Krishnan J.P. Vs. the State of Andhra Pradesh* 1993, the Supreme Court of India banned the Capitation Fee Act of 1988. Instead, it allowed 'paid seats' in a certain proportion to be fixed in consultation with concerned state governments. The idea was to make those families pay full costs towards the education of not only their own wards but also a few others in the name of social justice. The state governments were also allowed to administer and regulate admissions into unaided and privately promoted institutions providing professional education. However, in *T.M.A.Pai vs. State of Karnataka*, October 2002, the Supreme Court reversed its earlier stand taken in *Unni Krishnan J.P. vs. the State of Andhra Pradesh* and gave a green light to financially independent minority interests to establish higher education colleges of their choice.

In the *T.M.A.Pai* case, the Supreme Court generously extended the right to establish higher education institutions granted to minorities based upon language and religion under Article 26 and Article 30 to all Indian citizens under the right to freedom guaranteed under Article 19 in general, and the right to practice any profession or carry on any occupation, trade or business under Article 19(1) subject to restrictions placed under Article 19(6), such as, public order, morality and health. For the first time, the Supreme Court focused on the supply side of education. Taking advantage of this judgment, some private colleges raised the fee structure exorbitantly. There are reports of a medical seat being auctioned in a private college for approximately US \$75,000 to 80,000, an amount beyond the reach of even the upper middle class.

Instead of removing confusion over the admission and fee policy adopted by various private colleges, the Supreme Court judgments in the *Unni Krishnan* and the *T.M.A.Pai* case added to the prevailing confusion, being contradictory in nature. In these cases, an interesting debate took place over the issue whether education should be treated under the category of 'profession', 'trade', 'occupation' and 'service' as anticipated under Article 19(6) or a 'public charity' under Indian culture and traditions (the *State of Bombay Vs R. M. D. Chamarbaugwala*, 1957, SCR 874).

To Webster's International Dictionary, 'occupation' is defined as 'an activity in which one engages' or 'a craft, trade, profession or other means of living' (Third Edition, page 1650). The word 'occupation' can also be defined in terms of 'principal business of one's life', 'taking up one's time, thought and energies', 'in which one is engaged with a degree of permanency attached'. In a nutshell, it amounts to an activity carried on by a citizen to earn his or her living. In *Unni Krishnan* case, it was

observed that education may perhaps fall in the category of occupation, provided no recognition is sought from the state or affiliation sought from the university on the basis of a fundamental right.

In *T.M.A.Pai* case, this observation was found to be erroneous. It was held that the fundamental right to establish an educational institution could not be confused with the right to ask for recognition or affiliation. It was held that:

The establishment and running of an educational institution, where a large number of persons are employed as teachers or administrative staff, and an activity is carried on that results in the imparting of knowledge to the students, must necessarily be regarded as an occupation, even if there is no element of profit generation. It is difficult to comprehend that education, *per se*, will not fall under any of the four expressions in Article 19(1)g. 'Occupation' would be an activity of a person undertaken as a means of livelihood or a mission of life. The above quoted observations in *Sodan Singh's* case correctly interpret the expression 'occupation' in Article 19(1) g.

On the contrary, the right to establish and maintain educational institutions may also be sourced under Article 26, which grants the right to every religious denomination or any section thereof to establish and maintain institutions for religious and charitable purposes subject to certain restrictions. As such, the expression 'private educational institutions' was used in this judgement, not only for educational institutions set up by secular persons or bodies but also those set up by religious denominations. Though the Supreme Court recognized education as falling within the meaning of the expression 'occupation', it refused to regard it as a trade or business where profit is the motive. It also refused to consider education under the expression 'industry' despite the fact that in an earlier case, *Banglore Water Supply and Sewage Board vs. A. Rajappa and others* in 1978, it was held that educational institutions would come within the expression 'industry' in the Industrial Disputes Act, implying that education would also come under Article 19(1)g. In *T.M.A.Pai* case, Justice Jeevan Reddy observed:

We do not think that the said observation 'that education as industry' in a different context has any application here.

Whereas the judgment in *Unni Krishnan* case, the Supreme Court allowed the states to impose certain conditions and regulations on

private aided or unaided, recognized or affiliated institutions conducting professional courses, it gave a free hand to the private higher education institutions to appoint teachers, decide the fee structure and determine the admission policy. However, it also stipulated that up to 50% of the seats should be filled at the same fee level as prevailed in parallel government colleges and the rest could be filled on payment basis. In the case of private educational institutions, not dependent on any funds from the state or federal government, the Supreme Court left the decision on the fee to be charged to the institution concerned, to promote equity and accessibility, the Supreme Court banned the usage of paying different fees by different students for the same course.

Instead of removing some of the anomalies and ambiguities, which came to limelight due to the *Unni Krishnan* case, the judgment in *T.M.A.Pai* case created further problems and uncertainties. In the absence of national legislation and guidelines regulating the establishment and functioning of private higher education in India and the conspicuous silence of the government over the matter, the judiciary had to intervene from time to time. In its latest judgment, it has taken a tough stand against capitation fees and profiteering by the private professional colleges. It has gone to the extent of threatening to 'de-recognize' those private colleges found guilty of charging capitation fee in any form. Again, however, the impact remains unclear.

Unfortunately, no concrete solutions or alternative options are coming from the academia. The teacher-politicians are divided and those engaged in serious teaching and research do not want to be controversial. In the absence of collective action by the teacher community, institutional initiative, innovation or creative solution on the part of academic leadership, the bureaucrats, politicians and even the judges are filling the vacuum. Taking a tough stand against for-profit higher education, the Supreme Court in the *Unni Krishnan* case held:

Private colleges ----- are felt necessities of the time. That does not mean that one should tolerate the so called colleges run in thatched huts with hardly any equipment, with no or improvised laboratories, scarce facility to learn in an unhealthy atmosphere, for (sic) from conducive to education. Such of them must be put down ruthlessly with an iron hand irrespective of who has started the institution or who desires to set up such an institution. They are poisonous weeds in the fields of education. Those who venture are the financial adventurers without morals or scruples. Their only aim is to make money, driving a hard bargain, exploiting eagerness to acquire a professional degree, which would be a passport to

employment in a country rampant with unemployment. They could even be called pirates in the high seas of education.

The private higher educational institutions are equally unhappy. They have to work under several constraints. They cannot work independently. They have to seek affiliation with a public university or a college. They cannot grant their own degrees. Nor can they earn any profit officially or legally. Though the Supreme Court has allowed them to keep a little margin for development purposes only. There are no economic incentives whatsoever. If the private sector is not allowed to reap some profits or raise the necessary funds for future growth, it is bound to indulge into illegal and unhealthy practices. No amount of regulation by the state governments, central bodies like the UGC and or AICTE and judicial interventions can bring the desired results. A few economic incentives can yield much better results than strict regulatory measures hard to implement in practice.

It is very clearly reflected by the recent court judgments in India over tribal and sundry matters, which normally should have been sorted out at the local and institutional level itself. It shows how 'superfluous' and 'seasonal' the discourse on higher education is in India. In the absence of sustained educational policy on the much-needed higher education reforms, each controversy is used to revisit some old, unresolved issues, such as, the relationship between the state and the private capital. There is constant allergy shown towards the role that private capital could play in upgrading India's 'dilapidated' system (Kumar, 2004).

