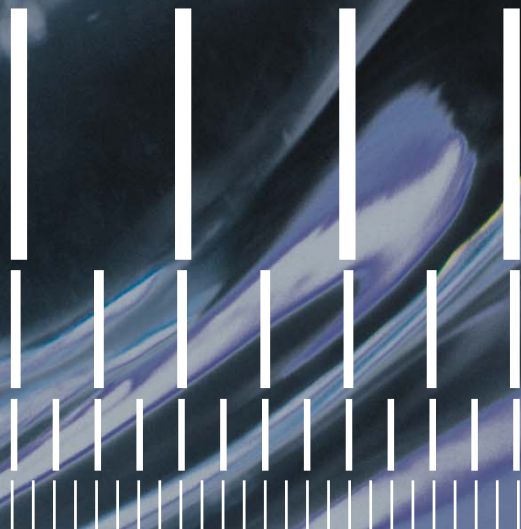


**Trade in higher
education:
The role of the General
Agreement on Trade
in Services (GATS)**

Jandhyala B.G. Tilak

UNESCO:
International
Institute
for Educational
Planning



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Fundamentals of educational planning

The booklets in this series are written primarily for two types of clientele: those engaged in educational planning and administration, in developing as well as developed countries; and others, less specialized, such as senior government officials and policy-makers who seek a more general understanding of educational planning and of how it is related to overall national development. They are intended to be of use either for private study or in formal training programmes.

Since this series was launched in 1967, practices and concepts of educational planning have undergone substantial change. Many of the assumptions which underlay earlier attempts to rationalize the process of educational development have been criticized or abandoned. Yet even if rigid mandatory centralized planning has now clearly proven to be inappropriate, this does not mean that all forms of planning have been dispensed with. On the contrary, the need for collecting data, evaluating the efficiency of existing programmes, undertaking a wide range of studies, exploring the future and fostering broad debate on these bases to guide educational policy and decision-making has become even more acute than before. One cannot make sensible policy choices without assessing the present situation, specifying the goals to be reached, marshalling the means to attain them, and monitoring what has been accomplished. Hence planning is also a way to organize learning: by mapping, targeting, acting, and correcting. The scope of educational planning has been broadened. In addition to the formal system of education, it is now applied to all other important educational efforts in non-formal settings. Attention to the growth and expansion of education systems is being complemented and sometimes even replaced by a growing concern for the quality of the entire educational process and for the control of its results. Finally, planners and administrators have become more aware of the importance of implementation strategies and the role of regulatory mechanisms, including the choice of financing methods and examination and certification procedures. The concern of planners is twofold: to reach a better understanding of the

validity of education in its own empirically observed dimensions, and to help in defining appropriate strategies for change.

The purpose of these booklets includes monitoring the evolution and change in educational policies and their effect upon educational planning requirements; highlighting current issues of educational planning and analysing them in the context of their historical and societal setting; and disseminating methodologies of planning which can be applied in the context of both the developed and the developing countries. For policy-making and planning, vicarious experience is a potent source of learning: the problems others face, the objectives they seek, the routes they try, the outcomes they achieve, and the unintended results they produce all deserve analysis.

In order to help the Institute identify up-to-date issues in educational planning and policy-making in different parts of the world, an Editorial Board has been appointed comprising professionals of high repute in their fields. The series has been carefully designed, but no attempt has been made to avoid differences or even contradictions in the views expressed by the authors. The Institute itself does not wish to impose any official doctrine. Thus, while the views are the responsibility of the authors and may not always be shared by UNESCO or IIEP, they warrant attention in the international forum of ideas. Indeed, one purpose of this series is to reflect a diversity of experience and opinions by giving different authors from a wide range of backgrounds and disciplines the opportunity to express their views on changing theories and practices in educational planning.

Although universities continue to be national entities, they have maintained an international character and have been attracting students and scholars from abroad for centuries. Internationalization in the context of globalization has become more of a market-mediated process than a government-sponsored activity. Higher education in a market framework is a commodity to be traded just like any other product. The creation of the General Agreement on Trade in Services (GATS) has formalized the trade in education. GATS also specified the modes of trade in education.

Trade in higher education involves billions of dollars and is an important source of income for governments and many universities.

The advent of trade in education changed the perspective on education and its very purpose. At times, the commercial aspect and financial benefit outweigh educational and philanthropic considerations in investing in education. Although several countries have signed trade agreements and trade in higher education is expanding, there is a growing number of people who do not agree with the very idea of trade in education as a desirable evolution and helpful way for an equitable expansion of the higher education sector. In this booklet, Professor Tilak focuses on an analysis of the nature of trade in education and its implication for growth and expansion of higher education in developing countries in general, and countries such as India in particular. The booklet contributes to a better understanding of GATS, its manifestations, and the risks involved in its use as a basis for planning higher education development.

Khalil Mahshi
Director, IIEP

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Preface

The higher education sector has in recent years been attracting increasing attention, largely due to its contribution to improving productivity, increasing economic growth, and enhancing innovation and technological capability. The expansion of the sector is considered a necessary condition for growth and expansion in the global economy.

Higher education has traditionally been provided by public authorities through public institutions. However, the pressure to expand, coupled with the fiscal constraints of the state, has compelled many governments to adopt market-friendly reforms to support this growing sector. These reforms included cost-recovery and income-generating measures in public institutions and encouragement of the establishment and expansion of private higher education institutions, which do not depend on state funding. A further extension of the marketization process is the view that education can be treated as a tradable commodity.

The creation of the General Agreement on Trade in Services (GATS) reflects the formalization of market processes and procedures for international trade in services. GATS encompasses all internationally traded services, including education. Within the education sector, GATS covers five categories of education services: primary, secondary, higher, adult, and 'others'. Trade in education under the GATS framework takes place in four modes: (1) cross-border supply of the service (where consumers [students] remain within the country); (2) consumption abroad (where consumers cross the border); (3) commercial presence of the provider in another country (institutional mobility); (4) presence of persons in another country (staff mobility).

Two of the most important and visible forms of trade in education are the cross-border mobility of students and cross-border institutional mobility. The internationalization of education is not new. Students have been going abroad to study for decades – motivated by a lack of facilities at home or the attraction of better education opportunities abroad, or the desire to learn a new

language and experience new cultures. Countries in the European Union encouraged this tendency through programmes such as ERASMUS. But the sudden spurt in student mobility in recent years is a result of globalization, and it has become a financially rewarding experience for some countries (particularly anglophone ones), where cost-recovery levels are high. Today, nearly 3 million students study abroad, and the market for cross-border students is rapidly increasing. Similarly, the cross-border mobility of institutions is also on the rise. Countries such as Malaysia, Singapore, Hong Kong, United Arab Emirates, and Qatar host branch campuses of a number of foreign universities.

In general, students move from less developed to developed countries, whereas institutions move from developed to developing countries. In both cases, money moves from developing to the developed countries. The trade in education, through all modes, accounts for billions of dollars and can be highly profitable. Countries such as the United States, the United Kingdom, and Australia attract large numbers of students, establish institutions overseas, and are the biggest beneficiaries of trade in education.

In this booklet, Professor Tilak provides a detailed analysis of the internationalization of higher education under the GATS framework. While discussing the issues related to trade in education, he points to the positive and negative aspects of a trade-based perspective to higher education provision. He argues that the developed countries have disproportionately benefited from trade in education, while the disadvantages chiefly affect developing countries. Indeed, if foreign universities are allowed to exploit and dominate the imperfect education markets operating in developing countries, this could weaken the higher education system in those countries. He offers some suggestions on the proper response in such contexts, which may interest policy-makers from developing countries. The Editorial Board is grateful to Professor Tilak for bringing this new perspective on the development of higher education, thus contributing to this important domain of research and policy.

Françoise Caillods and N.V. Varghese
General Editors

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Dedicated to the memory of my parents, Smt Kunjali Lalita and Santisri Jandhyala Venkateswara Sastry.

List of abbreviations

AICTE	All-India Council for Technical Education
AIU	Association of Indian Universities
ASEAN	Association of South East Asian Nations
CBSE	Central Board of Secondary Education
CII	Confederation of Indian Industry
CIS	Commonwealth of Independent States
CMU	Carnegie Mellon University
CNRRC	CNR Rao Committee
EdCIL	Education Consultants India Ltd
EU	European Union
FICCI	Federation of Indian Chambers of Commerce and Industry
FIEO	Federation of Indian Export Organisations
GDP	Gross domestic product
GATS	General Agreement on Trade in Services
GATT	General Agreement on Trade and Tariffs
IAU	International Association of Universities
ICCR	Indian Council of Cultural Relations
ICT	Information and Communications Technology
IGNOU	Indira Gandhi National Open University
IIEP	UNESCO International Institute for Educational Planning
IT	Information technology
MFN	Most favoured nation

List of abbreviations

MHRD	Ministry of Human Resource Development
NASSCOM	National Association of Software and Service Companies
NATO	North Atlantic Treaty Organization
NIIT	National Institute of Information Technology
NKC	National Knowledge Commission
OECD	Organisation for Economic Cooperation and Development
PIHEAD	Promotion of Indian Higher Education Abroad
SAFTA	Singapore–Australia Free Trade Agreement
TRIPS	Trade Related Intellectual Property Rights
UGC	University Grants Commission
UIS	UNESCO Institute of Statistics
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
WTO	World Trade Organization

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Introduction

Internationalization of higher education has been an issue of high priority for 73 per cent of the higher education institutions around the world, according to a survey conducted by the International Association of Universities (2008). Of the various forms it has taken, trade in education has become the most significant, and the General Agreement on Trade in Services (GATS) has come into the picture to facilitate rapid internationalization of this form. The GATS treats higher education as a tradable commodity. Many academics in developing as well as advanced countries are against this trend, as are some international organizations, but there are also many who favour it. Many current developments could and will take place both within and outside the strict framework of the GATS, but the spirit of the GATS – trade in education – seems to be all-pervasive, with only a few exceptions. Even without the GATS, internationalization of the kind that is taking place might produce serious problems. The GATS adds to the problems, as it changes the very perspective on and approach to the development of higher education, and formalizes and legalizes this new perspective in which education is treated as a commodity and traded internationally. Many countries are becoming increasingly involved in this kind of internationalization, either out of conviction or more out of compulsion, but many educational policy-makers and planners have only rudimentary knowledge of the mechanics of trade in higher education and its implications. It is important to have a better understanding of the GATS and the profound implications, particularly in developing countries, of bringing higher education under the purview of the GATS. Since the GATS is still in the negotiation phase, the opportunities, benefits, risks, and dangers remain at the conceptual level, although some indications are clearly emerging. It is important to make a critical assessment of the arguments made in the intense discourse on the kind of opportunities the GATS offers and the threats it poses.

This monograph should be seen as an attempt to provide a deeper understanding of the GATS mechanism and to offer a critical assessment of the arguments being made by both its champions and its critics. This volume presents an analytical description of the

GATS and how it works in education, which of the different modes are available for trade in education, and what have been the recent practices in developing and developed countries. It also analyses the implications of bringing education under the purview of the GATS from the standpoint of developing countries. Many developing and advanced countries and key players in the internationalization of higher education are interested in the developments in India, for obvious reasons. The case study of India presented here unravels the socio-political dynamics of the GATS and its application to higher education in a developing country. The traditional and neoliberal schools of thought have advanced powerful arguments against and in favour of the GATS in higher education. While some researchers have highlighted structural advantages to trade in education, many have also pointed to the structural weaknesses and potential dangers involved in the same. Institutions and governments should be aware of both sides and be ready to adapt or take measures to correct negative effects. Hence, a critical assessment of the strengths and weaknesses of the GATS mechanism, along with a detailed discussion of the several provisions of the GATS framework, as attempted here, should be of considerable use to educational policy-makers, educational planners, researchers, and development thinkers around the world.

This monograph is meant primarily for three types of clientele: those engaged in educational policy-making in developing as well as developed countries, those involved in the nitty-gritty of educational planning and administration, and researchers and others interested in issues relating to education and development. The author hopes that they will find it useful.

I. Globalization and internationalization of education: The concepts

In the first decade of the twenty-first century, globalization and internationalization have been the dominant themes of policy discussions on higher education in almost all countries of the world. They are regarded as the key factors shaping and challenging the higher education sector across the world (Knight, 2008*a*). Globalization has been simply defined by some as ‘in essence, free trade and free flow of capital’ (Rodrik, 1997: 29). When one goes into detail, it is clear that it involves the flow of technology, economy, knowledge, people, values, cultures, ideas, and all kinds of physical and intangible resources. It is a process that leads to the removal of barriers to free trade and closer integration of national economies (Stiglitz, 2002: ix). It has also been defined as ‘integration of economies and societies through cross country flow of information, ideas, technology, goods, services, capital, finance and people’ (Rangarajan, 2006: 79). While there are several definitions, it is widely held that globalization is characterized as ‘a set of processes that tend to de-territorialize important economic, social, and cultural practices from their traditional boundaries in nation states’ (Suárez-Orozco and Qin-Hilliard, 2004: 14). Thus, the term ‘globalization’ refers to the increasing unification of the world’s economic order through reduction of such barriers to international trade as tariffs, export fees, and import quotas. It denotes the process by which regional economies, societies, and cultures have become integrated through communication, transportation, and trade. In the early 1990s globalization was welcomed with euphoria all over the world, as it was expected to bring unprecedented prosperity to all, with increased trade and flows of foreign direct investment and skilled labour between countries (Stiglitz, 2006: 11). But several countries slowly realised that ‘globalization is a set of political-economic arraignments for the organization of the global economy, driven by the need to maintain the capitalist system rather than by any set of values’ (Dale, 2000: 436).

Applying the above definitions and interpretations to education *per se*, globalization in the area of education can be defined as unification of the world's education system by facilitation of the free flow of students and teachers, through reduction of all the various kinds of barrier that exist. It denotes the process by which national and regional education systems become integrated with the rest of the world's systems. Internationalization of education means mostly the same thing. The two concepts are not exactly identical, but they are very closely related and even overlapping in their nature, scope, and effects. In fact, they are so closely related that it may be difficult to separate them. However, one may state that the forces driving internationalization of education are strengthened by the forces of globalization. Internationalization of higher education is viewed by many as a natural extension of and response to the pressures created by many forms of the worldwide wave of globalization, which has also resulted in increasing demand for higher education of diverse types and natures. As Knight and deWit (1999) rightly stated, 'internationalization and globalization are seen as different but dynamically linked concepts. Globalization can be thought of as the catalyst while internationalization is the response, albeit a response in a proactive way.' While they overlap each other, internationalization is preferred to globalization in education, as it is felt that

in terms of both practice and perceptions, internationalization is closer to the well-established tradition of international cooperation and mobility and to the core values of quality and excellence, whereas globalization refers more to competition, pushing the concept of higher education as a tradable commodity and challenging the concept of higher education as a public good (van Vught, van der Wende, and Westerheijden, 2002).

In other words, globalization is fraught with negative connotations and is considered more predominant than internationalization. However, as discussed below, even the concept of internationalization is meant to imply commoditization of education as a tradable good.

Neither globalization nor internationalization of higher education is a new phenomenon. Both existed during the mediaeval, modern, and contemporary periods. As Sen (2002) argues,

globalization is at least a few thousand years old, and though it is one of the most discussed topics in the world today, it is not altogether well defined. There are many definitions of ‘globalization’, as a multitude of global interactions are put under its broad banner, ranging from the expansion of cultural influences across borders to the enlargement of economic and business relationships throughout the world. It is widely defined as a process of integration of national economies with the world economy, but globalization is much more than economic integration; it encompasses issues of power, culture, environment, etc. (Collier and Dollar, 2002).

In modern history, one can note at least three waves of globalization, as Stern *et al.* (2002) have noted. The first wave (1870–1914) was characterized by economic integration and the flow of labour from densely populated countries to less populated countries, rich and poor. Total labour flows during this period amounted to nearly 10 per cent of the world’s population. This phase was followed by a retreat into nationalism during the post-First World War period (1914–1950). The second phase (1950–1980) witnessed close integration among the rich countries in Europe and North America, along with Japan. The North Atlantic Treaty Organization (NATO), the Organisation for Economic Co-operation and Development (OECD), and the General Agreement on Trade and Tariffs (GATT) represent this process of political and economic integration among the rich countries. The third phase of globalization, which began in the early 1980s, is characterized by very rapid technological advancement in transport and communications, a high rate of flow of labour, and higher rates of economic growth. This phase, though predominantly economic in its nature, impacts all sectors of society, including higher education systems and institutions, in various ways all over the world. As Bassett (2006: 8) observed, ‘globalization is not simply an economic issue. It is a broad force, affecting cultural, political, social, environmental, economic and a myriad of other areas of interaction, and higher education falls in the crosshairs of all these areas.’ In fact, higher education has now become an integral part of the globalization process in many parts of the world (Jowi, 2009: 263).

Internationalization of higher education has been defined, in its ideal form, as

the highest stage of international relations among universities. It is not just a fancy word to justify packing in more (high-fee) international systems, or even a label to describe exotic partnerships (which inevitably demand much travelling by senior managers). The whole institution – its courses and curriculum, all its students, its research – has become infused with an international spirit (Scott, 2011).