Though in the wake of liberalization, the affluent middle classes are allowed to buy the big and imported cars of their choice, they are not allowed to buy the high quality or professional education of their choice even if they can afford to do so. The result is that those students who are not selected through common entrance tests for the few seats in the public universities and professional colleges opt to study abroad even if it amounts paying ten to fifty times more than what they would have paid to a private higher education institution in India even if it is allowed to be for-profit. It is a tremendous loss to the country both in terms of human and financial capital. Many a foreign universities including for-profit private ones are the ultimate gainers.

The Government of National Capital Territory of Delhi has been more sensible in stopping the rush of students from Delhi to private professional colleges in the southern parts of India by starting the Guru Gobind Singh Indraprastha Vishwavidyalaya in 1998. It affiliated 47 self-financing and 8 government managed institutions with this university having a capacity of 5000 seats. It has put a cap both to the flight of capital and Delhi-based students to the southern parts of India.

It is likely to be self-sufficient after a period of 5 years. Similar arrangements can be made to stop the affluent and bright students from rushing to foreign universities by encouraging private initiative in higher education in India, even if, it means granting permission to private higher education institutions to work for-profit. The government can be a gainer by generating additional revenues through this exercise and it can use the additional funds for enhancing the quality of public higher education, which are losing credibility and are being marginalized for want of funds and quality.

In order to facilitate private initiative in higher education in a big way, India needs drastic changes in its regulatory environment. There is no harm in associating the private sector in the business of higher education provided it is regularized through a national legislation. There is also an urgency to define the proper role of the central and the state governments with regard to private higher education and private funding in higher education. The government should take advantage by allowing for-profit private education, provided they are able to meet the quality standards both in terms of academics and the infrastructure. It can fix some social responsibility on the private sector by insisting upon freeship to a certain percentage of needy and meritorious students.

The government can very well establish academic tribunals to solve the problems of the students and the teachers in private higher education institutions. It can also protect the interests of the students and their families by bringing private higher education under the Consumers Act. It can also establish monitoring cells all over India to ensure free information, transparency and fair practice by the private higher education institution. It can also make it mandatory for the private higher education institutions to get themselves assessed and accredited by appropriate and independent bodies. If they are found to be up to the mark, they may even be allowed to grant degrees, diplomas, certificates and license to their students.

There is also an urgency to rationalize the affiliation and recognition procedures, on the one hand, and the removal of blanket regulation of all private higher education institutions on uniform basis, on the other. The government can make both the private and public higher educational institutions compete for the government funds on merit basis. The government should stop the practice of taking over the sick private higher education institutions due to paucity of funds. Rather it should enhance their equity by all means. Under the prevailing economic circumstances and the tremendous rush for higher education, it is in public interest to encourage private initiative in higher education.

For this it is necessary to build the public trust in private higher education gradually. Perhaps the media can play an important role. Though the private sector can help in absorbing the excess in demand for higher education, it does not mean that compromises should be made on the quality of education or the technological training to be provided. All necessary efforts should be made to make the private sector publicly accountable. Instead of playing the role of welfare or a restrictive state, the government should play the role of an enabler or facilitator state.

The government policies, rules and regulations can play both a positive and a negative role in the smooth growth of private higher education in India. The public policies do affect the efficiency of private higher education through funding policy (demand versus supply), entry provisions (direct and indirect barriers to entry), regulatory (insistence on non-profit) and indirect barriers in the form of red-tapism. For example, recently, the Sylvan Learning Systems Inc, a for-profit higher education institution in the USA had to put its South Asia International Institute on the hold in December 2003, just after the completion of one semester, primarily because it found the regulatory environment in India 'in a state of chaos' (Hopkins, 2004). The company hoped to start its own campus at Hyderabad at the estimated cost of \$2 million. It could not get the necessary UGC approval and had to refund the fee to the first batch of 55 students.

India can also learn and unlearn a great deal from international experiences from private higher education. For instance, it can adopt the policy of neutrality in funding both the public and the private higher education institutions as prevails in some of the states in the US or it can consider the US policy of providing support to the institutions through students and not directly. It can learn from Japan in terms of minimizing barriers to private entry to the realm of higher education. It can learn from China perhaps how to resolve the pending issues by passing timely legislation. It can learn from Canada how to protect the interests of the students as consumers without indulging into unnecessary regulations. It can also learn from the experiences of Indonesia and Mexico, where some of the private higher education institutions had to be closed down for not being able to meet the requisite conditions stipulated by law. What India needs is to strike a balance between the desirable the "facilitative approach" and not so desirable "regulatory framework" to be able to serve the national interests in the best possible way.

Judicialization: a bane or a boon?

Of late, we find the Supreme Court of India playing a proactive role in matters pertaining to higher education. It seems to be a fall out of

judicialization of politics and liberalization of the economy in general. Every sundry matter comes for a hearing, ranging from the liberation of 241 caged monkeys to their natural habitat to the playing of the National Anthem as part of a Hindi movie, *Kabhi Khushi Kabhi Gum*.

Judicialization implies a process whereby the judiciary indulges into administrative supervision. It also implies the proactive role played by the judiciary in social engineering by laying the foundations for the desirable behavior by the public, private institutions and the masses alike. The judiciary is supposed to be in a better position to resolve the contentious issues in pluralistic and modern complex societies than the executive or the legislature. The judiciary appears to be apolitical, neutral and fair to the vast majorities. The recent judicial intervention over the fee cut controversy at the Indian Institutes of Management points to a similar trend.

The IIM controversy cannot be seen as a simple open and shut case as perceived by the NDA government. There are deeper issues involved, such as, equity versus accessibility, autonomy versus accountability, elitist nature of the institutions versus the demand for massification, conflict between the socialistic principles enshrined in the constitution versus the liberalization of the economy, etc. Why should the judiciary be allowed to seek a market for itself by stipulating a committee to fix the fee, management seats and admission criteria in private professional colleges under a retired high court judge rather than a vice Chancellor, renowned academia or an entrepreneur?

The August 14, 2003 judgment by the Supreme Court forbidding profiteering or capitation fee by the private professional colleges, has created a plethora of litigation over the management quota, fee structure and common entrance test. The idea behind the August 14 judgment was to resolve some of the anomalies that cropped up due to mutually contradictory judgments by the Supreme Court of India in the *Unni Krishnan* and *T M A Pai* cases. But instead of resolving some of the controversies, it opened the floodgate of litigation. Various legislative bills and court cases are pending at the state level.

In Maharashtra, following the *T M A Pai* case judgment in October 2002, some of the private medical colleges raised the tuition fee arbitrarily from Rs 1,50,000 to Rs 5,00,000 (Overland, 2003). In this judgment the court had allowed financially independent private sector to run professional colleges, a right granted earlier only to minorities based upon religion or language. However, this judgment was interpreted differently by state governments, courts, colleges, students and their families (Gupta, 2004b). Due to uncertainties prevailing over the share of management quota and common entrance test, students in Tamil Nadu,

Maharashtra, Karnataka, Andhra Pradesh and Gujarat had to face a lot of problems during the academic year 2003-04.

Till July 2004, it was not clear how the seats falling under the management quota would be filled and what would be the share of management quota. Since the judgment was delivered on August 14, 2003, the Supreme Court fixed the criteria of management and merit based seats at 50:50 for that particular year only and stipulated the formation of a committee under the headship of a retired High Court judge to look into the matters pertaining to bifurcation of seats between the government and private management, admission policy and fee structure, etc. Many a states took it as a precedent for the academic year 2004-05. Many others insisted upon 75:25 or 25:75 quota.

For instance, Karnataka introduced a bill in July 2004 to enforce 75:25 formula, 75 for government and 25 for management in private medical, dental, and engineering colleges. The opposition parties in the legislature found this resolution against the Supreme Court judgment in favour of 50:50 distributions last year. The Kerala government also introduced a Self-Financing Professional Colleges (Prohibition of Capitation Fees and Procedure for Admission and Fixation of Fees) Bill. There are little chances of getting this passed due to opposition from the Left Democratic Front, forming an alliance with Congress led United Progressive Alliance.

This particular bill can be adopted only if included in the Ninth Schedule of the Constitution. The UPA government very much depends upon the support of 59 left MPs for the smooth sailing of this bill in the parliament and cannot hope to get their support if the CPI (M) and its allies treat the bill as a 'virtual sell out to private professional college managements' (Devasia, 2004). There are also uncertainties over the Common Entrance Test (CET) or All India Engineering Entrance Examination (AIEEE). Whereas the All India Association of Private Colleges is in favour of conducting national level test for engineering seats in private unaided colleges, the UGC and AICTE have their own norms, which have already been challenged by the consortium of private colleges under Articles 14, 19(1)g, 21, 26 and 30(1) of the Indian Constitution (*The Hindu*, June 29, 2004).

The private colleges in Kerala are insisting on 75:25 quota, 75 for the management and 25 for the government. They have challenged the 50:50 ratio set by the court earlier as arbitrary and illegal. Similarly, the private engineering, medical and dental colleges have raised objections to the draft rules for admission prepared by the Karnataka government. Terming the rules as 'wholly misconceived, illegal and unconstitutional' (*The Times of India*, August 9, 2004), the private managements have asserted that:

The state government is not competent either to regulate admissions or the tuition fee chargeable in a private unaided institution. The draft rules grossly violate the constitutional guarantees and the Supreme Court judgment.

In Tamil Nadu also, there are many cases pending before the Madras High Court pertaining to the fee structure and admission procedures in private medical colleges. Although capitation fee is not charged in these colleges after the ban imposed by the Supreme Court, there are reports of huge monies being collected ranging from Rs.80, 000 to Rs.8, 00,000 for undergraduate studies in self-financing engineering, medical and para-medical institutions (Vishwanathan, 2004). Confusion prevails over the conduct of entrance exams by private engineering colleges in the state. In Tamil Nadu, 10 self-financing engineering colleges were raised to the status of deemed universities in 2001. These colleges were supposed to conduct entrance exams on their own, whereas the other self-financing colleges affiliated to various public universities were to conduct their own separate exams.

These self-financing colleges adopted a 'confrontationist attitude' towards the Tamil Nadu state government with regard to entrance exam and fee structure. They asserted that the private unaided professional colleges had the right to conduct their own examinations for admission and fix the fee for the courses offered by them. The government had no control over these matters as per Supreme Court judgment delivered in the *T. M. A. Pai* case in October 2002 (*Frontline*, March 26, 2003). These issues resulted into protracted legal battles between the state governments and private college managements, on the one hand, and between the state government and UGC/AICTE, on the other.

In Tamil Nadu, as per Supreme Court direction given in its judgment on August 14, 2003 in the Islamic Academy of Education case (*Frontline*, July 16, 2004), two separate committees were formed under Justice S. S. Subramani and Justice A. Raman to look after the entrance test and fee structure in self-financing colleges in the state respectively. On June 8, 2004, the Permanent Committee for the Fixation of Fee for Private Professional Educational Institution directed the unaided engineering colleges in Tamil Nadu state to charge not more than Rs.32, 500 per annum for undergraduate engineering courses not accredited by the NAAC and Rs.40,000 for the courses accredited by the NAAC. This fee included only admission fee, tuition fee, special fee, laboratory/computer/internet fee, development fee, maintenance fee, co-curricular fee, etc. It did not include living and mess charges.

The Subramani Committee for Common Entrance Test for Private Educational Institutions directed all engineering colleges on June 14, 2004 to admit students under the Single Window System. It directed the Consortium of Self-Financing Professional, Arts and Science colleges in Tamil Nadu to conduct Common Entrance Test for admission in the state. However, the managements of several self-financing engineering colleges in Tamil Nadu challenged this direction by the Subramani Committee. Protests were also raised against 'wrong' or 'ambiguous' questions in biology and physical science papers during the Common Entrance Exams conducted on April 24-25, 2004. Protests were also raised on the practice of treating 'improvement candidates' at par with students clearing class XII exam in the current year (*Frontline*, July 17-30, 2004).

A petition was filed by twelve aspirants for medical seats in the Madras High Court pertaining to this practice (about 200 writ petitions are already pending before this court over the ambiguity in question papers for the Common Entrance Test). Justice R. Balasubramanian put the admission process to a halt in the case of 'improvement candidates'. Out of 945 seats available in government colleges during the academic year 2004-05, only 493 went to the regular candidates. The rest were marked for 'improvement candidates', subject to court's decision. To M.D.Raju of Bharatiyar University in Coimbatore, it has led to an 'anomalous situation' (Vishwanathan, 2004). The 'improvement candidates' have better chances of selection as they get one more year of extra study and preparation.

In yet another petition pending before the Madras High Court, the Consortium of Self Financing Professional Arts and Science Colleges challenged 8 clauses in the 25 directions laid down by the Subramani Committee as illegal. The Subramani Committee had supported admission to self-financing engineering colleges under management quota on the basis of merit ensured through common entrance tests, followed by counseling under a Single Window System. The committee was of the opinion that if the Single Window System is not followed, the whole process of rank-based admission would collapse. If a free hand was given in the admission process under management quota, underhand dealings could be made, putting the Supreme Court judgment "against profiteering" to an end.

Most of the self-financing institutions in India are being run by the political stalwarts and businessmen at the state level. It is very difficult to regulate them or stop the unethical practices already prevailing under the normal circumstances. Whereas the private managements are insisting on having 75% seats under 'management quota', the state governments are insisting on having 75% of the seats under their

‘government quota.’ The management cannot charge more than the fee charged by the government colleges the similar courses and if 75% seats are reserved under government quota, it may not be economically viable to run the private colleges. If 75% of seats are reserved under the management quota, they may resort to unscrupulous means to fill them, barring the meritorious students from the less-affluent sections of society out of race.

No wonder, urgency is being felt all over India for a proper legislation governing the establishment and regulation of private colleges and universities in India once for all. That seems to be the only solution and the “need of the hour” to put to rest all the controversies and pending court cases both at the state and national level. The Self-Financing Higher education Institutions have already sent a memorandum to the Union Human resource Development Minister, Arjun Singh, to correct the situation by reviving the bill on private universities at the national level. The federal government can lay down general guidelines and leave the details to be worked out by the state governments in consonance with local and minority interests within their jurisdiction.