It is described as a process of integrating international, intercultural, and global dimensions into the goals, functions (teaching, learning, research, and service), and delivery of higher education; it involves a process of interchange of higher education between nations, with partnerships between nations, between national systems of higher education, and between institutions of higher education (Knight and deWit, 1997). Simply defined as ‘the process of integrating an international/intercultural dimension in the teaching, research and service functions of the [higher education] institutions’ (Knight, 1997), internationalization of higher education is also neither a new term nor a new phenomenon. Universities are universal by definition and they have always been international institutions; they have always had ‘roles that transcended their national boundaries’ (Scott, 2011), ‘with common historical roots and also embedded in national cultures and circumstances’ (Altbach, 1995: 3–4). Research communities have been global, and international research collaboration has always flourished. Universities attract students and faculty from far and wide from various countries. Indeed, students and scholars have always been mobile. Many countries attract foreign students with subsidies in order to increase diversity in their higher education systems, improve international understanding, forge cultural relations, and raise the educational levels of people in developing countries.

In 2008, about 3 million students were studying in countries other than their own. The fast growth in this number can be attributed to several factors: high rates of return to students for investment in foreign education; globalization, which includes the opening up of the economies and movement of physical and human capital between nations; global competition for skilled labour; the emergence

of wealthy middle and upper classes in some of the dynamic, high-growth developing countries like China, South Africa, and India, who are able to pay high fees and to incur travel and living costs abroad; and lastly, but not of least importance, low levels of public investment in higher education in developing countries, resulting in low educational quality and the widening of inequalities in the quality of higher education between the developing and developed countries. Students in developing countries go abroad to satisfy the differentiated and excess demand for higher education.¹

While the international flow of students is of long standing, the unprecedented numbers that are now being seen in international student mobility can be attributed more to the new forces of globalization and internationalization: opening of borders, reduction in cross-border barriers including easy availability of visas and other immigration conditions, and so on, besides specifically pro-free-trade policies. Today, the internationalization of higher education has a different meaning. As Scott (2011) observed, ‘internationalisation is a neologism ... disconcertingly, aligned with neo-liberalism.’ In fact, it has taken a variety of forms and is nowadays often defined in terms of trade in education, and more specifically as coming under the purview of the General Agreement on Trade in Services (GATS). This has become an issue of high priority for 73 per cent of higher education institutions around the world, according to a survey conducted by the International Association of Universities in 2005 (IAU, 2008). Many more countries are getting involved in this process. Bringing higher education under the purview of the GATS has profound implications for the development of higher education. The traditional and neoliberal schools of thought have advanced powerful arguments for and against the GATS. It is important in this context to provide a clear understanding of the GATS mechanism and how it works, a clear assessment of the arguments, the overall implications for the development of higher education, and what policy measures are required to reap the gains and avoid the adverse effects of internationalization of higher education.

This short study proposes to present an analytical description of the complex process of internationalization of higher education

1. These and a few other issues are discussed in detail in *Chapter V*.

and its manifestations. The GATS is an instrument in the process of internationalization. The book describes how it works in education, which modes of internationalization are available in education, recent practice in developing and developed countries, and the implications of bringing education under the purview of the GATS. While some researchers have highlighted the advantages of trade in education, many have pointed to the potential dangers involved. Institutions and governments should be aware of both and be ready to adapt or take measures to correct negative effects. Hence, a critical assessment of the dominant rationales and weaknesses of the GATS mechanism, along with a detailed discussion of the provisions of the GATS framework, should be of considerable use to educational policy-makers and planners around the world.

Chapter II gives a brief account of the changing nature of higher education. *Chapter III* describes the structure and objectives of the GATS, and how it works in the area of education. *Chapter IV* critically examines the arguments of the supporters and critics of internationalization in general and of the GATS in particular. In the process, the implications of several provisions of the GATS are unravelled. The world's experience with the GATS in education spans hardly a decade and a half, and no authentic details are available on many aspects. However, some directions in development are clear. *Chapter V* reviews many countries' experience with internationalization, particularly trade and the GATS in education. *Chapter VI* presents a case study of India. Viewed as a big market that is emerging as a major power on the international scene, India is currently of much interest to many players in this game. Other developing countries might look towards India to draw some lessons in this regard. The experience of India, where a number of developments in higher education are taking place, is an interesting case that offers several insights into the socio-political dynamics of the issues involved. A few concluding observations are made in the last chapter. It is outside the scope of this study to present any guidelines or analytical framework for policy-makers on how to approach the GATS or trade in higher education, but the concluding chapter outlines briefly a few measures for improvement in higher education that might also help in internationalization of higher education, though not necessarily trade in higher education.

II. Higher education: The changing scenario

Higher education all over the world, in the advanced as well as the developing countries, is undergoing serious changes. The world is experiencing an unprecedented growth in student numbers, but the rapid growth in demand for higher education is met by rather inelastic supply of public higher education and declining public budgets in many countries. As a corollary, there has been an explosion in the number of private institutions. The inelastic supply of public education and the high cost of private education on the one hand, and the attachment of high value to and the social craze for foreign degrees in most developing countries on the other, have also led to an increased outflow of developing country students to foreign universities for higher studies. Restructured and revitalized funding mechanisms, particularly the educational loan schemes currently operated in several developing countries, also boost the pace of this outflow. In addition, higher education is being subjected to new forms of internationalization, and internationalization on the whole is taking place at unprecedented levels and speed.

Internationalization of higher education is not a new phenomenon. It has been around for ages, during the mediaeval, modern, and contemporary periods, and even earlier. Universities are universal by definition and have always been international institutions. The most important form of internationalization used to be exchange of scholars. Many foreign scholars were on the rolls of ancient universities in India, such as Nalanda and Takshashila (also spelled Taxila). International academic mobility existed even during the sixth century B.C. in several parts of the world, and it has continued ever since (see Gürüz, 2008). In the modern period as well, we find many students and faculty from both developing and developed countries going to foreign universities. Study visits of scholars for short and long periods have been a common feature. Such periods of residence abroad are often supported by scholarships and fellowships provided by either host or home countries or by international organizations.

Universities regard having students and faculty from various countries, cultures, and backgrounds as an important asset, enriching the intellectual diversity of university campuses and the overall learning environment. Besides adding to the status and prestige of universities, the presence of international students broadens the international perspective of local students and faculty. Knowledge of other countries, cultures, and peoples was also considered an important ingredient of university education. For the same reason, many universities set up research centres for area studies, and inter-country collaborative research studies have been undertaken. Student and faculty exchange programmes are also used to improve understanding and socio-cultural and political relations between countries. Thus, the rationale for internationalization has traditionally been seen mainly in academic, social, cultural, and political terms (Knight and de Wit, 1999; Scott, 1998). From the individual point of view, students go abroad to gain access to better education and earn a higher salary, either in their countries of origin or abroad. They invest in human capital. Investment in foreign studies yields a fairly high rate of return – in the case of students from the developing world, a higher rate than they obtain by investing in education in their own countries. All of the above constituted the traditional form of internationalization, although it was never referred to as internationalization as the term is interpreted nowadays (Larsen and Vincent-Lancrin, 2002).

This grand tradition of internationalization in the academic world seems to be going into oblivion fast, however, and it is giving way to new modes and types of internationalization in many countries. In a sense, it is no longer what it used to be. Narrow economic considerations seem to be the main objectives of present and emerging forms of internationalization of higher education, in contrast to academic cooperation, a feature associated with the earlier forms of internationalization. The new types of internationalization that are booming include the establishment of offshore institutions, campuses, branches, and operational bases; franchising; twinning and selling joint and split degrees/diplomas in education; and training through the Internet. Many more new modes of internationalization are emerging, and they seem to be changing the very nature of higher education. There is considerable

variation in the way it unfolds over time at the global, regional, national, and institutional levels. Although there is no single form of internationalization of education today, trade in higher education is emerging as the dominant explicit or underlying phenomenon of higher education, and market competition is an important feature of this form, replacing academic cooperation in the whole activity. It may not be appropriate or even possible to have a discussion on internationalization without considering these new dimensions, including the GATS. Accordingly, while discussing the phenomenon of internationalization in a wider context, this book lays special focus on this aspect.

Although internationalization and cross-border education are not new, trade in education began in many parts of the world, including in the OECD countries, with the introduction of neoliberal policies during the last quarter of the twentieth century which altered the state–market–society relations in education. The advent of the World Trade Organization (WTO) and the GATS, which is one of the principal treaties of the WTO, and the inclusion of education services in the new GATS services negotiations which began in 1995, which can also be seen as an extension of neoliberal policies, accentuated this process. Trade jargon has crept into the arena of education on a large scale, and internationalization of higher education is interpreted largely in the context of WTO and the GATS, as cross-border education or international trade in higher education. As a result, we hear hitherto unfamiliar terms like export and import of education, sale of educational products, consumers and buyers, sellers, making a surplus, turnover, equity shares, and so on. These trends in internationalization are accentuated by the resource crunch felt by universities all over the world, on the one hand, and on the other by the global wave of privatization of education, the revolution in information and communication technology, and the globalization and international flow of human capital. These three trends – privatization, globalization, and internationalization – are distinct but closely related. As Armstrong (2007: 132) notes, the present type of internationalization of higher education, which is essentially cross-border or transnational higher education, does not fit the globalization model; instead, ‘it resembles an older, hub-and-spoke model of industrial internationalization

of home country manufacture with international distribution, and international supply of raw materials brought back home for manufacture ...'. But the three trends are so intricately interrelated, mutually reinforcing to such an extent, that the distinction between them becomes very much blurred. Although these several aspects are closely related, the focus of this book is on internationalization of higher education only.

The complexities, nuances, and implications of bringing education under the GATS are immense and have as yet been little discussed and understood. Some view the GATS as a complex geometry of general and *à la carte* obligations (Sauvé, 2002), offering many opportunities and challenges (OECD, 2004; Knight, 2003); while others are sceptical, view it as a mixed blessing, or foresee threats and dangers in it. Some view the WTO and the GATS as catalysts, but others see them as a long-term strategy for commodification of services, including education (Scherrer, 2005, 2007), as active promoters of privatization and international trade in higher education, and even as a threat to democracy.

The GATS is extraordinarily broad, dealing with every service imaginable. It applies to measures of all governments, whether federal, national, provincial, state, regional or municipal. It employs both 'top-down' and 'bottom-up' approaches to covering measures and sectors. The agreement is not confined to cross-border trade, but intrudes into many domestic policy areas including environment, culture, natural resources, health care, education and social services (Sinclair, 2000).

It is also viewed as one leading to new and questionable models of developmentalism (Sidhu, 2006). As Teichler (1996, cited in Enders and Fulton, 2002: 4) observed, 'At any event it should make us suspicious that the most powerful actors, and the most likely winners, praise internationalisation of higher education almost unconditionally, and push aside the anxieties of less powerful actors.'

Are the above statements reflecting mere anxiety or are there indeed serious issues of major concern? There are some false understandings, exaggerations, and overestimates relating to the potential contributions of trade in higher education. As of today,

‘the GATS is still in construction and its scope of application has not yet been defined. Nevertheless, educational services are already subject to negotiations, under the pressure of important lobbies’ (Devidal, 2009: 73–74). It is therefore important to unravel the several complexities that characterize the GATS.

III. Free trade in education: What is the GATS and how does it work in education?

3.1 *What is the GATS?*

Traditionally, international trade has been practised in the case of goods. The General Agreement on Trade and Tariffs (GATT), which came into effect on 1 January 1948 with 23 founding members to manage international trade through a multilateral trade agreement, aimed successively at liberalization of trade and decrease in tariffs for import and export of industrial goods in order to develop a world market based on the principles of free trade. There were eight rounds of negotiations among the member countries between 1948 and 1984. The inclusion of services in the international trade negotiations was fostered by various developed countries in the Uruguay Round, which was the last round of negotiations under the GATT regime (1986–1993)² and led to the creation of the World Trade Organization (WTO) on 1 January 1995. The aim of the WTO was to ensure smooth and free global trade in a legal framework that was as predictable as possible. The trade operations of WTO are organized into three major groups: goods, services, and intellectual property rights. With the increased importance of the services sector in the world economy, the member countries of the WTO agreed to sign the GATS, which treats services as a matter for international trade on a par with merchandisable trade. The WTO framework allows trade in goods through the GATT (1994); the GATS, which emerged in 1995, focuses on trade in services; and the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), which followed in 1996, seeks to promote trade in intellectual property rights. All three trade agreements – GATT, GATS, and TRIPS – are multilateral and constitute integral agreements of the WTO. The

2. The next round of negotiations, familiarly known as the Doha Round (and Doha Development Agenda), that began in 2000 was still in progress in 2011. A round is defined to have been concluded if all members submit their definitive lists of offers that will be integrated in the GATS as a part of the new liberalization commitments.

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The role of the General Agreement on Trade in Services (GATS)*

WTO also includes two legal instruments – the Dispute Settlement Understanding and the Trade Policy Review Mechanism – which are binding agreements on all member countries. The objective of all agreements is to liberalize international trade completely in all sectors – goods and services. All 153 members of WTO must implement all three agreements as long as they remain as members.

The GATS, an agreement that is proclaimed to be disciplinary, rule-based, transparent, accountable, development-friendly, and even democratic, provides a comprehensive, legally enforceable multilateral framework of principles and rules governing international trade in services with a view to the expansion of free trade under conditions of transparency and progressive liberalization through multilateral negotiations. The main objective of the GATS is the same as that of the GATT: ‘creating a credible and reliable system of international trade rules; ensuring fair and equitable treatment of all participants (principle of non-discrimination); stimulating economic activity through guaranteed policy bindings; and promoting trade and development through progressive liberalization’.³ It aims at developing a multilaterally agreed discipline to stabilize trade relations and, through continuous negotiations, to achieve progressive liberalization. The major objective is the reduction of protectionism and lowering or elimination of all barriers in the long run.

As the GATS is an integral part of WTO, member countries of WTO are also members of the GATS, and they have no option about this. Since the GATS is a general agreement, however, it cannot be operationalized unless the member countries make specific commitments on access for sector-wise and mode-wise trade in their respective national markets, as described below. The scope and coverage of the GATS are extremely wide; they cover all measures affecting trade in services; all levels of government, including non-governmental organizations if they are exercising delegated powers (Article 1-3-a-i, ii);⁴ all actions of the government, including promotion, protection, and regulation; and all areas of services which are provided on a commercial basis, except those

3. www.wto.org/english/tratop_e/serv_e/gatsqa_e.htm

4. All articles referred to here are from WTO (2003a, b).

sectors which are supplied in the exercise of governmental authority. In September 1998, in a background note, the WTO secretariat proposed that as long as governments acknowledge the existence of private providers in education, education can be treated as a commercial service and therefore must be regulated within the WTO framework. The proposal was approved in 1999, and education services were included in the negotiations on new services, which began in January 2000. The Doha Declaration (2001) reaffirmed this stance, and key dates for negotiations were set (see Guarga, 2009).⁵ Services under the GATS are defined very broadly and are classified at present into 12 major internationally traded sectors, which are further divided into some 160 service activities or subsectors. The 12 sectors are as follows: business, communications, construction and engineering, distribution, education, environment, health, tourism and travel, recreation (cultural and sporting), transport, financial, and ‘other’ services.⁶ Thus, one of the 12 areas refers to educational services. It covers educational services in all member countries whose education systems are not provided exclusively by the public sector. Under the GATS, trade in education is allowed under four modes (Article I-2):⁷

Mode 1: *Cross-border supply*, defined as the supply of education services from the territory of one member country into the territory of any other member country, analogous to normal trade in goods. Under this mode, there is no physical movement of

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5. Actually, liberalization of educational services within the GATS took its first steps during the Uruguay Round of the GATT (1986–1994), when 28 countries established the first commitments on education liberalization in the framework of a trade agreement. See also Gürüz (2008).
 6. The GATS applies in principle to all services. The only exceptions are: ‘services supplied in the exercise of governmental authority’, air transport services affecting air traffic rights, and services directly related to the exercise of such rights. Services supplied in the exercise of governmental authority are, according to the provisions of the GATS, ‘not subject to any GATS disciplines, they are not covered by the negotiations, and commitments on market access and national treatment (treating foreign and domestic companies equally) do not apply to them’ (Article I-3-b, c).
 7. The description of the system of the GATS, its provisions, etc., is based on material drawn from WTO (1999, 2000, 2003*a, b*), supplemented by Barlow (2000), Knight (2002, 2003, 2006*b*, 2008*a*), Sauv e (2002), OECD (2004), UNESCO (2008), and others.

the sellers or consumers, but the service itself travels. This mode can include, for example, distance or virtual education programmes through mail, telephone, or television, or the web-based education and training programmes (e-learning) offered, for instance, by many US universities in many developing countries. It largely refers to the sale of education/training courses and degrees over the Internet and through other electronic media such as CD-ROMs and DVDs. Thus Mode 1 is characterized by mobility of the programme, rather than of the sellers or buyers.

Mode 2: *Consumption abroad*, defined as the supply of education services in the territory of one member country to consumers from any other member country, analogous to tourism services. It is the consumer, not the seller, who moves to another country to consume the given service. In education, this mode refers to the mobility of students: people going abroad to study in traditional universities as regular students. This is the most common form of internationalization in both traditional and modern types.