For a country with a population over one billion and access to higher education by only 7.4% of the youth in the age group of 17-23, the conflict over access and equity, is but natural. Whereas the constitutional provisions aspire to equity and social justice, the realities in vibrant fresh market economy favour those who can make huge investments into private higher education. It has led to pulls in opposite directions. Moreover, we find serious issues at stake, such as, whether the judicial intervention into the realm of higher education desirable? Can judicial intervention result into rational and better solutions than compromises made or half-hearted measures adopted by the legislatures and the executive due to political constraints? Can judicial activism be a substitute for executive efficiency or legislative farsightedness? Can it be seen as an anathema to the representative form of a government?

Further, the questions arise: if the policymaking authority is vested with the executive and the legislature, why should the judiciary be allowed to interfere at all? How can the judges succeed in resolving some of the crucial problems where the majoritarian institutions had failed? Why should the judiciary be allowed to decide the fate of a nation in a democratic framework when it is neither elected nor publicly accountable?

There is a lot of difference between legalization and judicialization. The issue pending before the Supreme Court is not just to find out the legality of the fee cut order but also to assess the appropriateness of the

government action. Even in earlier cases, the Indian Supreme Court played a proactive role virtually amounting to 'judicialization of higher education'. For instance, in *Unni Krishnan vs. State of Andhra Pradesh*, it not only banned capitation fee by the private colleges, but also laid the ground for self-financing colleges by allowing a certain number of paid seats.

Similarly, in *T M A Pai vs. State of Karnataka* (October 2002), the Supreme Court not only gave a green light to financially independent private and minority institutions to establish higher education colleges of their choice, but also stipulated against 'profiteering' by private higher education institutions. While deciding this case, the Supreme Court referred to 33 cases where it had earlier intervened.

We find judicialization of education even in the USA. For instance, in the *Brown vs. Board of Education* case the 'minority right' prevailed over the 'majority will'. But whereas in the USA, the judicial intervention in higher education remains an exception, unfortunately, it is becoming a rule in India. Whereas in the US, the judicial process is deliberately chosen as an alternative to more explicit, partisan, electoral politics and interest group lobbying, in India the judges have no other choice but to intervene when the other two organs fail to perform or under-perform. India can learn and unlearn a great deal from examples of "judicial activism " and "self-restrain" prevailing worldwide. Too much judicial intervention can prove to be a bane rather than a boon.

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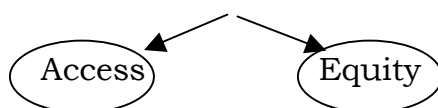
Presentation on
Recommendations on Analysis of
Higher Education under Mode III and Mode IV

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Supply of Higher Education via Mode 3 (Commercial Presence)

- ◆ Full Market Access (MA) & National Treatment (NT) commitments are not desirable in the context of India
- ◆ Limited MA & NT can be offered in HE
- ◆ Commitments can be limited to private education services- *developed countries Australia, New Zealand, EU, Switzerland and Liechtenstein*
- ◆ No NT limitation means Government funds/subsidies available to both domestic & foreign higher education suppliers
 - Affects the public education system by crowding out the funds

The objectives will become more difficult to achieve



- ◆ In general, two different sets of countries have no limitations on NT under GATS
 - Access & Equity are not the objectives, like New Zealand, Norway, Switzerland
 - LDCs & Developing countries that lack infrastructure in higher education like Oman, Jordan, Congo, Lesotho etc.- *funding is not necessarily the problem*
- ◆ National Treatment with regard to subsidies can be need based and qualified- *such a scheme can work as an incentive*
 - Subsidies/Support given to foreign (joint venture) institute
 - Opening the institute in specified rural area
 - Opening the institute for a particular course (based on need assesment)
 - Subsidy for limited period

- ◆ No subsidy to local students for studying in foreign institutions
- ◆ No Market Access limitation means, no restriction on number of service suppliers, value of transactions, number of service operations, legal entity, number of persons that can be employed and foreign equity.
- ◆ Some minimum investment amount is required in order to ensure entry of only serious and quality institutes
 - Will automatically discourage average quality institutes from other developing countries
- ◆ If recognition given to foreign education suppliers- *the fall out*
 - More students enrolled in foreign universities/institutions than in local universities/institutions- those who can afford will shift to foreign universities/institutes with good brand
 - Making it difficult for local institutes/universities to rationalize their fees structure over time and improve infrastructure
 - Experience of Singapore- Since 1997 there has been dramatic growth in enrolments in foreign universities, rising from around 13,990 students in 1997 to 25,400 in 1999. In 1999, there were 33,722 students enrolled in local universities. So if the rate of growth experienced during recent years persists, there will soon be more students enrolled in foreign universities in Singapore than in local universities
- ◆ In such a situation it is desirable to have a limit/ceiling on number of foreign education suppliers- *such a limited competition will not put much pressure on the development of local higher education system*
- ◆ Market Access commitments will help in attracting more foreign students from developing world and also reigning the outbound flow of our students
 - Foreign students in Indian Higher Education in 2001- 7791
 - Total Indian students going abroad in 2001- around 62018 (as per OECD)

- Malaysia example- In 1995, the 20% of Malaysian students who were studying abroad cost the country around US\$ 800 million in currency outflow, constituting nearly 12% of Malaysia's current account deficit. By the end of 1999 the proportion of young Malaysians between 17 and 23 years of age in tertiary education had increased dramatically to 22%, with 167507 enrolled in public universities and an estimated 203391 in private institutions as a result of encouraging private foreign suppliers
- ♦ A recent report by IDP Education Australia predicts that India will overtake China as the largest source market for overseas students in Australia within 20 years
- ♦ Commitments could be made discipline wise – *no point in super-saturating the existing disciplines widely provided by domestic education suppliers*
- ♦ Foreign institutions operating here should have adequate representation of local stakeholders in order to ensure that local needs and policies are given space in the decisions and activities of these institutions
- ♦ Whether on profit or non-profit basis?
 - Non-profit basis as is the case with local institutes (Japan has such restriction)
- ♦ Choice of legal forms needs to be made carefully- *joint ventures seem to have a better chance of minimizing concerns about content regulation (as in the case of China)*
- ♦ Seek commitments from other developing countries in Mode III
- ♦ Only a limited number of developing countries have made commitments- *having the following restrictions*

Sector specific

- Limits on foreign investment in Mexico (49%)
- Only joint schools will be established with foreign majority ownership permitted in China
- Majority of administration must be Turkish citizens

- Public limited companies prohibited in Costa Rica
- Local certification, registration, licensing required
- Only through incorporation with maximum foreign equity of 51% - Nepal

Horizontal restrictions in Mode 3 relevant to education

- Investment above \$150 million requires the approval of the Council of Ministers in Turkey
 - At least 90% of the workforce must be locals- Panama
 - Unbound for R&D subsidies in Mexico
 - Minimum equity capital of \$2 lac for wholly foreign-owned company in Lesotho AND joint venture company should have a minimum foreign equity capital of \$ 50,000 in Lesotho
 - Companies with foreign equity exceeding 70% required to pay higher rate of income tax in Oman
 - Unbound regarding subsidies in Jordan
- ♦ Initial Offers from Turkey & Panama only-
- Turkey retains the condition of majority nationals in administration
 - Turkey has done away with the approval of the Council of Ministers for investments above \$150 million
 - Panama retains the condition that 90% of workforce should be nationals
- ♦ Certain countries of interest or potential markets for Indian education suppliers do not have any MA & NT restrictions- Oman, Cambodia, Lesotho, Congo, Jordan
- ♦ Other developing countries of interest to us have still not made offers-
- Middle East/Gulf countries– Syria, Iran, Kuwait, Bahrain, UAE, Qatar, Yemen

- African countries– Kenya, Tanzania, Uganda, Ethiopia, Mauritius
- Asian countries– Bangladesh, Sri Lanka (restricted), Myanmar, Bhutan, Thailand (restricted), Indonesia, Malaysia
- ♦ Seek commitments in both vocational & other HE services- *some developing countries have committed only for university education and not technical/vocational*

Mode 4 (Movement of Natural Persons)

- ♦ Seek commitments from developed countries mainly like EU, US, Canada etc
- ♦ In case of developing countries, since we want to establish our institutes abroad commitments related to ICT (Intra-corporate transferees) would be of interest to us- *but already many developing countries have made commitments in this category*
- ♦ Restrictions in Developed countries
 - Sector specific Unbound for all developed countries and also-
 - Denmark, France, Italy: condition of nationality for professors
 - Norway: An exam need to be passed
 - Horizontal restrictions in Mode 4
 - New Zealand, Australia, Liechtenstein– Linked to Mode 3
 - Norway– Separate IP (independent Professionals/EJP (Employees of Juridical Persons) for CSS (Contractual Service Suppliers) category is there but does not include education sector
 - Switzerland– Separate category of EJP is there but education sector not covered
 - Japan– Separate category of EJP is there but education not included

-EU- Separate EJP is there but higher education is unbound for most of EU countries

◆ Initial Offers of developed countries

- EU- separate EJP & IPs categories are there; but unbound for most EU countries in higher education for EJP except France & Italy; for IPs higher education not included. EJP/IP remains unbound (except for France & Luxembourg) under the specific commitments related to the sector
- Japan has made some commitments for natural persons engaged in knowledge at advance level that can cover education sector
- Norway- separate IP/EJP category extended to the education sector also
- New Zealand, Australia, Liechtenstein- still linked to Mode 3
- Switzerland- Separate category of EJP/IP is there but still not extended to education sector

◆ Developing countries commitments/restrictions

Sector specific

- Only in case of Turkey and Trinidad & Tobago no MA restriction
- Rest others are unbound, except Costa Rica which has nationality and residence requirements besides ENTs

Horizontal Restrictions

- China: Commitments only for ICTs linked to Mode 3 no EJP/IP category
- Jordan: Separate category of EJP is there in commitments but is subject to ENTs and no IP related commitments
- Oman: Commitments linked to Mode 3 and no category of EJP/IPs
- Jamaica: ENTs are there

- Costa Rica: Commitments linked to Mode 3 and no EJP/IPs. Also number of such people limited only to maximum 2 in each enterprise
- Mexico: Linked to Mode 3 only, no IPs, subsidies limited to Mexicans
- Turkey & Panama: Linked to Mode 3
- ◆ Initial Offers of developing countries
 - Panama has retained its restrictions in Horizontal & Sectoral
 - Turkey has also not created separate EJP/IP category
- ◆ Seek delinking of Mode 3 from Mode 4 both in developed and developing countries i.e. commitments related to EJP/IP for CSS
- ◆ While seeking commitments in Mode 3 from developing countries chances are that they make request in Mode 4
 - Currently large numbers of highly qualified and experienced academics are migrating to South Africa from the rest of SADC (like in Zambia & Zimbabwe)
- ◆ Similar concessions can be provided in Mode 4, based on ceiling and strict qualifications requirements

Competitiveness in Higher Education: Some issues for Discussion

TCA Anant

The last decade or so has seen a rapid globalization in the market for higher education. Thus in 2001 by OECD data close to 1.6 million students were studying in a country other than their own at the tertiary level. Almost half of these were from OECD countries studying in other developed countries. But this included as many as 62,000 Indian students studying mostly in OECD destinations. In contrast India received only 7,000 foreign students mostly from Asia and Africa. In fact we received less than 1% of all students from Asia and Africa leaving their countries to study abroad.

Number of foreign students in tertiary education by country of origin and country of destination (2001)⁹

Number of foreign students enrolled in tertiary education by country of origin and country of destination, head counts

Countries of origin	Countries of destination						
	OECD countries				India	Total non-OECD destinations	Total all reporting destinations
	Australia	United Kingdom	United States	Total OECD destinations			
Total from OECD countries	27,069	132,845	174,147	665,338	379	3,797	669,135
India	6,195	4,302	47,411	61,179	n	839	62,018
Main geographic regions							
<i>Total from Africa</i>	3,837	18,134	29,677	174,040	2,558	6,077	180,117
<i>Total from Asia</i>	77,849	74,400	294,230	642,202	4,004	51,973	694,175
<i>Total from Europe</i>	12,763	109,454	69,607	522,521	120	17,290	539,811
<i>of which, from EU countries</i>	8,794	98,177	41,277	347,050	42	972	348,022
<i>Total from North America</i>	5,477	18,564	49,502	98,533	275	1,952	100,485
<i>Total from Oceania</i>	6,534	1,790	4,011	15,178	31	211	15,389
<i>Total from South America</i>	920	2,926	28,142	53,839	n	6,620	60,459

⁹ Source OECD

Total from all countries	120,987	225,722	475,169	1,538,867	6,988	106,558	1,645,425
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This is in spite of a large network of 196 universities, 76 Deemed Universities, 11 institutes of national importance established through Central legislation, and nearly 13,150 colleges. In fact given our long history of higher education and the advantages of Language (English)¹⁰ and cost it is difficult to explain our very poor performance. Given the context of the discussion in this workshop it is important to ask can we be competitive?

Competitiveness is a widely used and equally abused term¹¹. The idea is used to push many and at times conflicting agenda's and objectives. In fact in a now famous paper Krugman criticized the tendency to apply competitiveness as broad national or for that matter even sectoral attributes. The concept should be applied in its micro dimension to firms and institutions, which operate in a market environment. Even so there are many elements to the basic definition of competitiveness. However if pushed to a definition then the notion would refer to "The ability of an entity to operate efficiently and productively in relation to other similar entities in the marketplace." In context of firms Competitiveness refers to the ability of firms to remain profitable by delivering the products and services that consumers desire. The key point of this definition is that it refers to a process rather than a one-off event. The process entails both success and failure. It requires successful institutions to evolve and grow while the ones, which are unsuccessful, must be closed. Inherent in the nature of the concept is the idea of the marketplace. In this short note we will examine the implications of promoting competitiveness in Higher education in India. Thus to start with we need to explore nature of "Higher Education"

Is it a Public or Private Good? This question is important given the assertion made that there is a strong case for public (read state) support for higher education. Higher education is about skills and training embodied in people. To the extent that people are mobile and free to choose careers and activities the activity in question is clearly a private good. But even so there are some network characteristics of higher education in that the presence of universities and research institutions promotes technical change and development. The availability of skilled and educated workforce enhances productivity. And further the availability of higher education is to increase individual opportunities and promote equity.

¹⁰ Over half of all students go to English speaking destinations. If we allow for English language universities in other countries the number would be even higher.

¹¹ See Krugman (1994) "Competitiveness: A Dangerous Obsession." Foreign Affairs 73(2):28-44.

What should be subsidized?