Mode 3: *Commercial presence*, defined as the supply of a service by a service supplier of one member country through a commercial presence in the territory of any other member country, that is, the establishment of an educational institution, branches, and subsidiaries overseas. Opening of franchises overseas, joint ventures, and twinning – international as well as regional – arrangements between educational institutions of different countries belong to this category. Franchising can be full or only partial. When campuses are set up, normally the foreign institution establishes a subsidiary either on its own or jointly with a local provider, but in either case the service is delivered entirely by the foreign university. In the case of franchises, the foreign education provider designs the programme and the partner in another country delivers it. Essentially, in this mode, there is no ‘movement of the consumer’, but there is mobility of institutions and foreign direct investment.

Twinning arrangements and joint ventures set up under this mode may involve students pursuing the programme partly in their own countries and partly in a foreign country; normally, the degree is awarded by the foreign institution or jointly by the two institutions. Thus, such types of provision overlap with Mode 2, as students

travel to another country for a part, though normally a small part, of the programme. This is relatively a new phenomenon, although offshore campuses and joint ventures seem to be emerging rapidly. Students may receive double or joint degrees or a degree awarded by the foreign institution.

Mode 4: *Movement of natural persons*, defined as a temporary cross-border movement of service providers in individual capacity or as a part of an establishment to provide the service overseas. This refers to movement, generally temporary, of service providers such as software professionals, engineers, doctors, scientists, advisors, planners, and modellers, and so forth, including both skilled and unskilled labour. In the case of education, these persons include teachers and educational administrators who go to other countries to work as teachers or educational providers, including administrators. In other words, this mode can be referred to as mobility of persons, but in contrast to Mode 2, there is no mobility of students.

The four modes of supply are summarized in *Table 3.1*. All four are considered important for trade in educational services. These modes are also referred to as ‘cross-border education’, in that a person, an educational programme, or an institution or provider may go abroad, or there may be multi- or transnationalization of higher education, akin to the business of trans- and multinational corporations.

Table 3.1 International higher education under the GATS

Mode	Description	Examples	Mobility
Mode 1	Cross-border supply	Distance learning, online, franchising	Programme mobility
Mode 2	Consumption abroad	Students travel to other countries	Student mobility
Mode 3	Commercial presence	Branch campus, joint venture, investment	Institution mobility
Mode 4	Delivery abroad	Faculty, researchers move to other countries	Academic mobility

Source: Adapted from OECD, 2004: 35.

While Mode 2 (consumption abroad) has been the most common mode for centuries, though not in the framework of trade,

trade under Mode 1 (cross-border supply of education) is expanding fast. However, most of the contentious debates and conflicting interests have concerned Mode 3 (commercial presence). Mode 3 is also a category in which the greatest number of ‘restrictions’ and ‘limitations’ under ‘market access’ are specified by the member countries which make commitments. Mode 4 is also in use by some and is regarded as having potentially a strong market. The several modes involve a change in not only the nature and content but also the transaction processes of education – from conventional university systems and accredited degrees to distance education, e-learning, and non-accredited diplomas and degrees.

According to the ‘central product classification’ of the GATS, every service sector is classified into several subsectors. Education services are classified into five main categories, based on the traditional structure:

- primary education, including preschool education but excluding child day-care;
- secondary education, which includes high school education, technical training and vocational education, and school-type services for disabled students;
- higher education, which includes almost all of postsecondary education – general, technical, vocational, imparted in sub-degree and degree-level institutions, including specialized professional schools;
- adult education, which includes all education services, including continuing education programmes in general and vocational subjects as well as refresher and training programmes which are not provided in the regular school and university systems; and
- other education, covering all services not mentioned or defined above that fall under the category of learning and training.

Given the four modes and five types/levels of education, one can thus get 20 (5x4) types of trade in education, as shown in *Table 3.2*. Many of these forms are not exclusively related to the GATS and trade in education, but the GATS operates under these modes only. There are proposals to include training and testing services as yet another category in the education sector or under ‘other education’.

Table 3.2 Classification of education services under the GATS and four modes of supply

Sub-sector of education service	Mode			
	Cross-border supply	Consumption abroad	Commercial presence	Movement of natural persons
1. Primary education		Children attending classes abroad	Twinning arrangements	Teachers and administrators travelling to a foreign country to teach
2. Secondary education		Students attending summer school/ language courses etc. abroad	Twinning arrangements	Teachers and administrators travelling to a foreign country to teach
3. Higher education	E-education: virtual universities	Students studying in another country	Branch or satellite campus: franchising, twinning arrangements	Teachers and administrators travelling to a foreign country to teach
4. Adult education	Providing language schools	Attending classes abroad	Branch or satellite school, franchising, twinning arrangements	Teachers and administrators travelling to a foreign country to teach
5. Other education				Teachers and administrators travelling to a foreign country to teach

The GATS provides legal rights to trade in all services. The GATS has three parts: the first consists of the framework of rules that lay out general obligations, consisting of *29 articles*; the second part consists of *national schedules* that list countries' specific commitments on access to domestic markets; and the third consists of a number of annexes, including *schedules of commitment*.

The GATS consists of two types of obligations: general and conditional obligations. *General or unconditional obligations* are applicable automatically to all member countries, notably including most-favoured-nation treatment, and principles and procedures relating to transparency. These are two important provisions – unconditional obligations under the GATS – which are not subject

to negotiation and together are known as the ‘top-down approach’. They apply to all members of WTO and to all 12 categories of services, regardless of whether a country has committed.

Most favoured nation: Most-favoured-nation (MFN) treatment (Article II.1) is a general obligation that applies to all measures affecting trade in services. This is considered the central pillar of the GATS. Under MFN treatment, contrary to what the term suggests, all countries are most favoured nations and must be treated equally; no discrimination can be made among members. The principle is: ‘favour one, favour all’. This requires a WTO member country to give all other member countries the best treatment it gives to any country (regardless of whether that country is a WTO member). In other words, the GATS offers equal opening to all nations. If a sector or an area is opened by a member country to another country, it should be made accessible to all countries. Not providing access to a particular sector to all countries is allowed, though not appreciated under the spirit of the GATS, but it is not possible for a country to open its market in a given sector or subsector to a particular country and not to others. In principle, there can be some exemptions to the implementation of this article, but the provision for exemptions (Article V) is generally found to be useful only in case of complaints about non-compliance with the MFN obligation by a member country. However, particular measures inconsistent with MFN can be maintained, in principle for no more than ten years and subject to review after not more than five years.⁸

Transparency: According to Article III of the GATS, all policies and terms and conditions, including limitations and restrictions, must be transparent. Transparency calls for members to identify and publicize all rules and regulations affecting trade in services. Service suppliers are guaranteed access to information on laws, regulations and rules related to trade in services. According to the GATS rules, governments must publish all relevant laws and regulations and set up inquiry points within their bureaucracies. Foreign companies and governments can then use these inquiry points to obtain information about regulations in any service sector. Governments have to notify

8. Article II.2 allows countries to negotiate exemptions from this commitment and include them in the individual schedules.

the WTO of any changes in regulations, and such changes may be challenged, particularly if they go against progressive liberalization.⁹

Conditional obligations refer to each country's specific commitments of sectors/subsectors and modes of supply for which the country is willing to make commitments, possibly with limitations and exceptions. All such obligations are of course mandatory. They bind countries to allow market access and remove barriers to market access.

National treatment: Under the principle of national treatment (Article XVII), national and foreign providers of a service must be treated equally. There can be no discrimination within a country between local and foreign institutions; everybody is at par. This means that the treatment of foreign providers must be no less favourable than that accorded to domestic institutions. It implies elimination of *de jure* and *de facto* discrimination. For example, if private educational institutions in the country are given direct or indirect subsidies by the government, foreign institutions must be given the same subsidies.¹⁰ The key requirement is not to modify, in law or in fact, the conditions of competition in favour of the domestic service industry. Under certain special conditions, however, limitations and exceptions to national treatment can be introduced, and domestic regulations are possible. Limitations under this category include (1) taxes and levies; (2) subsidies and grants; (3) other financial restrictions; (4) nationality requirements; (5) residency requirements; (6) qualifications, licences, and standards; (7) registration requirements; and (8) authorization requirements.¹¹

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9. Governments are required at the time of their initial commitments to submit a list of all existing monopolies in the country. After the commitments are made, governments cannot establish new monopolies in the public or private sector, and cannot even increase government control in any sector. It also means that if a sector is partly or totally privatized, before or after the commitments are made, it would be extremely difficult ever to reverse this even to a small degree.
 10. In most countries, private institutions have to meet certain conditions if they are to receive state subsidies. The same conditions may apply to foreign institutions.
 11. As Verger (2009a: 230) notes, there can actually be unlimited limitations to national treatment. However, these are the only listed in WTO (2000).

Market access: Provisions in Article XVI relating to market access refer to progressive liberalization and removal of barriers in accessing markets. No barriers to market access are allowed which hinder the entry of foreign service providers into domestic markets. Limitations, if any, cannot be more restrictive than those specified under the countries' limitations relating to national treatment. Limitations that may be introduced (or eliminated) under market access include limitations on (1) the number of service providers, (2) the total value of transactions, (3) the total number of service transactions or total sum of service production, (4) the total number of natural persons who may be employed in a sector or by a specific supplier, (5) the specific type of legal form or personality of suppliers, (6) the extent of foreign capital involved, and (7) the establishment of specific percentages of participation for foreign capital or the total value of foreign investments.¹² Revisions are also allowed, but only for further liberalization. Generally, limitations must not amount to protectionism in disguise.

The most important barriers that need to be removed in general, and especially in education, are the prohibitory laws against foreign providers. Other barriers are lack of transparency with respect to regulatory policies, procedures, subsidies, and overall financing; unfair and discriminatory use of domestic laws and regulations; long procedural delays in according approvals; and discriminatory tax treatment. As Knight (2006*b*) describes, most of the barriers in education are invisible. In the case of Mode 1, the barriers include restrictions on import of electronically produced educational material, restrictions on electronic transmission of course material, and non-recognition of degrees obtained through distance modes. In the case of Mode 2, the barriers are restrictions on travel abroad based on discipline or area of study, on foreign exchanges, and on employment while studying. Barriers in the case of Mode 3 include insistence on a local partner, insistence that the provider be accredited in the home country, insistence on the partner being from the formal academic stream, insistence on equal academic participation by foreign and local partners, disapproval of franchise

12. There are also many limitations that are listed in the GATS regulations as 'forbidden'. See Wallach (2005).

operations, retractions on certain disciplines and programmes that are deemed to be against national interests, limitations on foreign direct investments by education providers, tax treatment, and difficulties in approval of joint ventures. In the case of Mode 4, the restrictions include visa and entry restrictions; quota-based restrictions for countries and disciplines; nationality, residence, or language requirements; and restrictions on repatriation of earnings.

Generally speaking, the regulatory mechanism under the GATS regime is critically grounded on the basic principles of MFN treatment, national treatment, and market access. In clear terms, what does it mean for education? MFN status in education means, as in any other sector, that all countries are to be treated equally: for example, in the case of allowing foreign universities to set up campuses in a country, in principle a member country cannot allow one member country to do so and refuse this right to another member country. No discrimination can be made among members. National treatment means that national and foreign educational institutions established in a country must be treated equally in terms of subsidies and other conditions. There can be no discrimination within a country between local and foreign institutions. The principle of market access requires that the whole approach of a given country be towards progressive liberalization and removal of barriers to foreign universities in accessing education markets in a given country. No barriers to access to education markets are allowed which hinder the entry of foreign universities into domestic markets or bar students' access to education in any country.

3.2 How does the GATS work?

The GATS allows for progressive liberalization, as it is hoped that, under the GATS, market access for services will eventually reach a state of no barriers between countries. As Article XIX of the GATS states, 'members shall enter into successive rounds of negotiations ..., with a view to achieving a progressively higher level of liberalization. Such negotiations shall be directed to the reduction or elimination of the adverse effects on trade in services of measures as a means of providing effective market access.' The general procedure, involving the 'bottom-up' aspect of the GATS,

begins with countries *voluntarily* submitting their commitments.¹³ After laying down their initial positions, countries negotiate in the GATS setting by making requests for improved market access from one another. A country can make requests to all or a few countries to open their markets in all or a few listed services. It is not mandatory for a country to open its markets in all services. If there are sensitive areas or domestic imperatives, or if a country is for any reason not willing or not prepared to open a particular sector/subsector to multilateral trade, in principle, it need not make any offer relating to that sector to the GATS. Countries are free to decide which services are to be offered and under which mode, and which services are not to be offered at all. They have the discretion to offer to open any sector or subsector and to specify limitations and exceptions in each case. A country offering sectors or subsectors under each mode can provide for full commitment (with no limitations or restrictions), partial commitment (with limitations), or no commitment at all (unbound), which essentially means that the mode concerned is not allowed. The member countries, through bargaining in special sessions of the Council for Trade in Services, modify their offers suitably, and when an agreement is reached by the end of the 'round' of negotiations, the 'offers' become 'commitments' that are legally binding on the respective countries. Offers become commitments almost automatically at the conclusion of the negotiations, unless they are withdrawn before the end of the round.

The commitment of sectors and subsectors of various countries depends upon countries' comparative advantages in a given area. For a period of time, a country can also elect to have exemptions. The exemptions or barriers have to be within limits. It is also up to the country to set the schedule and time-frame. Progressive liberalization within an agreed time-frame is an important component of the GATS. This voluntary approach to national commitment and the flexibility it offers in setting up the time-frame, specifying limitations, and so forth are considered to be the most important features of the GATS. A country can set limits sector by sector and mode by mode with regard to market access and the nature of its commitments. In short,

13. The bottom-up process relates only to commitments listed in the national schedules of commitments.

over and above the so called ‘horizontal’ restrictions that may be maintained across the board (i.e., applicable to all sectors, as is often the case of limitations on foreign investment or the temporary entry of service suppliers), countries have eight separate opportunities to indicate how they will treat foreign providers in a given sector (Sauvé, 2002).¹⁴

Once made, however, the commitments are binding: obligations must be strictly adhered to, and the liberalization process has to be progressive and will also turn out to be irreversible. Since unbinding is difficult, the commitments are ‘virtually guaranteed conditions’ for foreign service providers (Wallach, 2005). Further, when a commitment is made, it is understood to be a minimum treatment, meaning that a country can subsequently offer better treatment to foreign providers, but not worse.

Countries can submit their commitments – guaranteed minimum treatment offers – in their schedules under any or all of the five education subsectors and four modes of supply of education. In other words, commitments are made by sector and mode. Non-commercial academic collaboration programmes are not covered under the GATS. Commitments are made on market access and national treatment only in commercial sectors. Countries also lay down limitations and specify exceptions in their commitments. The overall rule is: where commitments for a sector are made, all measures must be administered in a reasonable, objective, and impartial manner (Article VI.1).

The GATS, as an agreement, thus consists of three core components: the framework of general obligations and rules such as MFN treatment and transparency; the listing of specific sectors, such as financial services and education; and the schedule of commitments made by the country concerned. The schedules are complex documents in which each country identifies the service sectors to which it will apply the market access and national treatment obligations of the GATS and any exceptions from those obligations it wishes to maintain.

14. Restrictions on market access and national treatment can be introduced for each of the four modes of supply, amounting, in all, to eight opportunities.

Countries can choose to exclude any service, including education, from their commitments, to exclude some modes of supply, to limit market access, to discriminate in favour of national providers, to favour some foreign providers, and so on. In short, countries are free (1) to make or decline to make any commitment; (2) to qualify its commitment in any given sector or subsector; (3) to apply horizontal limitations; (4) to suspend a commitment, if it is found to cause adverse effects on their balance of payments; (5) to invoke exceptions in the GATS articles to justify existing regulations and to enact new ones in pursuit of legitimate public policy concerns; and (6) ultimately to withdraw from the GATS and the WTO altogether.¹⁵ Basically, the decision to allow the private sector to enter any area, for example, education within a country, is completely a national decision, a domestic issue, and only once private education is allowed domestically or fees are levied in public education does the issue of negotiations under the GATS arise. Then also, in principle, governments can decide whether to open a particular sector such as education under the GATS. According to the provisions of the GATS, governments ‘are free to tailor the sector coverage and substantive content of such commitments as they see fit’. It purports to be providing for a highly flexible *à la carte* approach allowing governments to pick and choose.

As a result of these and other several provisions,¹⁶ some (see e.g. Sauvé, 2002; Geloso-Grosso, 2007) argue that the fears and reservations about the GATS described below in detail are unfounded and that there are several provisions that guarantee governments’ freedom of choice.¹⁷ GATS is described as ‘the most flexible

15. Certain exemptions are allowed under special circumstances. Article XI I.1 allows countries to control or put restrictions on trade in services in the event of balance-of-payment problems or high outflows of foreign exchange. Article IX allows members to impose restrictions to protect public order or morality, to prevent deceptive and fraudulent practices and exploitation of labour, or to deal with the effects of a default on service contracts. Emergency safeguard mechanisms are provided in Article X. Article XIV provides for exceptions due to security reasons.