Research versus Teaching

Some Sources of Confusion

Commercialization: Two facets

1. Access depending on ability to pay
2. Subject and Curriculum design

Profits : “Prevention of profit making and ensuring, as far as possible, the principle of no-profit –no-loss”

Accounting Versus Economic Concepts

Debt versus Equity Financing

Resources for growth and development

Other Sources of gain

Wages and Human Resources

Productivity growth is the bottom line of competitiveness. Labor productivity grows through the interplay of two complementary mechanisms: increases in efficiency and technical progress.

Human Resource Management: Incentives

Faculty Development

Cost Recovery and Incentives

What should student charges be?

The Punnnayya committee recommended based on their estimates of per student cost that costs be pegged at 6,700 per student per annum for Humanities & Social Sciences students and at Rs.16,500 per student per annum for Science students at the current price level (~ 1992). This figure was based entirely on the expenditure in departments and student enrollments. The principle cost inside academic departments is that of teacher salaries though there are usually some small overheads as well

The Punnnayya Committee had further tabulated the distribution of maintenance expenditure in central universities. They estimated that expenditure on academic departments ranges from 28% (JNU) to 42% (BHU) with the average being around 35% of total expenditure in the universities.. The other non-departmental expenses being on categories like libraries, hostels, administration examinations, pensions etc. Thus as a rough estimate teacher salaries will be approx 35% of total maintenance cost of a university. This would mean per capita maintenance cost¹² of approx 19000 in Humanities & Social Sciences and 47,000 for science students in 1991. To put them in current perspective note that that CPI-IW has gone up from 1991-92 till 2003-04

¹² The punnnayya committee calculated differently by simply assuming that all other costs do not vary with teacher costs whereas in fact they would be similarly effected.

from approx 240 to 500. The WPI stands at 181 (1993-94=100) thus suggesting that we should spend at least an amount per student ranging from 40,000 in social sciences to 95,000 in science

An alternative way to assess this cost would be by noting that at present the starting salary of a lecturer in Delhi University is approximately Rs. 16,000/- p.m including all allowances and the sum would rise to approx 35,000 for a professor. This will mean that on an average approx 3 lacs per year would be required for an average faculty member. Using the fact that staff salaries would be approximately 35% of the aggregate budget¹³ we should need at least 8.5 lacs per teacher as required financial resources. Now depending on what assumption we make on desirable teacher student ratios in higher education this sum would imply a per student fees ranging from 30,000 (Student Teacher Ratio of 1:30) to 60,000 (1:15).

Further note neither calculation provides for growth or enhancement of the program of education. These costs are high in universities because of the need to keep up with a rapid rate of technical change and obsolescence. Further note that these calculations are based on actual expenditure patterns that every body recognizes to be inappropriate and far short of what is desirable for high quality education.

These numbers are not exact and are not meant to be a guide for policy but necessary to keep a sense of perspective in deciding what are appropriate charges for higher education. This should place in perspective concerns raised on whether IIM Fees: should be Rs 30,000 per year or Rs 1,50,000 per year!

How should these charges be provided to the universities?

There are a number of different models on which we can do this but they can be broadly classified in two ways Top Down (The current model) and Bottom up and of course hybrids.

The Top down structure provides resources to the university from state and central budgets on a gap-filling basis. The university costs net of recoveries are given through a hierarchical grant system where the central budget allots money to the ministry and in directly to the UGC to allocate to different universities. Over 95% of all resources to universities are provided through such grants. A calculation can be seen in the following table from a paper published by NIPFP:

¹³ Lower for sciences and higher for arts and humanities

Table Central Budgetary Subsidies: 1998-99¹⁴

Social and Economic Services	(Rs. crore)			Receipts	Subsidy	Recovery Rate (Percent)
	Current	Capital	Total			
Social Services	14325	1340	15665	757	14908	4.83
General Education	4978	33	5011	5	5006	0.09
Elementary Education	2307	7	2314	0	2314	0.01
Secondary Education	1056	11	1067	0	1067	0.03
Univ. and Higher Education	1472	6	1478	1	1478	0.06
Other General Education	142	8	151	3	147	2.24
Social and Economic Services	91167	31214	122381	42553	79828	34.77

The alternative to the top down approach would be to recover the money directly from students in the form of fees. The money can be provided to the students through loans or grants. Thus for instance the state could create a voucher program where a student meeting eligibility conditions (School performance, family income, social status ... can be provided with a voucher to be exchanged at a university of his/her choice)

The top down had the advantage of being cheap and easy to administer. But the incentive effects are perverse. As is well known this implies first universities and other recipients spend more effort in creating Performa's rather than catering to student needs. The mix and quality of programs is also poor.

Institutions

The other component of competitiveness is the creation of appropriate institutions. Institutions, including issues of corporate governance, corruption, etc., are determined by historical and cultural factors as well as by government actions and incentive structures.

Processes

Internal functioning of Universities: Feudal Structures vs. open communities

Conclusions

Abandon outmoded ways of thinking

Be Change Friendly

¹⁴ The Table is extracted from *Budgetary Subsidies in India: Subsidizing Social and Economic Services*
DK Srivastava et.al NIPFP 2003

GATS and Cross Border Supply (Mode 1) in Higher Education
Implications and strategies

M.M.Pant

Modes of Trade in Education

- Cross-border supply
- Consumption abroad
- Commercial Presence
- Presence of natural persons

Classification of education services

- Primary
- Secondary
- Higher
- Adult
- Other education services
- Training and testing services

Global Student Mobility 2025

- Forecast a 4-fold increase in the global demand for International higher education by 2025
- Created extensive debate within Governments, educational Institutions and the corporate sector

Atlas of student mobility

- Institute of International education (Todd M Davis)
- Identified 21 leading global destinations
- Detailed 75 leading global places of origin

The emergence of e-learning

- Of all modes of trade in education and of all sectors, the first and foremost to succeed is cross-border supply in higher education, adult education and training and testing services

- In the 10 years since the WTO was signed, technologies and pedagogies to support e-learning have made tremendous progress and this will have a disruptive effect

Impact of e-learning on global mobility

- All studies cited above(GSM 2025,Atlas of student mobility and other UNESCO data)can throw no light on what would happen in the context of e-learning
- Clearly the number of students physically migrating would decrease
- Remote learners would increase

Changing the supply chain

- Emergence of trans-national education,where for example an Australian student would pursue a University of Rochester qualification from Malaysia,Singapore,Mauritius or India or in fact from all of them,getting in the bargain a very rich inter-cultural experience

A lesser asymmetry between supply and destination countries

- Sources of suppliers of global education would increase from the present 21
- Destination of learning services would also increase from the erstwhile 75
- In fact all countries could become providers as well as receivers
- However China and India will account for more than half of the total global demand for higher education

Greater diversity in courses and programs

- As of now the concentration is around technology and management courses and emerging specialisations within them
- The emergence of e-learning would make it viable to do small enrolment courses in niche areas of sparsely distributed learners

India's potential in global trans-national education

- Indian graduates have proved their mettle in almost all areas and fields

- Use of English in most of higher education and large parts of earlier education
- Marshalling of IT and allied technologies in communication, as in BPO
- Compelled to use higher technologies to cope with domestic challenges give a global edge as well
- Can play a major role in both products and services

What India needs to achieve this potential?

- A suite of friendly and enabling policies
- New pedagogic models built on findings of educational research
- New technology enabled multi-media formats of delivery
- Training of teachers as well as para-professionals

Parameters for success in the Knowledge economy

- A shift from fierce independence and import-substitution to interdependence and export-opportunities
- Creating, packaging and efficiently distributing knowledge products in response to global needs
- Indianisation of the globe with the globalisation of India

The result !!!!!

- India can become the global hub for e-learning
- Teachers are projected to be the leaders in the Knowledge Economy

From Country-wide classroom to world-wide learning pads

Education in the Knowledge Society

Re-structuring and transforming educational processes

- Customer Relationship management (Learner relationship management)
- Enterprise resource planning (LMS,LCMS..)
- Quality and Security Management systems (ISO,CMM,BS7799...)
- Supply chain management (Global e-sourcing of learning resources and expertise)
- Learner facilitation system (LFS)

Restructuring education for Transnational delivery

- Education is about putting teachers and learners together
- As we evolve into different stages of society, from hunter-gatherer, agricultural, industrial, post-industrial, to knowledge Society, its modes must change
- Learners may be anywhere and educational service providers could come from everywhere
- Re-establishment of the Gurukul system displaced by McCaulay and being currently implemented deploying current and emerging technologies

Factors influencing the future learning environments

- The convergence in ICT
- Emergence of the Knowledge economy
- Developments in educational research

Mobile Education

- More and more people are on the move than ever before
- There are more cell phone users than Computer users
- Mobile communication is getting cheaper with both GSM and CDMA competing

The Frog Story

- The frog is sitting on a log, watching flies, in the middle of Amazon. He is similar to all other of its kind except by a genetic fluke, he perceives his surrounding as they were a second ago. So what happens? When the frog sees a fly, within range he lunges out but due to his out of date information he misses. Eventually, weakened by a rarely satiated hunger, the frog dies. The others which use most recent data survive.

Where do we want to be tomorrow?

- Thriving
- Flourishing
- Surviving
- Floundering
- Perishing

A new measure and model of RLO design for success in the global competition. A new model of RLO

- A learning event emanating out of a web-page
- This is a proposed model of a reusable-learning object (RLO)
- The first RLO can be about the methodology itself
- A standard RLO can be transacted in about 18 minutes (0.01 credit)

Recommended structure of the 18 minutes RLO

- Intro/recap/recall ... 1 minute
- Intervention/Input 1 ... 6 minutes
- Diversion/Interactivity ... 1 minute
- Intervention/Input 2 ... 6 minutes
- Revision & add-on ... 1 minute
- Test for mastery-learning ... 3 minutes

Building courses from RLO's

- An RLO is a one webpage of 0.01 credits
- A unit is a course module of 1 credit, which would typically be 100 web-pages or 100 RLO's
- A course can be any certifiable quantum of learning measured in credits

- A course is a group of closely connected web-pages fulfilling specified course objectives

Educational services projects...

- Providing e-content delivery on mobile devices such as cell phones and PDA's.
- On-line, on-demand computer adaptive testing in a secure environment
- E-learning models for rural, inaccessible regions and the challenged and elderly

Help line Operations Emergence of the Independent Educator

- Doctors, Engineers, Architects, CA's, lawyers work either within Government, corporate or independently
- Qualified educationists would find opportunities for independent work... as Teachers, assessors, curriculum designers, advisors, creators of IP...

Conclusion: A picture 10 years hence

- In the past, you had to be born at the right latitude, longitude and time to be fortunate enough to get a good education
- Education of tomorrow could include all, irrespective of the above factors
- Providers and seekers of knowledge are all connected through 'educational grid'. To draw upon as per demand, and to contribute to as per generation capacity

Where do we go from here?...

- This talk had a beginning, but it has no end.
- You are welcome to send me a mail at mmpant@hotmail.com or visit www.mmpant.org and follow links to Ask Prof.Pant to send any questions or comments

**National Conference on
Internationalisation of Higher Education: Issues and Concerns**

Venue – PHD House, Khel Gaon Road, New Delhi

(26th and 27th August 2004)

INAUGURAL SESSION

(Minute Wise Details)

Venue: Singhania Auditorium

Chairperson: Prof. Pradeep Kumar Joshi, Director, NIEPA

Welcome Address	Prof. Pradeep Kumar Joshi, Director, NIEPA	10.00 – 10.05 am
Introduction to the Conference	Prof. Sudhanshu Bhushan Senior Fellow & Incharge, Higher Education Unit NIEPA	10.05 – 10.10 am
Bouquet Presentation		10.10 – 10.15 am
Inauguration: Lighting of the Lamp	Shri B. S. Baswan, Secretary, Secondary & Higher Education, MHRD	10.15 – 10.20 am
Inaugural Address	Shri B. S. Baswan	10.20 – 10.30 am
Key Note Address	Prof. Ashok Lahiri, Chief Economic Advisor, Ministry of Finance	10.30 – 10.50 am
Chairman's Remarks	Prof. Pradeep Kumar Joshi	10.50 – 10.55 am
Vote of Thanks	Prof. Sudhanshu Bhushan	10.55 – 11.00 am

PLENARY SESSION

(26th August, 11.30AM - 1.00 PM)

Venue: Singhania Auditorium

Chairperson – Prof. Arun Nigavekar

- 1) Foreign Education Providers in India-results of research study
conducted by NIEPA
- **Prof. Sudhanshu Bhushan, Dr. Nilay ranjan and Mr. Subrata Kundu**
- 2) Internationalisation and Higher Education – Policy Concerns
- **Prof. M. Anandkrishnan**
- 3) Domestic Regulations in Higher Education in Changing Context
- **Prof. K. B. Powar**

Rapporteur--- Dr. S.M.I.A. Zaidi – Fellow & Incharge, Educational
Planning Unit, Dr. N Reddy - RTA, Shri Mukesh Kumar, Sr. Steno NIEPA,

Report presentation- Prof. S. Bhushan

Domestic Regulations in Higher Education in Changing Context

(26th August, 2.00PM to 4.30 PM)

Venue: RAUNAQ Hall

1) Prof.Rajshekharan, Pillai, Chairperson

- 2) Dr. Rupa Chanda (IIM, Bangalore), Presentation
- 3) Shri P R Mehta, Presentation
- 4) Shri Razdan (AICTE) Presentation
- 5) Prof. Dayanand Dongaonkar, AIU
- 6) Shri. Shardindu (NCTE)
- 7) Dr. P. C. Kesvan Kutty Nair (MCI), Check from MCI about MCI Representation
- 8) Prof. P. V. Krishna Bhatt (IGCNA, Bangalore)
- 9) Dr. Latha Pillai, Advisor (NAAC, Bangalore)
- 10) Dr. S. S. P. Darwesh (TDA Law Uni., Chennai)
- 11) Dr. K B Powar
- 12) Dr. S.K.Jain, IIT Delhi
- 13) Dr. Bibek Debroy (Rajiv Gandhi Foundation)
- 14) Dr. K.M Nath, Principle, G.P.Nilokheri, Haryana
- 15) Mr. Lakshmi Narayan

NOTE: Entry open for other interested participants

Rapporteur--- Dr. Rashmi Diwan – Associate Fellow, Dr. S. K. Mallik – RTA, School & Non Formal Unit, Dr. N. K. Mohanty, Associate Fellow, Ms. Kiran Kapoor, Sr. Steno NIEPA