16. For details, see WTO (2003*a, b*).

17. For the same reasons, Larsen and Vincent-Lancrin (2002) and Larsen, Martin, and Morris (2002) feel that traditional higher education will be less affected by the GATS.

agreement in the WTO system' (GATSwatch, 2002). On the face of it, it may appear that countries have a high degree of flexibility in making commitments and in choosing the sectors for commitment and the degree of liberalization as well. The agreement also provides for exclusion of certain sectors. For example, Article I(3) of the GATS excludes 'services supplied in the exercise of governmental authority', defined as services that are 'supplied neither on a commercial basis nor in competition with other suppliers'.¹⁸ Citing this article, many tend to believe that higher education can be kept outside the purview of the GATS. In practice, however, governments have very rarely been able to maintain a total monopoly on provision of education. If there is a single private higher education institution in the country, this is enough to affirm that there is competition among the suppliers; and if a public university charges fees or sells one of its products in the market, this would be enough to demonstrate the existence of a commercial basis.¹⁹ In either case, higher education in the concerned country cannot be exempted under the above clause of the GATS. As de Siqueira (2005) observes,

if any government charges any tax or fees, offers paid courses directly or through corporation or institutional agreements, or develops research and receives financial compensation which is increasingly taking place in many countries, this government [according to the GATS] will be offering on a commercial basis and there it would be excluded from exception.

In fact, the provisions do not make it possible to determine clearly whether governmental services or government monopolies are outside the scope of the GATS. As Knight (2008a: 172) observes, there is so much 'wobble room' in the definition that

18. As the provisions make clear, the cases cited are social security schemes and any other public service, such as health or education, that is provided at non-market conditions. See Barlow (2000) and Yeats (2005).

19. On the same logic, it is feared that even the social security services in the USA may not be exempted from the GATS, if a small segment is given to the private sector (Wallach, 2005).

even government-provided higher education cannot be exempted.²⁰ Further, if challenged through an international dispute settlement process under the GATS, it is possible that public education systems would be forced to be privatized, in order to maintain a truly free market in education (Bassett, 2006: 6).

Similarly, although countries are also free to impose heavy restrictions on liberalization of education, in practice this becomes difficult once the commitment is made and/or trade in education is initiated. Once a commitment is made, it cannot be revoked even if there is a change of government; commitments can be modified only three years after they came into force; compensation must also be made by the member country, which might mean that withdrawal from liberalization in one sector has to be accompanied by liberalization of another sector or another mode of service supply (Scherrer, 2005: 491). Further, the dynamic dimensions of international political economy overshadow the static dimensions of the GATS.²¹

[The GATS] is an extraordinarily ambitious and quite complex agreement and the provisions of the GATS are indeed complex. There are several levels of obligations that apply. First, the agreement contains an overarching commitment to successive future negotiations to increase coverage and expand the agreement. Second, the agreement contains general rules, such as most-favoured nation treatment and commitments to transparency, that apply to all services. Third, the agreement contains specific commitments to market access and national treatment that apply only to those services listed by countries in their schedule to the GATS. Finally, the agreement contains

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20. However, it appears that some limitations can be introduced on the commitments. For example, Austria's commitment is only for private tertiary education services including at university level; Slovenia excludes publicly funded institutions from the coverage of the GATS provisions; and the USA limits government subsidies, grants, and preferential tax treatment to US-owned institutions, and scholarships etc. to US citizens.
21. Vlk (2006) neatly describes and contrasts the static dimensions of the GATS (the rules and regulations) with the 'dynamic' dimensions (stakeholders' standpoints, views, actions, and reactions).

sectoral annexes that set out rules for particular sectors (Sinclair, 2000).

It ‘imposes general obligations on its members and dictates measures to adopt for the liberalization of trade in services. It also obliges member states to adopt a constructive approach and engage in a “built-in” system of continuous negotiations, *for an ever-higher liberalization of trade*’ (Devidal, 2009: 75; emphasis added). *A priori*, no sector and no mode of supply can be excluded (Article V). Further, the rapidly growing neoliberal forces at the national and international levels compel governments to allow rapid growth of private sector participation in education, and international political and general trade compulsions work against the sovereign authority of governments in negotiations under trade. There is a *permanent* process of negotiations under the GATS. Further, as Knight (2006a) observes, many developed countries adopt ‘complementary approaches’, consisting of pluralistic negotiations setting numerical targets and indicators and qualitative parameters for modes of supply, and pressuring developing countries to liberalize a greater number of sectors and to remove barriers to education. *Realpolitik*, international power asymmetries, and pressure tactics are a common feature of such cases (Sidhu, 2006). For example, the USA has ‘asked’ India to make ‘full commitment’ to trade in higher education, training, and adult education; and Australia has ‘asked’ for national commitments of higher education under all four modes. India has also received requests from New Zealand, Norway, Singapore, and Brazil. All requests made to India are for full market access and national treatment commitments in Modes 1, 2, and 3. These requests made in the ‘request-offer’ phase of negotiations can be quite compelling. The country must respond by a given date before the round of negotiations ends. Developing countries seems to be under severe international pressure to commit on higher education.

Commitment of a sector to the GATS seems to be a voluntary choice and is flexible in the beginning, but once it is committed, the choice and flexibility disappear. Rigidity, firm commitments, and strict adherence to commitments become the rule. All obligations become binding. In fact, there can be legal sanctions if a country does not adhere to its commitments. Withdrawal of a commitment or reversal of provisions under market access can be excruciatingly

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difficult, cumbersome, and very costly in terms of compensations. Further, all government actions in future will necessarily have to promote progressive liberalization; they cannot be more restrictive or burdensome (on foreign suppliers) than the existing situation. The Council for Trade in Services develops necessary 'disciplines' for countries to ensure that any regulations made by any country are not more burdensome than the existing ones or than are necessary to ensure the quality of the service.

IV. Why and why not GATS in education?

4.1 Arguments in favour of the GATS in education

Many countries, both developed and developing, are interested in the GATS, but the reasons offered by developed and developing countries are not necessarily the same. As Egron-Polak (2011) noted, ‘there is a marked difference between developing and industrialised regions of the world in the rationales for pursuing internationalization strategies’. These rationales revolve around four major dimensions: political, economic, academic, and cultural/social.

Perspective of the developed countries

Why are the developed countries interested in trade in education? First, the financial gains from trade in education seem to be very attractive. The decline in state support for higher education in the Western nations forces many universities to opt for a trade approach in higher education. Students from developing countries enrolled in some Western universities, who are generally required to pay fees that are higher than those paid by local students, and sometimes higher than the unit costs, subsidize the education of local students. In some Western countries, there are no fees at all for local students. The fee rates and fee income from foreign students are indeed sizeable in many universities and countries. For example, at the London School of Economics the fee for undergraduate studies for UK/EU students was £1,150 in 2004–2005, compared with a fee of £10,509 for non-EU students (McHale, 2011: 179). The tuition fee for all courses in the University of Cambridge for UK/EU students in 2011–2012 was £3,375, while for overseas students it ranged from £11,829 to £28,632 per year. Fees structures are said to be the same in all other English universities.²² In Canada, compared with tuition of C\$4,000–6,000 for home students, tuition for overseas students in arts and science programmes at undergraduate level goes up to C\$16,854. In general, foreign students in Canada pay two to three

22. www.cam.ac.uk/admissions/undergraduate/finance/tuition.html

times what domestic students pay; and universities tend to enrol foreign students paying full (or greater than full) tuition (McHale, 2011: 176-178). In the UK, for example, revenue from non-EU foreign students has been estimated at £2.5 billion a year (Bode and Davidson, 2011: 77). The fee income from international students constitutes 15 per cent of the revenue of Australian universities (Adams, Banks, and Olsen, 2011: 114).

Higher levels of fees for foreign students, even fees equivalent to the full costs, are favoured in these countries, as some argue that there is no reason for the taxpayers of the recipient countries to pay for foreign students, even if they join the labour market later and contribute to their economy. A good number of universities, particularly cash-strapped universities in the West and even in many developing countries, view foreign students as an important source of revenue that can be used for the overall improvement of educational quality in those universities. Fee revenue is one of the most important attractions in the internationalization of higher education today.

It is difficult to quantify exactly the total amount of trade in financial terms. The global market in educational services outside of the USA is estimated by Merrill Lynch to be worth US\$111 billion a year, with a potential consumer base of 32 million students (Spring, 2008: 347; Schugurensky and Davidson-Harden, 2003: 322). The value of trade in higher education was estimated to be about US\$40 billion in 2006 (Bubtana, 2007), ‘not much less than the financial services sector’ (Larsen and Vincent-Lancrin, 2002: 2). The markets in developing countries like India and China are indeed very large. There also exists large scope for employment of teachers, administrators, and planners, particularly from foreign countries. The total value of education exports of the five largest exporting countries (USA, UK, Australia, Canada, and New Zealand),²³ on which data are available, to mostly developing countries was estimated to be above US\$28.3 billion in 2005, with the USA accounting for 50 per cent, followed by the UK (21 per cent), and Australia

23. Many of these are English-speaking countries, whose higher education systems are generally believed to be good and which use English as the medium of instruction.

(nearly 20 per cent) (Bashir, 2007).²⁴ International education is the third largest export for Australia, contributing US\$12 billion to the Australian economy in 2008 (Adams, Banks, and Olsen, 2011: 115). Thus these three countries (the USA, UK, and Australia) account for more than 90 per cent of total education exports, in dollar terms though not necessarily in terms of the number of students.²⁵ Canada and New Zealand account for the rest (Bashir, 2007). Obviously, these countries are the main advocates of education under the GATS. It is important to note that the export value of educational services in a country's balance of payments is not confined to tuition fees, but rather extends to all the living, travel, and other expenses in the host country. This is true even when international students are subsidized. Financial benefit is the single most obvious motive for overseas ventures in higher education; non-pecuniary factors are secondary (see Kim and Zhu, 2010).

Second, as already stated, the presence of foreign students and faculty on a university campus is generally considered as improving diversity in education and enriching the academic environment. Developed countries like Japan argue strongly that international diversity is more important and beneficial in Japan's otherwise homogeneous and introverted university campuses and society at large. The contribution of foreign students to research in US universities was found to be very significant, although it cannot be stated that there would be a vacuum if such students did not come to the USA (Black and Stephan, 2010). As mentioned earlier, this has been the most important form of internationalization for a long time, even predating the intrusion of trade into the area of education.

Third, if foreign students, say from India and China, go to developed countries for their studies, they tend to stay in the country where they studied,²⁶ which is beneficial for the developed

24. In the USA, the higher education exports had reached US\$17.8 billion in 2008 (Varghese, 2010).

25. See also Bennell and Pearce (1998).

26. For example, it was reported that the percentage of Indians obtaining PhDs in science and engineering who had 'definite plans to stay' in the United States increased from 56.3 per cent in 1994–1997 to 62.7 per cent in 2002–2005 (Kapur, 2008: 18). Similarly, only a third of the foreign students in Australia plan to go home after their studies (*Economist*, 2009a: 42).

countries. It is well known, for example, that the information and technology sector in the USA is critically dependent upon labour from India. The magnitude of gains that the USA gets directly from the foreign students who come to study there is said to be immense. The graduates of Indian institutes of technology who have stayed in the USA rather than going back to India were estimated to have been worth US\$30 billion net to the US economy; and the international students in general contribute some US\$13 billion to the GDP of the USA (*Economist*, 2005: 18). It has been observed that ‘foreign students who work in their spare time plug gaps in Australia’s labour markets’ (*Economist*, 2009a: 42). In fact, international graduates represent a valuable source of skilled human capital in Australia: 21.5 per cent of the international students who completed higher education in Australia join the skilled human resource pool of the economy (Adams, Banks, and Olsen, 2011: 114). Even if the other modes of the GATS are adopted and foreign institutions come to developing countries, or offer programmes and ‘off-the-shelf degrees’ under Mode 1, they might offer education and training programmes that are more suited to employment in the foreign countries than to labour markets in developing countries, which will make the graduates unemployable in their own (developing) countries and force them to emigrate to developed countries. Internationalization of education of most kinds thus helps the developed countries to capture and retain foreign talent. Brain drain – a loss of skilled labour and specialized human capital causing serious shortages for the developing countries – will be a gain for the developed countries. This phenomenon has been referred to as ‘neo-colonialism of the mind’ (Gürüz, 2008: 188), or simply ‘neo-colonialism – less brutal, but just as unequal as the older forms’ (Welch, 2011: 6). Brain drain itself will make developing countries vulnerable to and dependent on foreign countries – a huge political gain for rich countries.

Furthermore, internationalization of higher education can help the developed countries to control higher education in the developing countries, in addition to exporting their culture to conquer and dominate indigenous cultures in developing countries, if the latter still exist at all. Thus, through higher education, advanced countries can practice neocolonization or reterritorialization of the developing countries (Robertson, Bonal, and Dale, 2002). As the Hague

Conference in 2002 concluded, ‘the export of higher education services to developing countries is a new form of imperialism’, cherished by imperialist-minded countries in the West. Many of the developed countries’ education exports are indeed Trojan horses of cultural imperialism.

As Iga (2002) sums up, nations, particularly the developed nations, want to create an education trade regime (1) to maximize gains from trade (*neoliberalism*), (2) to avoid a *prisoner’s dilemma* problem (*neorealism*),²⁷ (3) to exploit developing countries (*neo-Marxism* – dependency theory), (4) to demonstrate compliance with international norms (*world society model*), and (5) to stabilize the domestic and international turmoil associated with trade liberalization (constructivism – *embedded liberalism*). Genuine educational considerations do not seem to figure at all.²⁸

Perspective of the developing countries

Some in the developing countries also foresee opportunities and benefits in trade in education and favour bringing education under the ambit of the GATS. They believe that both the outflow of students (outbound mobility) and the entry of foreign institutions would be beneficial to them. The claimed advantages are as follows.

Governments in developing countries might feel that the outflow of students can bring from trivial to very significant benefits. First, resource-poor governments might view the outflow of students as a blessing in disguise, as the governments can save scarce resources which otherwise have to be invested in setting up additional universities and in providing those students with access

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27. Neo-realist theory claims that trading nations are trapped in a prisoner’s dilemma situation. According to the prisoner’s dilemma (Poundstone, 1992), a constituent of game theory, each of the two prisoners involved in a single case tries to maximize his/her own gains. The dilemma is whether to betray or cooperate with each other, and betrayal is often the choice made. See http://en.wikipedia.org/wiki/Prisoner’s_dilemma. In the present context, the developed countries may prefer to see that developing countries do not cooperate among themselves.
28. If such altruistic motives were important, there could have been a larger number of overseas programmes in Africa than, say, in Asia. It is well known that very few US programmes exist in Africa (Kim and Zhu, 2010: 173).

to higher education. Thus, student outflow might mean significant financial savings for governments. This is particularly true if the students go abroad on their own.²⁹ Second, if students go abroad for studies and settle there for employment, it may not only ease the problem of unemployment in their home countries but also bring in remittances in the form of scarce and much-needed foreign exchange.³⁰ In addition, students who went abroad may return better educated and more skilled, in which case this works as a ‘brain gain’, besides bringing the superior technology of the developed countries into developing countries. For the same reasons, some developing countries subsidize the foreign education of their students through scholarships.³¹

Similarly, the entry of foreign universities is also seen as resulting in substantial gains for some developing countries. Governments in developing countries feel that the entry of foreign universities will add to national funding of education, which is in a critical condition, and will ease the financial burden, as it will lead to a decline in domestic pressures to raise budgetary support to the universities. In fact, their expectation is that higher education would become an important channel for the flow of foreign direct investment. Even if students go abroad for studies, this is regarded as easing the pressures to expand educational facilities within the

29. This argument is similar to the one commonly made by the pro-private lobby in education.

30. For instance, the total remittances received in India from its citizens living abroad amounted to nearly US\$25 billion in 2002–2003, up from US\$2.1 billion in 1990–1991 (Chishti, 2007). These remittances, however, include both those from students who went abroad for study and started earning there, and those who went abroad for employment after completing their studies in India.

31. For example, Thailand offers overseas scholarship awards, which of course came down in numbers from 939 in 1997 to 391 in 2001 (Welch, 2011: 96). In contrast, all Chinese students who went abroad before 1992, though relatively few in number, were funded by the Chinese government. The number of scholarships has remained much the same, but there has been an alarming growth in the number of students going abroad with their own funding since 1992. The latter category now comprises 30 to 40 times the number of students going with government funding (Li, 2010: 282–283). As stated earlier, the increasing purchasing power of the citizens of countries like China is an important factor, apart from the opening up of the economy.

country. Resource-scarce countries which are not in a position to meet the growing demand for higher education regard this as a big advantage. In China, for example, the university system has places for less than a fifth of its 100 million college-age youth; in contrast, about 200,000 Chinese students are currently abroad (*Economist*, 2009a: 43). Importing higher education in the form of sending students abroad is thus considered highly beneficial.

The second important advantage claimed in this context is improvement in access to and equity in higher education, as the supply of education in developing countries is restricted and is severely inadequate to match the rapidly growing demand. Many believe that trade in education under any mode will add to domestic capacity and lead to an increase in the overall supply of education, and thereby to improved access to education and to capacity development (OECD, 2007). Under Mode 4, when teachers, educational planners, and administrators move from developed countries to developing countries, this will increase the overall availability of such personnel and solve the problems of labour shortages in higher education institutions in developing countries. This ‘reverse brain drain’ will also help the developing countries facing severe problems of brain drain.³² Even Mode 2, in which students from developing countries go abroad, could be considered as ‘brain train’ (Knight, 2009: 8) or ‘storing of brain power overseas’ or ‘brain circulation’; moreover, these students are deemed to ‘serve their nation from abroad’ (*Economist*, 2009a: 43), even if they do not return to their home countries.

Third, it is generally felt that education in the advanced countries is of superior quality, and it is argued that trade in education would make the same high-quality education available to students in developing countries at affordable cost. If foreign universities set up shop in developing countries, it is claimed that this will increase diversity, increase individual choice in education, break monopolies, increase competition, and even mentor local institutions, all of which will result in overall improvement in the quality and efficiency of education in the country. Further, foreign degrees will be available

32. See Namgung (2008) for a description of the contribution of returnees to the internationalization of higher education in the Republic of Korea.

at low cost, as degrees will be made available within the developing countries. In some cases, like programmes offered through the Internet, the costs could be a fraction of what a student would have to pay if he/she were to go abroad for the same degree.

It is also argued that the emigration of students to foreign countries for studies cannot be stopped. After all, democracy implies that young people should have the choice of going anywhere and attending better universities than the ones available at home, if they can. Preventing students from going abroad or attending foreign universities even at a distance is difficult to justify on democratic grounds, although all individual choices are subject to regulation by the government. Since students are going abroad in any case, governments feel that a better alternative is to allow foreign institutions to come into their countries under Mode 3. This helps prevent the draining of scarce foreign exchange from within the country, which otherwise flows overseas. For example, India was spending as much as US\$4 billion in foreign exchange on the 160,000 Indian students studying abroad (NKC, 2007), which is reported to have increased to US\$13 billion in 2011 (Booker, 2011), on about 220,000 students going abroad (Hill and Chalaux, 2011: 28), that is, on what may be called importing of education. The import of education in Malaysia was estimated to be of the order of 3.6 billion Malaysian ringetts (RM) in 2005, up from about RM 2 billion in 1990 (Tham, 2010: 104). These ‘import payments’ are considered as a major burden on the foreign exchange reserves of poor countries. It can be argued that India could have saved the US\$4 billion, had the students stayed within India and received foreign education under different modes, in addition to the savings in public budgetary resources for higher education. All this is believed to stimulate the local economy as well. As Kapur (2008: 18) argues, ‘if the choice is between students going overseas and spending money there or spending it mainly at home, the latter is surely a less worse option.’³³

Apart from the argument that this would make quality higher education of international standards available to more students, the other gains claimed include cross-cultural linkages and possible

33. Implicitly, Kapur (2008) means that both are bad options, one a little less bad than the other.

transfer of knowledge and technology, as internationalization can lead to universities becoming more involved in collaborative research with offshore institutions. This can enrich the intellectual environment of a country's higher education institutions and stimulate academic programmes and research.

Thus, internationalization of higher education, within the framework of trade or otherwise, is believed to provide benefits to participating countries at the individual, institutional, and societal levels, through academic exchange, increased cross-cultural linkages, and technology transfer. Increased access to higher education is cited as the vital gain from trade, particularly in those countries where the local supply of education is inadequate. It is also argued that trade can help governments to save resources on infrastructure facilities in higher education institutions, as foreign providers build new institutions (Zhang, 2003). Thus, even those who question the intrinsic value of trade in education favour it as a solution for many practical problems faced by developing countries, such as the excess demand for education in developing countries that governments are not able to meet, the severely restricted and declining public funding in recent years, and the abysmally poor quality of education in many institutions of higher education in developing countries.

Because of these claimed advantages, champions of trade in education even in developing countries argue against tough regulatory frameworks for foreign education providers. Instead, they argue for liberal incentives, tax concessions, creation of special educational zones similar to the special economic zones for trade in goods, and so on.³⁴

It may be added that those who argue in favour of internationalization in both the advanced and the developing countries do not necessarily make any distinction between conventional forms of internationalization and trade. Thus, some of the claimed advantages may be related to traditional forms of internationalization. Where this distinction is made, it is argued,

34. The National Knowledge Commission (NKC, 2007) in India also pleads for ensuring a level playing field for foreign institutions, such that all rules applying to foreign institutions are applicable to domestic institutions as well (and *vice versa*).

for example, that traditional forms of internationalization have a potential for improving quality in education, but that commercial trade, franchising, and online/distance education programmes do not have such potential (see Oyewole, 2009).

4.2 Arguments against

The arguments against internationalization revolve around the same four major dimensions – political, economic, academic, and cultural/social – as those favouring trade in education. The predominant view among academics in not only developing countries but also advanced nations is against the GATS in education, as shown below. Some of the important arguments, which are philosophical, political, and pragmatic as well, are as follows.

First, education is a ‘public good’ and also a ‘social merit want’. It produces a huge set of externalities – social, cultural, economic, and political – besides benefiting the individual. This has long been recognized, and hence governments in most civilized societies have assumed near complete responsibility for providing education to their citizens. It is also recognized as an important public service. The GATS basically does not recognize these fundamental aspects of education. It considers education not as a public good or service, but as a tradable commodity and a commercial activity, and supply of education as a commercial undertaking. It makes no distinction between trade in services like education and trade in automobiles, computers, and other goods. The GATS treats public goods as commercial goods, and even global public goods as global tradable goods meant for merchandization and profit-making. In fact, the GATS is concerned with trade, not with education. Hence, it is rightly feared that the ‘common good’ nature of education will collapse (Altbach, 2006) and that public education will be traded off in favour of trade in education under the GATS, since the GATS, which provides a political and legal framework for deregulation and privatization (Scherrer, 2005), would indeed unleash the forces of unbridled competition and vulgar forms of privatization of education. The very term ‘trade in education’ is resented by many, as being anti-educational. Hence, many argue that education should not be treated as a tradable commodity or service and hence should

not be allowed to come under the GATS (Shumar, 1997; Tilak, 2008*b*; Guarga, 2009).

Second, education is intricately connected to the culture and ethos of the society. It imparts values that help in nurturing the society's heritage and in strongly interweaving the social fabric by promoting social and religious harmony, secularism, and democracy. Any intervention from external sources is rightly feared to affect these valuable aspects of education. It was for this reason, for example, that immediately after independence India refused US help in building its higher education system, except for a few select institutions like the Indian Institutes of Technology, which are built with foreign aid (see Tilak, 1988). Trade in higher education is regarded as a factor that may actually destroy the cultural ethos, the social and religious harmony, national values, educational values, and other public goods that national governments try to nurture. The basic issue is that foreign education providers might not be in a position, even if they wished to be, to understand the local ethos, local values, local problems, local medium of instruction, and so on, in such a way as to supply appropriate education to the local students. The syllabi and curriculum offered by foreign institutions may not reflect national culture and ideas. Gradually, the local curriculum might be replaced by a foreign curriculum, and the curriculum in higher education might eventually become uniform across the whole world, as is already happening in areas like management, engineering, and information technology. The content, and method of delivery would be the same – in the form of the same books, study materials, and CD-ROMs, and even the methods of testing would be uniform. The single largest medium of education is English, and this language will dominate and eventually relegate all other languages to oblivion. The motive of trade in education can also be ideological expansion through the curriculum.

All this may lead the highly nation-specific activity of higher education towards what is described as the McDonaldization of higher education (Hartley, 1995),³⁵ as internationalization of the curriculum is an important aspect of the whole process, besides

35. See Borghans and Cörvers (2010) for a discussion of the Americanization of European higher education since the beginning of the 1980s.

homogenization of cultures ‘from mosaic to mélange’ (Beerrens, 2003; Dale, 2000).³⁶ The whole aspect of diversity will be in peril. It is the responsibility of public higher education systems to protect society from cultural invasion and to preserve and nurture national culture and heritage. Trade practices will allow only commercially viable disciplines to flourish, at the expense of disciplines that are needed to preserve and nurture national culture and heritage and even those disciplines that will help in national economic prosperity. The weakening of higher education systems under the GATS in terms of values they inculcate, the skills and training they provide, and the type and nature of knowledge they create and disseminate will make the country more and more vulnerable to international pressures. Skill requirements for national development are not the main concern; rather, the main target is the global skill market. Universities were recognized not only as special institutions offering education but also as cultural institutions in society, whose goals go beyond commerce. As Altbach (2006) cautioned, under the GATS all this is under threat.

Third, as already noted, internationalization of education contributes to brain drain and serious shortages of skilled labour in developing countries. All forms of internationalization may accentuate brain drain, but the ‘consumption abroad’ mode has the potential for contributing most to it. It is reported that more than 90 per cent of the Indian students in the USA prefer to stay instead of returning to India after their studies.³⁷ Seventy per cent of Chinese students who studied in the USA during the 1978–2006 period did not return home (*Economist*, 2007: 57).³⁸ About a fifth of all foreign

36. This is exactly the view articulated more strongly and clearly in the case of primary and secondary education. Foreign direct investment in school education is especially resented because of the possibility of foreign providers controlling school curricula and because students in school education do not have the option of questioning the curricula.

37. This refers to Indian students in all areas of study. The proportions may vary by disciplines of study. See footnote 27.

38. Li (2010) provides somewhat dated (1998–2001) evidence showing that 76 per cent of the international science and engineering doctoral students in US universities had plans to remain in the United States and 54 per cent had *firm* plans to do so. The corresponding proportions are the highest in the cases of China and India.

students in Australia are motivated mainly by the hope of gaining residence there and staying forever (*Economist*, 2009a: 42). The higher fees paid by foreign students, the relatively low wages in the home country, and better employment markets in advanced countries all further contribute to brain drain. The GATS would support this phenomenon further and in principle, aims to promote it without any barriers.

Fourth, it is widely held that since transnational education is aimed primarily at the upper socio-economic strata, it being relatively expensive in terms of high fees for the students, improvement in access will be limited, marginal, and at best confined to elite segments of society. It is widely feared that foreign providers may simply engage in ‘cream skimming’, exacerbating inequities in access to tertiary education (Kapur, 2008: 18).

Conventionally, the role of the government is considered crucial in providing education to the people. Under the framework of the GATS, the government’s sovereignty will be under attack, and its role in education will be radically restructured and minimized: at best it will be confined to providing a regulatory and in fact an enabling framework. It is expected that all barriers to internationalization will be removed. However, what is perceived as a barrier to trade by a major exporter of educational services, for example, may be essential as ‘a legitimate defence of national identity or local control over funding and standards by the country’ (Welch, 2011: 6). Under the GATS, the relations between government and higher education systems would undergo a drastic change. Almost every aspect of higher education – the language used as a medium of instruction, curriculum, examination and evaluation processes, quality assurance mechanisms, accreditation, modes of delivery – will be under the control of the WTO. After all, as the Free Dictionary by Farlex defines it, internationalization is ‘the act of bringing something [or everything] under international control’.³⁹ As the GATS supersedes decision-making at the national, sectoral, and institutional levels, it has the potential of directly interfering with academic autonomy, which leads to unintended consequences (Green, 2004; Altbach, 2004). As a corollary to increased trade, particularly imports of

39. www.thefreedictionary.com/internationalization

education, and to the reduced role of the state, the government does not feel the need to spend public resources on education; it might actually feel that it can withdraw from education and leave a large part of it to private providers, both domestic and international. So public funding to education will decline drastically. There is an added dimension to this impact on public funding. As the foreign education providers would have to be treated on a par with local providers, they too will have a claim on public resources, as financial and other benefits extended to domestic universities must also be extended to foreign services and suppliers; otherwise, governments will have reneged on their commitments and will have to pay compensation under the GATS.⁴⁰

Furthermore, commitment of education to the GATS means commoditization, which will have serious implications. Commoditization of education would lead to massive privatization of education, which would increase the costs of education and widen inequities by restricting access to the privileged. Moreover, as the steering capacity of the nation-state and government control on higher education are reduced, the ability to plan education for national needs would disappear altogether, as education would be moulded by the markets to suit market needs and international trade makes it necessary to prepare people to meet the requirements of the labour markets in developed countries. For example, when the University Grants Commission (UGC) in India indicated its keenness to prohibit or regulate foreign commercial presence in higher education and to expand higher education to serve the needs of the poor, it was found to be ‘illegal under the GATS’, running ‘afoul of GATS rules’, and ‘at odds with India’s current position in the GATS negotiations’ (Education International, 2009). So the GATS can become a double-edged sword for the developing countries: on one hand, they lose the opportunity

40. We can cite only a few experiences in developing countries that have permitted the GATS in higher education, not only in this specific respect, but also in regard to the other points elaborately documented. In Jamaica, the private higher education sector, which granted degrees through a franchising programme, claimed access to public funding under the provisions of the GATS. Faced with the grave problem of scarce public resources, the Jamaican government has had to make amendments to its commitments to the GATS. See Guarga (2009). A few other experiences are referred to at various places in this study.

and capacity to develop their own higher education institutions, and on the other, they lose foreign exchange earnings under various modes (Panchamukhi, 2008: 505–506).

It is widely felt that under the GATS and internationalization of higher education, foreign institutions will come into developing countries, not with any noble ideas of providing good education to the poor, but essentially to make quick money, though systematically documented experience in various countries on this issue is not available. After all, under the GATS education is a tradable service. It is natural to expect foreign institutions to aim at making money in trade. Traders in education, national as well as international, will not have any consideration for educational development or for improving equity and access to education. They also will not necessarily bring much capital into the developing countries.⁴¹ Those who have non-economic considerations and genuinely seek to promote the educational levels of people in developing countries do not have to opt to work under the GATS framework. It is also felt that the only institutions to enter developing countries will be cheap, second- and third-tier foreign institutions offering low-quality programmes which are also not necessarily recognized by the appropriate bodies in either country and do not necessarily have any sound accreditation mechanisms in their own countries; that the only teachers who make the move will similarly be of low quality.⁴² The credentials of some of these very universities are doubtful. Online programmes also involve low-quality teachers. Many of the diplomas and degrees offered by foreign education providers in several developing countries are found to have been accredited neither by the parent university nor by any public body in the developing country. In a sense, it may happen that dubious domestic institutions twin with dubious foreign

41. For example, when China passed a law in 2003 which permitted foreign universities to set up campuses in the country, Nottingham University and Liverpool University came, but neither of them made any capital investment in China (*Economist*, 2009a: 43).

42. In the three-tier classification of US universities, the bottom category ('moderate' universities) outnumbered the others ('elite' and 'good' universities), in the case of both public and private universities that offer overseas programmes. In all, 210 moderate universities have such programmes, compared with 30 elite and good public universities and 34 elite and good private universities (Kim and Zhu, 2010: 186).

institutions which award dubious degrees (Pant, 2009). In the light of these arguments, all the claims about improving access, quality, and efficiency in developing countries' education systems seem to be too far-stretched. As Altbach (2009b) observes, 'traders are interested in selling products in immediate demand, such as management studies, and not in sustaining research universities, enhancing access and equity for under-served communities, and the like'. Multinational trade does not really contribute to the internationalization of higher education worldwide. Knowledge products are being sold across borders, but there is little mutual exchange of ideas, long-term scientific collaboration, exchange of serious students or faculty of high quality, and the like. As Altbach (2006) notes, the motive for establishing multinational higher education enterprises (as with multinational corporations) is almost always to make money.

It is generally argued that imports of education services via commercial presence can help augment resources for investment and expansion of facilities in the education sector. This argument can be accepted, in principle, to some extent. However, it may also cause two-tiering into an international (private) segment which caters to the affluent and provides higher quality and standards and an under-invested, under-staffed, and resource-constrained domestic public segment which caters to the middle and lower income groups (Chanda, 2003).

Many advanced countries also note high risks and costs involved in some of the approaches of internationalization (Scott, 1998; Armstrong, 2007). Recruitment of international students almost entirely because they can be charged very high fees, the drive for internationalization essentially for geopolitical and commercial advantage, the global positioning of some of the universities in the developed world and their assertion of global brand and superior status among the universities within the country and among the top-ranking universities in the world creating undesirable hierarchies, and the 'international flight' of students even within the developed countries, posing 'chronic threats' to the very sustainability of some of the universities with small numbers of students – are considered as some of the ugliest sides of internationalization of higher education (Scott, 2011). Furthermore, twinning and other partnerships raise significant reputational risks regarding quality

control of the international partner. Offshore programmes also entail quality control risks. Branch campus models have the largest set of risks: in addition to all general risks, they need to interact effectively with many levels of society and government in order to create and sustain the campus; start-up costs are very high; and recouping initial investments in the event of closure is unlikely. Reputational damage can also be very high. Cross-border education like the dot-com boom in online education poses a major risk to effective estimation of the demand for education and the planning of offshore programmes, and in many cases these risks are so high that they even force closure of the campuses.