Rapporteur Report — Shri P. R. Mehta

Promoting Indian Education Abroad
26th August, 2.00Pm to 4.30 PM)
Venue: MOHTA Hall

- 1) **Prof. Bhushan Patwardhan, Chairperson**
- 2) Dr. Kavita Sharma, Presentation
- 3) Shri. Pawan Agarwal, Presentation
- 4) Shree Ajit Motwani (Ed.CIL), Presentation
- 5) Prof. Ajit Bandhopadhyay, Registrar, Jadavpur, Presentation
- 6) Prof. Rupa Shah (SNDT)
- 7) Dr. Mujumdar, Chancellor Symbiosis, PUNE
- 8) Shree S.Guru Madhav Rao,Registra, Manipal, Deemed University
- 9) Dr. Parimal Manke, International Unit, NIIT
- 10) Shree Suresh Sachdeva, CEO, Rai University
- 11) Dr. Gohil (I/C VC, Gujarat University)
- 12) Representative of IIM-Ahmedabad
- 13) Shree Ashok Ganguly, Chair person, CBSE
- 14) Dr.K.K Kataria, Principle, Haryana
- 15) Mr Amrish Sahgal

NOTE: Entry open for other interested participants

Rapporteur--- Dr. Sunita Chugh, RTA, OSRM Unit, Dr. R. K.Murthy,
Associate Fellow, Ms. Pooja Project Steno NIEPA

Rapporteur Report—Dr Chandra Bhushan Sharma

Analysis of Higher Education under Mode III (Commercial Presence) and
Mode IV (Presence of Natural Person): Its Implication and strategies
(26th August, 2.00Pm to 4.30 PM)
Venue: Sri Ram Hall

- 1) **Prof .G K Chaddha, Chair Person**
- 2) Dr. S. C. Nuna, Presentation
- 3) Prof. Binod Khadria (Mode IV), Presentation
- 4) Mr. Chetan Bijesure, Presentation
- 5) Rev. Fr. Dr. S. Ignacimuthu S.J, VC, Madras University
- 6) Mr.Jyoti Nandi (British Council)
- 7) Dr. Vijaya, Educational Advisor, USEFI
- 8) Prof. T. K. Bhaumik, CII
- 9) Dr Sudhir Rana, Principle, G.P College, Narnaul, Haryana
- 10) Mr. Bhaskar G.Nayak, Director Higher Education, Goa
- 11) Prof J.L Azad, former advisor, planning commission
- 12) Dr N.K Choudhary
- 13) Dr J Thakur
- 14) Dr Mani Jacob
- 15) Mr. Shekhar Babu
- 16) Ms. Kavita Saxena

NOTE: Entry open for other interested participants

Rapporteur--- Dr Neeru Snehi, Associate Fellow, Dr. Madhumita
Associate Fellow, Sh. Anil Gupta Sr. Steno NIEPA

Rapporteur Report – Farqan Qamar

PLENARY SESSION
(27th August, 09.30am to 11.15 AM)
Venue: Singhanian Auditorium

Chairperson – Prof. A. Gnanam

- 1) GATS and Cross Border Supply (Mode I) in Higher Education:
Implications and Strategies (Prof. M. M. Pant)
- 2) FDI Policy in Education Sector (Prof. Farqan Qamar)
- 3) Competitiveness in Higher Education (Prof. T. C. Anant)

Rapporteur--- Dr. B. K. Panda – Associate Fellow, International Unit, Dr.
V. P. S. Raju - RTA, Shri Mukesh Kumar, Sr. Steno NIEPA

Report presentation- Prof. S. Bhushan

**GATS and Cross Border Supply (Mode I) in Higher Education:
Implications and Strategies**
27th August, 11.30-1.00Pm & 2.00-3.30 PM
Venue: RAUNAQ Hall

- 1) **Prof. H. P. Dikshit, V.C, IGNOU, Chairperson**
- 2) Dr. Madhulika Kaushik, IGNOU, Presentation
- 3) Prof O.S Sudan , Registrar, (Jammu University)
- 4) Mrs. Madhu Parhar, (STRIDE)
- 5) Prof. P. P. Palande, VC
- 6) Dr. R.V. Vyas (DEC), Kota
- 7) Dr. P. R. Ramanujam
- 8) Dr. Latha Pillai, Advisor (NAAC, Bangalore)
- 9) Dr.K.K Kataria, Principle, Haryana
- 10) Prof. M.M Pant
- 11) Mr.Rajesh, Regional Director, IGNOU, Karnal
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- 13) Dr. Manab Majumdar

NOTE: Entry open for other interested participants

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RTA, School & Non Formal Unit, Dr. N. K. Mohanty, Associate Fellow,
International Unit, Ms. Kiran Kapoor, Sr. Steno NIEPA

Rapporteur Report—Dr Chandra Bhushan Sharma

FDI Policy in Education Sector
(27th August, 11.30-1.00Pm & 2.00-3.30 PM)
Venue: MOHTA Hall

1) Prof. (Ms.). Vijaya Katti (IIFT), Chairperson

- 2) Dr., D.N.Rao Presentation
- 3) Dr.R. Nagaraju (Mumbai)
- 4) Vijay Kumar (Edcil),
- 5) Amirulla Khan (India Development Center)
- 6) Sushma, Education Unit FICCI
- 7) Prof. V. S. Shekhar (Osmania)
- 8) Dr. Yamini Gupt Assistant Director, Education, FICCI
- 9) Prof. V.S.Shekhar, Osmania University
- 10) Dr Sudhir Rana, Principle, G.P College, Narnaul, Haryana
- 11) Mr. Bhaskar G.Nayak, Director Higher Education, Goa
- 12) Dr.S.K.Jain, IIT, Delhi
- 13) Shree Nirmal Kumar, IIT Delhi
- 14) Dr Farqan Qamar

NOTE: Entry open for other interested participants

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Associate Fellow, Ms. Pooja Project Steno NIEPA

Rapporteur Report— Dr Farqan Qamar

Improving Competitiveness of Higher Education

27th August, 11.30-1.00Pm & 2.00-3.30 PM

Venue: Sri Ram Hall

- 1) **Prof. R. Natarajan, Chairperson**
- 2) Prof. Rupa Shah (SNDT), Co Chairperson
- 3) Prof. J. L. Azad, Presentation
- 4) Dr. (Ms) Gopinath, Lady Shriram College for women
- 5) Prof. R. K. Gupta, Jabalpur
- 6) Prof. A. Gnanam
- 7) Dr. suman Swarup, - Education Advisor, Planning Commission
- 8) Dr. Aruna, Principal, IP College
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- 14) Dr N.K Choudhary
- 15) Dr Praveen Jha
- 16) Dr Karuna Channa
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Rapporteur Report— Dr Praveen Jha

VALEDICTORY SESSION

(03.45 PM to 05.00 PM)

Venue: RAUNAQ Hall

Chairperson: Mrs. Kumud Bansal

Rapporteur Report by – Shri P.R.Mehta
Prof. Sudhanshu Bhushan
Prof. Farqan Qamar

Dr. Praveen Jha
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Vote of Thanks – Director, NIEPA

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Domestic Regulations in Higher Education in Changing Context
(26th August, 2.00PM to 4.30 PM)

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**Promoting Indian Education Abroad
26th August, 2.00Pm to 4.30 PM)**

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PLENARY SESSION
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Vote of Thanks – Director, NIEPA