Developing countries also face several practical problems. An influx of foreign private institutions into a country will have a negative impact on domestic institutions, as public institutions, particularly in developing countries, are not necessarily competitive and are not totally oriented to market needs, as they often serve larger national interests. The capacity of the developing countries to participate effectively in global trade in higher education is also very weak. Thus, given the unfair nature of competition between two unequal parties, the public institutions would be at a disadvantage. Further, education markets in developing countries are characterized by imperfect information, inadequate mechanisms of consumer protection, weak regulatory mechanisms, and inadequate quality assurance systems. As a result, competition in trade between these unequal institutions would be unfair, leading to unequal access to education markets. Ferocious levels of competition may result in survival of the fittest, but not necessarily of the most desirable.

It is also feared that the entry of a large number of foreign institutions will impinge on the academic freedom of higher education institutions in the country, as these institutions will have to become competitive and pay more attention to the market relevance of their programmes and economic considerations if they are to survive. In fact, when education becomes a part of the GATS regime of requirements and regulations, it will be subject to a complex set of new arrangements and procedures which are more commercial than academic in nature and scope and which would naturally affect the academic freedom and the very academic nature of the institutions. As the International Association of Universities (2008) summed

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up, ‘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’.

V. The high profile of internationalization in higher education: The current situation

Internationalization of higher education has been a very strong trend, and most countries are getting involved in it, either out of conviction or out of compulsion – the latter stemming from resource scarcity on the one hand, and pressures from domestic private sector and, more importantly, international lobbies on the other. This growth has been unregulated, overhyped, sometimes ill-intended, and under-examined. It moved from being a fringe to a core activity in higher education. Countries and universities began competing with each other in the process of internationalization, specifically in terms of drawing foreign students. Among the world regions, according to the IAU (2010), Europe is ahead of all others, followed by the Asia-Pacific and North America. The Middle East and Latin America and the Caribbean are at the bottom.

Some view internationalization of higher education as an unalterable element of contemporary society that is here to stay. Under the name of internationalization, many universities, particularly in the West, have been following aggressive policies of attracting foreign students, including hiring ‘agents’ for getting students, and the overseas students are charged fees above the costs, so that they cross-subsidize the higher education of local students or even help to generate surpluses. Some such practices are not strictly under the framework of the GATS, though ‘limitations’ can be imposed to this effect. Moreover, as already stated, internationalization, cross-border education, and even trade take place in many countries outside the GATS, which do not restrict dual and even multiple fee systems. Only in a few countries does trade in the area of education take place within the framework of the GATS, as only a few countries have so far made commitments on education to the GATS.

Many countries have also set up a national agency, a central body, or ‘intermediaries’ mandated with promotion of internationalization (Bourke, 2000). Similarly, some universities have set up separate bodies at university level in this regard, essentially to attract foreign

students and to promote cross-border education. National bodies have been set up in Malaysia and Hong Kong, for example, to be responsible for activities relating to export and import of education under the GATS (Woodhouse, 2007). The American Recruitment Council was set up in the USA as a non-profit organization whose services are used by a large number of universities in getting international students (*Economist*, 2009b). Traditional non-profit universities are also entering this business, though their motives are somewhat different (Altbach and Knight, 2007).⁴³ It is unfortunate that even some of the world's best universities, such as Oxford, Cambridge, and Stanford, seem to be adopting the same or similar approaches (Suror, 2005), though their motives may not necessarily be purely commercial, whereas they used to offer scholarships to foreign students to attract and promote the best talent.⁴⁴ Market reforms and cuts in public grants to higher education institutions in the UK, Australia, New Zealand, and many countries in the West, requiring universities to generate resources mainly by exporting education, have actually forced them to cross borders in search of funding. Many countries find it convenient to sell cheap higher education degrees to gullible students in developing countries by adopting different modes under the GATS. Universities everywhere are fast becoming entrepreneurial institutions, both domestically and internationally.

Under this framework of trade, international, regional, and subregional knowledge hubs (see Chapman, 2008) are being created, where foreign universities are invited to start their branch campuses. The rationale is generally both to bring in foreign capital and foreign revenues through students and to raise national visibility and prestige (Armstrong, 2007: 135). For example, 25 universities from several countries have already started branch campuses

43. Universities adopt different methods and approaches. For example, a reputed international school of business in Spain all of a sudden started offering undergraduate courses in English, essentially to attract foreign students, and succeeded in getting about 80 per cent of its students from outside Spain (*Economist*, 2009a).

44. Important examples are the US Fulbright programme, the Erasmus Programme of the European Union, the Erasmus Mundus Programme for non-EU students, and scholarships offered by several other countries including some of the developing countries like China and India.

in the Dubai Knowledge Village, a dedicated tertiary education cluster created within a special economic zone in 2003 in Dubai. This is an attractive ‘village’ to many foreign investors as full 100 per cent repatriation of capital including profits is allowed, besides tax exemptions, other financial incentives and, above all, a massive financial commitment made by the government. The Dubai International Academic City is also being developed. There is already a race to create regional education hubs. Examples include the ‘global schoolhouse’ in Singapore, where 16 foreign universities were attracted to offer degree programmes in collaboration with local universities; the ‘regional knowledge hub’ in Hong Kong, ‘to promote Hong Kong as Asia’s world city’; and similar projects like Kuala Lumpur Education City in Malaysia, Education City in Qatar, and a Higher Education City in Bahrain (see Tan, 2008*b*; Knight, 2008*b*, 2011).⁴⁵ These various models do not necessarily have exactly the same objectives. Although improvement of status and world recognition is the common objective of all, other objectives such as improvement of domestic higher education systems and development of the knowledge economy are not common. Attracting foreign direct investment is one of the objectives that most of these projects have in common (see Knight, 2011: 226), but as we shall see below, not all are successful.

In the first phase of negotiations (2000–2001), only four proposals on education were submitted under the GATS to the WTO by Australia, Japan, New Zealand, and the USA. By 2002, when the next round of negotiations began at Doha, as many as 43 countries had made specific commitments in the area of education, of which 32 had made commitments for higher education, 34 for secondary education, and 29 for primary education. Furthermore, 31 countries have committed adult education and 18 ‘other’ education. As of March 2006, a total of 53 countries (the European Union being counted as one country) out of the nearly 150 WTO member countries had made commitments on education, of which a large majority (nearly 40 countries) were concerned with higher education (Education

45. Several papers in Sakamoto and Chapman (2011) provide interesting details on cross-border partnerships in higher education.

International, 2006; Knight, 2006a),⁴⁶ which means that a majority of the WTO member countries have so far made no commitments on education.⁴⁷

The USA and Canada have not so far made any commitments in higher education, though they favour trade in education and the USA has made offers (see ACE, 2007). Many developed countries have made requests, and most of the requests in the first two rounds – the Uruguay and the Doha rounds – were related to Mode 1 (cross-border supply) and Mode 3 (commercial presence). The USA has not only made offers but also made substantial requests to other countries to remove all barriers in higher education, adult education, and other educational services. It has asked all WTO members to undertake full commitments for market access and MFN treatment in the delivery of education services under the first three modes, namely cross-border supply, commercial presence, and movement of natural persons. It did not request commitments in primary or secondary education. Interestingly, the nature of the US offers has been the complete opposite of its requests. Its offers have underscored (1) the authority of US institutions in admission policies, setting tuition fees, developing curricula and course content; (2) granting of US federal or state government funding or subsidies to US schools or citizens; (3) requirements for regional or speciality accreditation practices; and (4) conditions for foreign-owned entities to receive public benefits (see Gürüz, 2008).

46. However, data are available on the distribution of the commitments made by 47 countries as of February 2006. In all, 167 commitments were made in education: 33 in primary education, 37 in secondary education, 37 in adult education, and 22 in ‘other’ education, in addition to nearly 40 commitments in higher education (Knight, 2008a: 168–169).

47. Most of the countries that have made commitments have done so only partially: some have committed only higher education; some have committed only privately funded education services; while others have committed both public and private services (Geloso-Grosso, 2007). Moreover, not all countries have committed for all modes: some have committed for Modes 3 and 4, also with restrictions; no country has made an unrestricted commitment in the entire education sector. Only a few countries (in the European Union and former Soviet Union) have made quite extensive commitments in nearly all sectors of education. See Scherrer (2005: 487–488).

Many countries, such as India, have yet to make commitments on education to the GATS. Among the countries that have committed, some may be countries where foreign providers already existed and some kind of trade had been taking place (e.g. many developing countries); in the case of some other countries (e.g. India) the commitments are much below the status quo;⁴⁸ and some are countries that actually desired to attract foreign providers (e.g. Singapore, Japan) and or to go abroad for trade (e.g. Australia) (Nielson, 2004). Some countries may commit education, not necessarily because they wish to trade in education, but because they desire trade in other sectors; that is, higher education might be seen by some countries as a ‘horse-trading’ sector, meaning that commitments to education are made to gain access to other key sectors such as agriculture and textiles. It is important to note that education and other services are not negotiated independently or one by one; they are negotiated in relation to all the sectors covered by the round of negotiations. This ‘all unique method’ implies that offers on one sector are conditional on the level of liberalization in other sectors (Verger, 2009b: 385).

In general, economic motives assume pride of place in the rationale underpinning all international ventures in education. Many countries are very reluctant to engage in negotiations on education services. This is true in the case of many developing countries and also some of the European countries that view education more as a public good than as a tradable commodity. At one point, the European Union and Canada flatly refused to make any offer on education to the GATS. The situation may change rapidly, however, as we can already note a shift from the cautious approach adopted by countries in relation to services in the Uruguay Round to a somewhat ambitious approach in the Doha Round, characterized by the dominance of mercantilist ideology. In the Doha Round, seven countries were offering education for the first time, and eight countries widened the liberalization commitments made in education in the previous negotiations (Verger, 2009b: 386). The ‘merchants of education’ (Verger, 2009b) are steadily increasing in number.

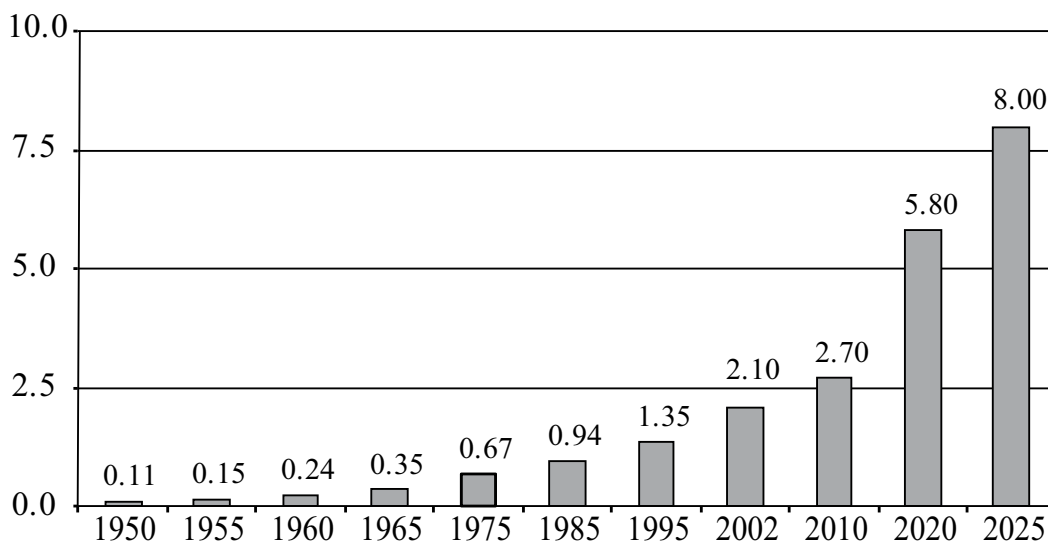
48. For example, as Agarwal (2009: 342) notes, India’s initial and revised offers do ‘not mean much’. The contents of the offers are briefly described in *Chapter VI*.

The negotiating methods are also changing. After the first two rounds of negotiations (the Uruguay and Doha rounds), it was found that progress has not been as rapid as expected. The USA and the European Union, together with India, proposed the adoption, along with the bilateral request–offer approach, of the method of plurilateral agreements, ‘a new flexible method under the GATS architecture’. Plurilateral agreements are limited to those member countries that agree to them separately. According to this method, members can enter into negotiations with a group of countries rather than in one-on-one bilateral mode. Some of the developed countries can negotiate as a group with other countries, and some developing countries, in principle, can negotiate as a group with one or a group of developed countries. This, as Knight (2006a) rightly feared, would make the job of negotiation more difficult for the developing countries, as they would have to confront groups of powerful countries that represent ‘the most aggressive “demandeurs” in a particular sector’;⁴⁹ and it would give wider oversight powers to the WTO to challenge domestic policies, even if the latter are consistent with provisions in the GATS.

Although many countries have not made actual commitments on higher education under the GATS, trade is already taking place under any or all of the four modes. Such trade is steadily growing, and all modes of trade are found to be affecting all aspects of higher education. For many countries, international education is largely of the ‘consumption abroad’ type. This is a very important mode of operation. In 2007, more than 2.8 million students were enrolled in higher education outside their own countries – a rise of more than 50 per cent since 2000, and by a factor of two-and-a-half since 1975. Increasing at a breakneck speed from 1.8 million in 2000, the figure is expected to balloon to about 8 million by 2025 at an annual rate of growth of 5.8 per cent (Knight, 2006b).

49. Many developing countries were unhappy that India broke ranks with other developing countries and were apprehensive of the plurilateral arrangements, as such an approach would lead to greater pressure on them to open up sensitive services in their markets with little assurance of concrete gains in areas like Mode 4. See Chanda (2006: 5).

Figure 5.1 Past and projected growth in global foreign student enrolment (millions)



Source: Gürüz, 2008: 162.

At present, about 3 million students in the world study in a country other than their own.⁵⁰ They include students from developing as well as developed countries. That is, about 2 per cent of the total students in higher education are studying in foreign countries. As the figures in *Table 5.1* show, the largest group of internationally mobile students comes from East Asia and the Pacific, the number being about 850,000, accounting for 29 per cent of the world total. Next come North America and Western Europe. These figures refer to the number of students of a given country (not a region) studying in another country (not a region), which could be in the same world region. In fact, a large number of students from North America and European countries might be studying in another country of the same region. For example, the majority of the students from the USA go to the UK, Canada, France, Australia, and Germany, while only a

50. As Tremblay (2002 : 5) observes, ‘the scale of this phenomenon is extremely difficult to ascertain.’ Based on various national sources of data on this phenomenon, the UNESCO Institute for Statistics (UIS) provides international data. Since many countries do not maintain a sound database on this aspect, the available data should be taken with caution and be treated more as underestimates.

very small number go to other countries. About half the foreign students in the UK were from the European Union in 2007/2008 (Foskett, 2011: 34). Similarly, a large number of students who went abroad from the UK were found to be studying in the USA, France, Australia, Denmark, and Ireland. Following the Bologna Process (1999), the mobility of students from one country to another within the European Union has been very high. These regional figures must therefore be interpreted with caution. Nevertheless, they show the extent of outbound mobility of students. Sub-Saharan Africa has the highest outbound mobility share of the total higher education population: nearly 5 per cent of the region's higher education population goes abroad for studies, almost 2.5 times greater than the world average.

Table 5.1 International student mobility, 2008

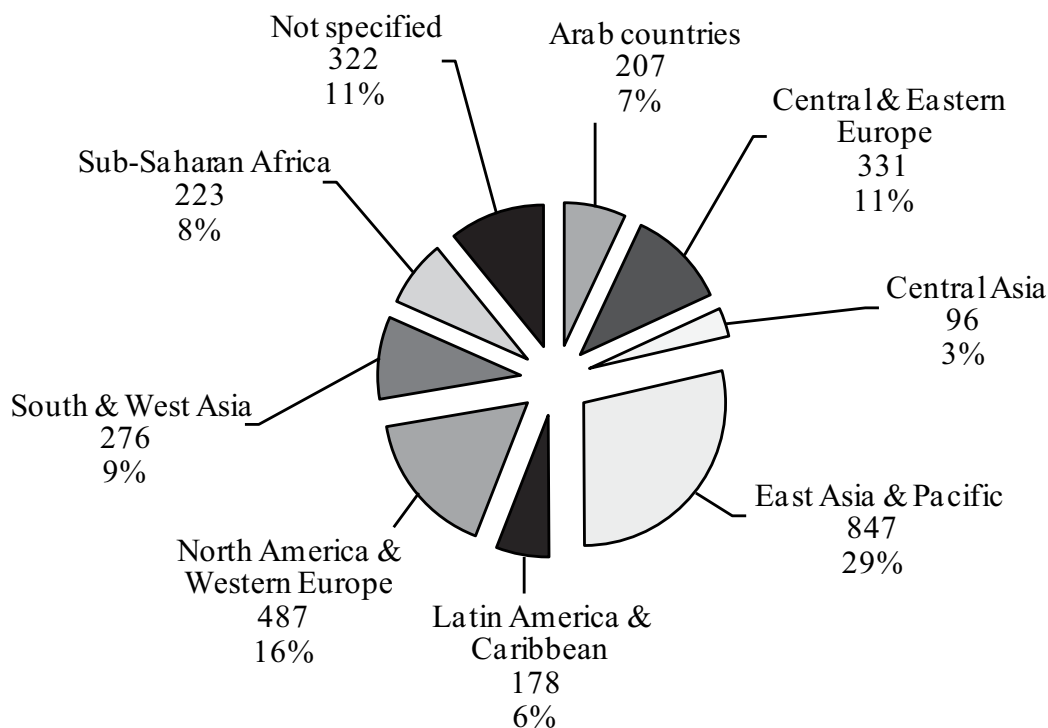
	Outbound mobility*	
	Number ('000s)	Outbound mobility ratio
World	2,966	1.9
Arab countries	207	2.8
Central & Eastern Europe	331	1.6
Central Asia	96	4.6
East Asia and Pacific	847	1.7
Latin America & the Caribbean	178	0.9
North America & Western Europe	487	1.4
South & West Asia	276	1.3
Sub-Saharan Africa	223	4.9
Not specified	322	..

Source: UIS, 2010.

Note: * Students from a given country studying abroad; outbound mobility ratio is the same, expressed as a percentage of total enrolment in that country.

The regional distribution of all students in the world studying abroad in 2008 is given in *Figure 5.2*. The East Asia and Pacific region accounts for the largest share.

Figure 5.2 Regional distribution of students studying abroad, 2008 (%)



Source: UIS, 2010.

Note: Figures in the first row of the labels refer to students in thousands; those in the second row refer to regional distribution in percentage.

Over the past two decades, foreign students in the OECD countries have doubled in number, and there are more than 2.7 million foreign students in tertiary education; the number of foreign students in these countries has grown at a higher rate than the total number of students in these countries. Although the share of the USA in foreign students has marginally declined over the years,⁵¹ US universities still account for the largest number of foreign students (625,000 in 2008) and the Western European countries account for another 1.2 million students. Japan accounted for 127,000 foreign students in 2008 and plans to increase the number to 300,000 soon.

51. The recent economic recession seems to be affecting the inflow of foreign students into the USA, as many universities are experiencing a big drop in the number of foreign students (Fischer, 2009). See also Schmidt (2009), who reports that after 2004, for the first time, domestic students increased at a faster rate than foreign students in the USA.

Countries in Eastern Europe do not attract many students; the figure was about 300,000 in 2008. In all, in terms of foreign students in 2008, the USA, UK, France, Australia, and Germany were the top five receiving countries, followed by Japan and Canada (UIS, 2010; see *Table 5.2*). The USA has been the clear choice of destination for foreign students for at least the last half-century. Enrolment of foreign students in the USA increased from about 26,000 in 1950 to about 625,000 in 2008, with students from China, the Republic of Korea, and Japan accounting for a large proportion of these. The UK has been a major destination due to colonial connections, the reputation of its institutions, and policies driven by political and cultural considerations. The number of foreign students in the UK is projected to increase to 870,000 by 2020 (Gürüz, 2008: 191).

Table 5.2 Top ten destination countries for foreign students, 2008

	Number of foreign students in thousands	% of all countries		Number of foreign students in thousands	% of all countries
USA	624.5	21.1	Japan	126.5	4.3
UK	341.8	11.5	Canada	68.5	2.3
France	243.4	8.2	South Africa	63.9	2.2
Australia	230.6	7.8	Russian Federation	60.3	2.0
Germany	189.3	6.4	Italy	57.3	1.9

Source: UIS, 2010.

Enrolment in foreign distance education programmes is also sizeable and increasing rapidly. This growth is facilitated by the revolution in information and communication technology. As Böhm *et al.* (2004) note, the international education economic sector in the UK includes, in addition to the 350,000 foreign students enrolled in UK universities, 190,000 international students who receive UK higher education programmes in their own countries, over 60,000 students enrolled in further education colleges in the UK, over 500,000 students in private colleges, schools, and English-language training institutions, a number of foreign scholars on short visits, research and development projects contracted abroad and carried out in the UK, and export of other education-related goods and services,

which in all amounted to about £18 billion. France and Germany attract large numbers of students with huge public subsidies in terms of scholarships for overseas students. Australia started to implement active recruitment practices in the early 1980s, mainly influenced by the economic rationale.

Among the various world regions, the major magnets are the USA in North America (and in the world as a whole), the UK in Western Europe, Australia in Asia and the Pacific, Russia in Eastern Europe, and South Africa in sub-Saharan Africa. More than 2 million students from developing countries were studying abroad in 2004, mostly in advanced countries. By 2025, international student numbers in OECD countries are projected to reach 7.2 million (Böhm *et al.*, 2004). Open universities also have increasingly large numbers of foreign students on their rolls, who receive education while living in their own countries. In 2003, 14 per cent of the students of the UK Open University were located outside the UK. US institutions provide educational services in at least 115 countries across the world. The global e-learning market for higher education is growing at a rate of 12 per cent per annum (Media Inc., 2004). Perceptions on the quality and cost of education, the market value of foreign degrees, and quality of life in developed countries in comparison with those in home countries are important motivations for students in developing countries to go abroad and/or to study for foreign degrees through open education.⁵²

The USA is the leading exporter of educational services. In terms of export value, educational services rank third among all services in Australia and fourth in New Zealand. Through the enrolment of foreign students, in 2005 the USA made export earnings to the extent of US\$14.1 billion, the UK US\$6.1 billion, and Australia US\$5.6 billion; Canada and New Zealand earned US\$1.6 billion and US\$1.0 billion, respectively. Over the last ten years, New Zealand, Canada, and Australia have experienced the

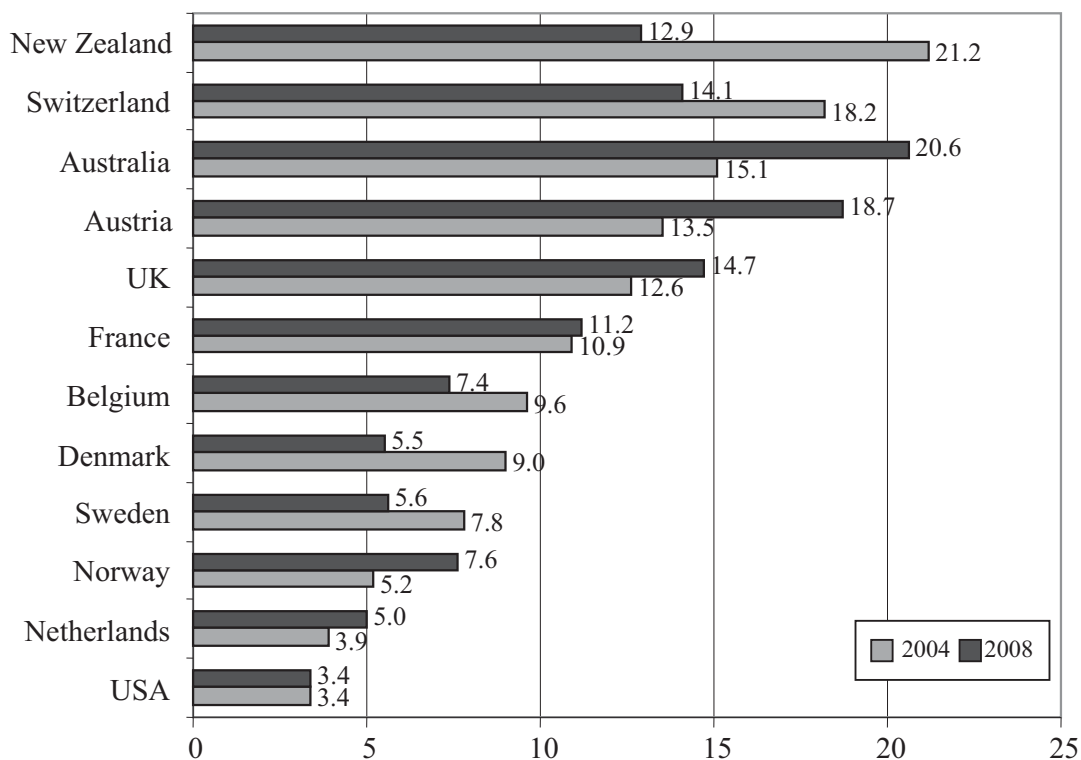
52. However, interestingly, the low level of economic development and the low level of education in developing countries in relation to those in the USA were not found in a study to be significant determinants of student mobility to USA on foreign students in the USA (Dreher and Poutvaara, 2011). See also González, Mesanza, and Mariel (2011) for a similar study on the Erasmus programme.

highest growth in earnings through export of education in this mode (foreign students) (Bashir, 2007; see also Kritz, 2006). Australia is regarded as over-dependent on international students (Marginson, 2009: 11). The inbound mobility ratio (the number of students from abroad studying in a given country as a percentage of total enrolment in tertiary education in that country) was as high as 21 per cent in Australia in 2008. In other words, more than one-fifth of all students in Australia are from other countries.⁵³ The corresponding ratio is only 3 per cent in the USA.

Although the USA is the largest destination country for foreign students, the latter accounted for only 3.4 per cent of the enrolment of native students in the USA in 2004, and this figure has remained more or less unchanged in the following years. The corresponding proportion is above 10 per cent in some European countries, 15 per cent in Australia, and 21 per cent in New Zealand, as shown in *Figure 5.3*. It was 15 per cent in Canada in 2006. These figures are rapidly changing, due to the quality of these countries' higher education systems, as well as to the openness and flexibility of these systems and of labour market conditions, costs of education, living conditions, political relations, and other policies. It is widely believed that the USA is losing its pre-eminence in higher education (Adams, 2010). Some European countries, such as Switzerland, Belgium, Denmark, and Sweden, are losing students to the USA and the UK, but the latter's share increased between 2004 and 2008, while the US share remained unchanged. In short, there is global competition for international students (Wildavsky, 2010) and one finds many universities around the globe vying for a larger share in the global education bazaar.

53. Luxembourg has the highest inbound mobility ratio (42.2 per cent); followed by 27.9 per cent in Cyprus. However, developing countries like Grenada (57.5 per cent) and Macao, China (49.8 per cent) figure at the top.

Figure 5.3 Foreign students as a percentage of host-country enrolments, 2004 and 2008



Sources: Gürüz, 2008: 165; UIS, 2010.

While the OECD countries have been the perennial favourite hosts of international students, new players are also emerging. Developing countries like China and Malaysia are also emerging as major exporters of education.⁵⁴ As host countries, they are newcomers to the global higher education market and the league

54. China had about 77,000 foreign students enrolled in Chinese institutions (Huang, 2007), and more than 90 per cent of them were self-financed or (high) fee-paying, whereas they used to be financed by state scholarships (Xiaohao, Yue, and Sun, 2009). The number of foreign students in Malaysia increased from 28,000 in 2002 to 48,000 in 2007 (Tham, 2010: 105). During the same period, the number of Malaysian students overseas also increased from 42,000 to 55,000. Interestingly, the corresponding number was above 100,000 in 2000 and 2001. See Rudner (1997) for a discussion of trends in Asia-Pacific countries.

of major host countries.⁵⁵ Other major countries include India and Singapore.⁵⁶ They pose stiff competition to the traditional hosts, and the competitive advantage the traditional hosts have enjoyed may be affected. Some developing countries have set clear targets of increasing the number of inbound students, as shown in *Table 5.3*. China wishes to attract half a million foreign students by 2020, and Japan one million by 2025. Compared with the present levels, many countries have set ambitious targets: Japan wishes to more than double the enrolments in 12 years, Malaysia three times, Jordan and Taiwan about four times, and China nearly ten times! China plans to increase the number of scholarships it offers to international students for study in China from about 10,000 to 20,000 by 2010 (Xinyu, 2011). Taiwan's government asks its universities to create courses taught in English.

Table 5.3 Benchmarks for attracting international students in selected countries

	Actual in 2008	Target date	Target
China	51,038	2020	500,000
Japan	126,568	2020	300,000
		2025	1,000,000
Jordan	26,637	2020	100,000
Malaysia	30,581	2010	100,000
Singapore	91,500*	2015	150,000
Taiwan	40,000*	2015	100,000
		2020	150,000

Sources: Taiwan: Hennock, 2011.

Actual in 2008: UIS, 2010.

Targets and dates: Bhandari and Blumenthal, 2011: 9.

Note: * 2010.

55. As noted by Huang, 2003, there have been two phases in the internationalization of higher education in China. During the first phase (1978–1992), China sent students abroad and invited visiting scholars from abroad; and during the second (1993 onwards), the emphasis has been on attracting more foreign students into China, besides encouraging expatriate Chinese scholars to come home. Other countries like India seem to be intending to walk the same path.

56. A case study of India is presented in *Chapter VI*.

Increasing numbers of international students can be observed in countries like Malaysia, where international enrolments increased from 30,000 in 2003 to 48,000 in 2007. Much of this growth is accounted for by private institutions of higher education in Malaysia. The country has set a target of increasing the number of international students to 100,000 by 2010.

Table 5.4 Growth in the number of international students in Malaysian higher education

	2003	2004	2005	2006	2007
Public	5,239	5,735	6,622	7,941	11,324
Private	25,158	25,939	33,903	36,449	33,604
Total	30,397	31,674	40,525	44,390	44,928

Source: Welch, 2011: 70.

Many other countries have made special efforts to increase the number of foreign students in their higher education systems. Singapore's 2002 'global schoolhouse' plan called for the recruitment of 100,000 additional international students, increasing the total enrolment of foreign students to 150,000 by 2015, and aimed to attract foreign universities to set up campuses in Singapore, but many feel that these goals are too ambitious to realize (Tan, 2008a).⁵⁷ Singapore has established Education Singapore, a new agency dedicated to promoting and marketing Singapore abroad. In Thailand, the number of foreign students increased from 2,500 in 2001 to 11,000 in 2007. In 2003, Thailand earned 2.5 million Thai bahts from foreign students (Welch, 2011: 100).

These numbers are very small, however, compared with the number of students who go abroad for studies from these countries. Moreover, a majority of the foreign students in these countries are from neighbouring and other developing countries. For example, out of 4,168 international students in the Philippines in 2004/2005, 88 per cent were from developing countries in Asia and 65 from Sudan, the only non-Asian country apart from the USA (680 students). While China attracts students from 189 countries, more than 30 per cent are from the Republic of Korea (Xinyu, 2011).

57. See also www.sedb.com

The seven largest higher education ‘sending’ countries under this mode in 2004 were China, India, Malaysia, Hong Kong, Indonesia, Singapore, and Turkey. These seven countries spent US\$11.3 billion in 2004 on their students who studied in Australia, New Zealand, Canada, the USA, and the UK. China is the biggest sending country, with around 440,000 students in higher education abroad in 2008, followed by India and the Republic of Korea, which sent respectively 170,000 and 113,000 students abroad in 2008 (UIS, 2010).⁵⁸

Table 5.5 Developing countries with the highest numbers of outbound students

	Number (in '000s)	Share in world total (%)	Outbound ratio
China	441.2	14.9	1.7
India	170.2	5.7	1.0
Korea (Rep. of)	112.6	3.8	3.5
Malaysia	47.4	1.6	5.7
Morocco	41.3	1.4	1.3
Turkey	41.1	1.4	1.6

Source: UIS, 2010.

China also leads with respect to other kinds of import of education. There are as many as 1,100 programmes offered by foreign education providers in China, but only 140 of the joint programmes were approved by the Ministry of Education as of 2004. A majority of them are non-diploma and diploma programmes. Degree and postgraduate programmes constitute barely one-third of the total (Li, 2009: 52). In Hong Kong, 385 programmes are offered by foreign institutions and another 473 are operated by foreign institutions in collaboration with local institutions. Ten foreign universities have set up branch campuses in Singapore. Thirteen Australian universities, nine UK universities, and one German university have either twinning or franchise arrangements in Thailand. Double, joint, or multiple

58. Tens of thousands of students in the Republic of Korea dropped or changed their overseas study plans in the wake of the worldwide financial meltdown in recent years.

degree programmes are becoming popular, as they are convenient and economical for both local and foreign institutions. This practice is also vexed with questions and problems, as it might also mean a degree of academic fraud – double counting (see Knight, 2008c). Mostly low-quality institutions in developing countries seem to be eager to enter into collaboration with foreign universities even when the latter have poor reputations, as the foreign label itself helps these institutions in developing countries.

Quite a few countries have varied experiences with internationalization of higher education, some of which are worth noting. When Japan's education sector was opened up to foreign institutions in the late 1980s, there was a 'mini-invasion' by low-end US institutions, and quite a few branch campuses were set up. To regulate these institutions, the government of Japan set up strict standards for recognition of the institutions and their programmes and laid down elaborate terms and conditions. There was a substantial degree of control by the Japanese government: government bodies were to examine the products and institutions, and define and determine recognition of the institutions and degrees/diplomas. The result was that none of the foreign institutions met the requirements prescribed by the Japanese government bodies, and all of them had to leave the country. Of the 100 US partners that came in the 1980s, only one (Temple University) remained (Chambers and Cummings, 1990);⁵⁹ the others were closed by the mid-1990s. Similarly, when the operations of Monash University in South Africa were not in conformity with South Africa's rules and regulations, the university had to pack up its operations in the country, although it appears to have started again later on. Similarly, a joint venture campus in Malaysia between RMIT University, Melbourne, and Adorna Institute of Technology, Penang, planned since 1993 and opened in 1996, proved to be a big failure by 1999,

59. Even the Temple University branch campus reportedly lost US\$50 million a year at least until 2000 (Kim and Zhu, 2010: 175). Further, it is reported that most of these universities had low name recognition and that they sacrificed academic integrity for tuition money and actually committed outright financial fraud. Finally they were closed. See Kim and Zhu (2010). To avoid losses of this kind, even before New York University agreed to launch its Abu Dhabi campus, it insisted on receiving a US\$50 million 'gift' from the Emirates as earnest money (Wildavsky, 2010: 45).

as it was not able to attract good staff because of its poor buildings and over-capitalization (Welch, 2011: 76). Malaysia has of course a successful arrangement with Monash University, which set up a branch campus in the country.

Singapore has adopted a selective and differentiated approach, which might not strictly fall under the framework of the GATS.⁶⁰ It identified and requested a few excellent foreign institutions to come in and offer some programmes. This bilateral approach – exemplified by the Singapore–Australia Free Trade Agreement (SAFTA) signed in 2003, covering university, adult, vocational, and technical education with only limited exceptions – rather than trade under the multilateral framework is expected to give Singapore sufficient control over the system. Yet Singapore’s experience has not been all that successful. Australia’s University of New South Wales and Johns Hopkins University from the USA, which set up campuses in Singapore, closed down their campuses after a short time. In fact, the former closed immediately after the first semester, in the wake of public disagreement and resentment of the local people who were not able to secure admission because of limited space for locals, as enrolment of foreign students seemed to have taken place at the expense of domestic students. Low international enrolments (a requisite condition for foreign universities to continue operating in Singapore) resulting in a multimillion dollar shortfall and the fear of further financial losses were cited as reasons for the closure (Gribble and McBurnie, 2007). An equally important reason could be that, because key performance indicators were not met, funding by the Singapore government (of the order of US\$50 million) was cut off. The UK’s University of Warwick changed its mind about establishing a full-fledged campus in Singapore amid staff concerns about possible limitations on academic freedom (Tan, 2008a).

The lesson is clear: branch campuses, even of reputed universities, cannot attract students, as many of the faculty members in these campuses are not necessarily from the parent universities but are locally recruited teachers of low quality (see Altbach, 2007).

60. Such selective approaches and preferential trade agreements are actually in conflict with the GATS rules. But under ‘limitations’ some scope does exist, even within the framework of the GATS, for such selective practices.

Second, even when reputed universities are involved, academic freedom is not guaranteed. It is also important to note that major foreign universities are unable or very reluctant to transplant or extend advanced research and development operations to developing countries, including Singapore (Olds, 2007). They need to be sensitive to local concerns and the needs of host countries, which is not easy. It may very difficult to predict demand in one country for another country's educational product, given the differences in prices (fees) and other factors (Armstrong, 2007: 138). Given all this, the foreign institution involved might be viewed in its behaviour and functioning as engaged in 'academic imperialism' (Becker, 2009: 6). Over the years, Singapore has reduced its dependence on foreign higher education, and in the next decade or so only highly selective elite foreign providers focusing on full branch campuses are likely to remain in Singapore (Agarwal, 2009: 337). They will remain under Singapore's stringent regulatory mechanism.⁶¹ It may be important to note that Singapore was ready to give up on attracting universities, even of the stature of Johns Hopkins, rather than relax their stringent conditions.

Malaysia has also adopted a cautious approach. Foreign institutions can be set up in Malaysia only by invitation. Malaysia has invited only high-profile and internationally known institutions. It has set up an agency responsible for all incoming operations in education and has set specifications for the number of branch campuses, students, and foreign lecturers, as well as certain country-level requirements and specifications for the level of financial commitment from both sides (Woodhouse, 2007: 150).

As Marginson (2007) describes, a two-tier structure seems to be emerging in the global market for higher education: the market comprises a small number of top-ranked universities and a large number of less reputed and low-quality institutions. Institutions of the former kind do not aim at massive expansion and huge financial gains; their prestige depends upon their continued scarcity; they compete with each other for best faculty and best students from all over the world; and they are interested in long-term academic and

61. The Singapore Economic Development Board regulates the entry of foreign universities.

research cooperation with reputed institutions located in developing countries or anywhere else.⁶² In contrast, the second-tier institutions are mostly for-profit institutions looking for business opportunities and are primarily interested in capturing large markets and reaping financial gains. Commercial interests are their primary concern in their global education business activities, even if profits and commercial considerations do not figure in their domestic operations.

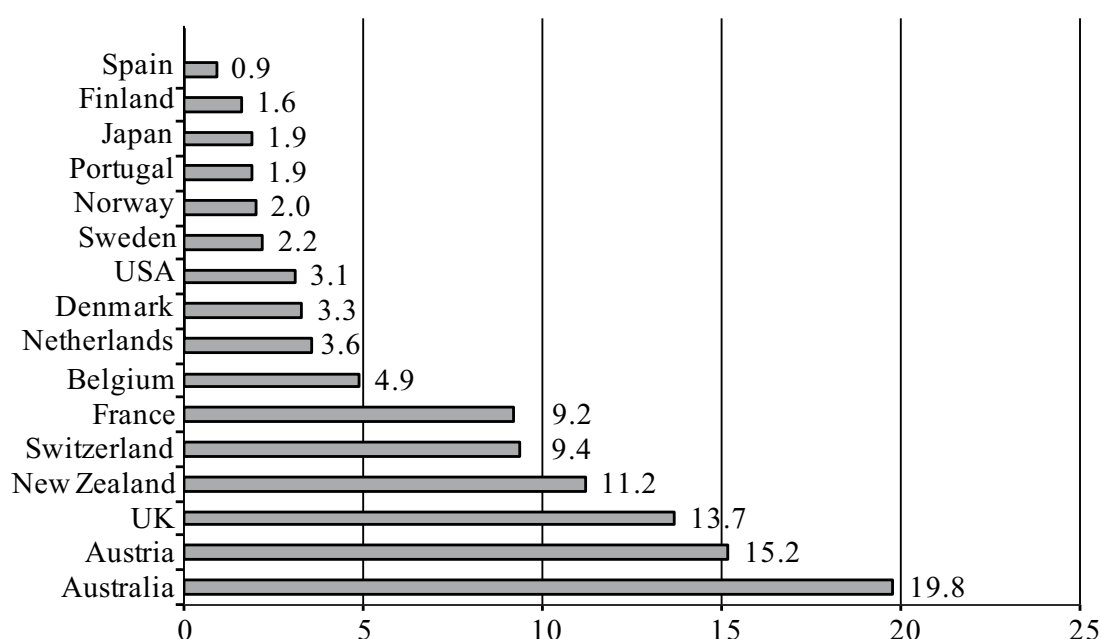
One major feature of trade in education is clear: many developing countries do not export education, and many advanced countries do not import education. The biggest traders in education are reported to be the USA, UK, Australia, New Zealand, and Canada, none of which expect any outsiders to make incursions into their turf. Compared with 625,000 foreign students studying in the USA, hardly 50,000 US students went abroad in 2008; the respective figures are 342,000 and 22,000 for the UK, 231,000 and 10,000 for Australia, and 32,000 and 4,000 for New Zealand (UIS, 2010). Thus, these countries are primarily exporters.⁶³ The net inflow rate – the total number of students from abroad (inbound students) studying in a given country *minus* the number of students at the same level of education from that country studying abroad (outbound students), expressed as a percentage of total number of students in that country – ranges from 1 per cent in Spain to 20 per cent in Australia, as shown in *Figure 5.4*. In most of the OECD countries, this rate is positive

62. As the president of the University of Washington (Seattle) observed in an interview in India, ‘We are much more interested in bringing students over, exchanging professors, doing collaborative research ... those kinds of activities make great sense. Coming over here and setting up a campus is probably not something many of us are interested in.’ See Joshua (2007). The president of the Yale University expressed similar views. See *Times of India* (2005), <http://timesofindia.indiatimes.com/articleshow/msid-979587.prtpage-1.cms>

63. There is an interesting case in which Australia looks like an importer. Carnegie Mellon University (CMU) exports education to Australia from the USA. It looks and indeed is intriguing. But if one looks at the operations, the situation is clear: CMU exports education to Asian students through Australia. Asian students, who want an American education but not in the expensive USA, nor in poor home countries in Asia, but in the advanced environment of Australia, where regular external checks and accreditation mechanisms are ensured, are the primary target of CMU. This arrangement is found to be attractive and beneficial to all three parties: CMU, Asian students, and Australia as well. See Woodhouse (2007).

(inbound students outnumber outbound students), while in most of the developing countries it is negative (outbound students exceed inbound students, in some cases by several times). It is obvious that the rich countries will be able to exploit their advanced infrastructure and qualified teaching staff, research infrastructure, libraries, and so forth to export educational services to the poor countries, and will emerge as the net winners in the whole game.

Figure 5.4 OECD countries with the highest net rates of student inflow (%), 2008



Source: Based on UIS, 2010.

Although there are a few importing countries that have begun exporting education, the categorization of countries into exporters and importers is on the whole neat and largely non-overlapping, as the GATS and the WTO do not provide for reciprocity as a necessary condition. A country can remain unwilling to make any commitment to the GATS for any sector, but at the same time, it has the right to negotiate its own access to the market of another country. In the request-and-offer process, a request is granted or rejected without any *quid pro quo*. As a result, powerful countries can have access to foreign markets despite the fact that they do not allow access

to their own (see Moutsios, 2009).⁶⁴ As a result of this ‘hegemonic exceptionalism’ (Mundy and Iga, 2003), trade in education so far is largely unidirectional: rich countries export or sell and poor countries import or buy education from overseas. If some developing countries are exporting education, they do so to countries less developed than themselves, and they may offer low-quality, ‘quickie’ and unrecognized programmes. For example, more than 95 per cent of the international students in India come from the developing countries of Asia and Africa. A considerable portion of Singapore’s foreign students enrol in more than 300 private institutions, which are not regulated and some of which are not even recognized by the government, and which offer low-cost and low-quality commercial programmes in information technology (IT) and language courses. Similarly, where large numbers of students from developed countries, say in Europe, are found to be going abroad, they go to other developed countries within Europe or to the USA; and US students similarly go to Europe. Hardly any evidence can be found of a developing country exporting higher education under any mode to an advanced country; some students from advanced countries like the USA do come to developing countries like India, but they do so under non-trade modes. The prominent phenomenon is the import of education by developing countries. Thus, international trade in higher education helps the educated and economically developed countries more than other countries, and may actually harm the latter.

Who are the big players pushing for education under the GATS? Ministries of trade, commerce, and foreign affairs, and ‘entrepreneurial groups’ play a stronger role than ministries of education in formulating such education policies. As Education International (2009) observes, ‘trade ministries are often making decisions on matters such as education without considering the full impact of trade rules’. For example, the US Department of Commerce, US trade representatives, and the UK Department of Trade and Industry are emerging as the stakeholders pushing most strongly for

64. For the same reason, developed countries continue to provide subsidies and retain tariffs, but insist on elimination of subsidies and tariffs by developing countries (see Stiglitz, 2002).

the GATS in education.⁶⁵ They are supported not by departments of education, but by multi- or transnational organizations, giant private universities, and giant testing companies, like the Sylvan testing system, Apollo, Kaplan, and Laureate Education,⁶⁶ some of which are listed on stock exchanges.⁶⁷ For-profit institutions are more aggressive in pushing the agenda and are also more successful in the business than public ones. Besides for-profit institutions, commercial subsidiaries of publicly funded universities in the UK and Australia have been active in trade under all modes of overseas delivery. While the European Union has proposed that internationalization should be seen not as an end in itself, but as a means of raising quality in higher education, many countries including some in Europe tend to view internationalization with economic motives.

In sum, three types of internationalization of higher education can be distinguished: import-oriented, export-oriented, and import-and-export oriented (Huang, 2007). While many developing countries have had to adopt import-oriented models, and developed countries primarily export-oriented ones, countries like India and China belong to the third category.

Progress in terms of commitments on trade in education under the WTO is measured with the help of an index known as EduGATS (Verger, 2009a). The index is based on (1) the subsectors of education

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65. It was the US Trade Representative who first offered higher education to the WTO under the GATS. Such ministries and other departments are supported by their embassies and information organizations located abroad. For example, it is observed that the ‘British Council is no longer mainly in the information business but rather is focused on export promotion’ (Altbach, 2009a).
66. Apollo Group owns a few private universities, including the University of Phoenix and Western International University in the USA and Meritus University in Canada; Kaplan offers undergraduate and graduate degrees online and also provides test preparation services; and Laureate Education (formerly Sylvan Learning Systems) has purchased all or part of private higher education institutions in Chile, Mexico, Panama, and Costa Rica, and owns universities in Spain, Switzerland, and France (Knight, 2006b). In all, Laureate owns 29 universities and post-secondary institutions on three continents (Altbach, 2009a). Others include corporate universities such as those run by Motorola and Toyota.
67. Knight (2008a: 138–139) gives a list of 49 higher education institutions which are publicly traded on stock exchanges. In fact, they are companies offering education programmes and services.

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committed, (2) limitations in market access and national treatment, which may vary depending on the subsectors and the trading modes, and (3) horizontal commitments. Interestingly, according to the index that Verger (2009a) prepared, which can take values between 0 (totally closed or zero liberalization) and 1 (maximum openness), many developing countries have liberalized their education systems more than rich countries. For example, the value of the EduGATS index is 0.92 in Albania, 0.91 in Turkey, and above 0.8 in Lesotho, Moldova, Latvia, Armenia, and Jamaica, while among the developed countries the highest such value is 0.7 in Switzerland, with other developed countries ranging from 0.2 in Japan to 0.66 in New Zealand.

While many countries are considering commitment of education under the GATS, there are still several unresolved issues (Varghese, 2007). For example: What happens to public provision of education under the GATS? What happens to subsidies in higher education? What will be the impact of the GATS on development aid for education? What will be the nature of student support systems? Will it result in brain gain as claimed, or will it contribute to brain drain? These questions are too fundamental to be ignored, but there are as yet no clear answers to many of them.

Table 5.6 EduGATS in higher education in selected developed and developing countries

Developed countries	Value	Developing countries	Value	Transition countries	Value
Australia	0.59	China	0.42	Albania	0.92
Austria	0.00	Costa Rica		Armenia	0.86
Belgium	0.64	Ghana	0.00	Bulgaria	0.00
Denmark	0.61	Jamaica	0.81	Croatia	0.72
France	0.55	Jordan	0.65	Czech Republic	0.38
Germany	0.62	Mexico	0.70	Estonia	0.75
Greece	0.58	Oman	0.69	Georgia	0.62
Ireland	0.62	Panama	0.57	Hungary	0.70
Italy	0.58	Taiwan	0.70	Kyrgyzstan	0.72
Japan	0.21	Thailand	0.00	Latvia	0.87
Liechtenstein	0.43	Trinidad & Tobago	0.33	Lithuania	0.77
Luxembourg	0.64	Turkey	0.91	Macedonia	0.67
Netherlands	0.64	Average	0.48	Moldova	0.88
New Zealand	0.66			Poland	0.62
Norway	0.55	Less developed countries		Slovakia	0.67
Spain	0.60	Congo	0.76	Average	0.67
Switzerland	0.70	Cambodia	0.73		
United Kingdom	0.64	Gambia	0.00		
United States	0.00	Haiti	0.00		
Average	0.52	Lesotho	0.89		
		Mali	0.00		
		Nepal	0.67		
		Rwanda	0.00		
		Sierra Leone	0.53		
		Average	0.40		

Source: Verger, 2009a: 231–233.

VI. The case of a developing country: India

In retrospect, a review of developments in higher education in India during the last two to three decades⁶⁸ shows that there has been a systematic and continuous effort towards internationalization of higher education in general and internationalization under the GATS framework in particular. First, higher education has been afflicted by drastic cuts in budgetary resources since the late 1980s, and more particularly since the beginning of the 1990s, when the new economic reform policies were introduced. This was followed by a strong wave of privatization of higher education. The private system, which became huge in very short order, required the government to think about regulatory and accreditation mechanisms. Recently, a few bills have been introduced in the national parliament, one to allow entry of foreign educational institutions into India; bills establishing educational tribunals and the National Accreditation Regulatory Authority; and another bill to check unfair practices in education.⁶⁹ Thus, cuts in public subsidies, increases in tuition fees in public and private institutions, privatization, and the above legislative initiatives which may fulfil the prerequisites for trade in education under the GATS, allow the government to make a smooth transition into the new trajectory of higher education under the GATS. At least, the groundwork is clearly being planned and laid.

At present, there is a widespread feeling that India is obliged under the WTO to open up its higher education sector to foreign providers, to end public subsidies, and to make a formal commitment to the GATS, although strictly speaking there is no obligation of any kind. Like many other countries, India faces the dilemma whether or not to commit its higher education to the WTO under the GATS (Tilak, 2006) or explore various alternatives, such as adopting selective approaches, either within the GATS framework or outside it, without making commitments under the GATS. This is

68. For a detailed discussion on the backdrop of current levels of public and private provision, public investment, inadequate size of the system, changing national policies on higher education in India, etc., see Tilak (2005, 2008a).

69. The texts of the bills can be found at <http://prsindia.org>

indeed a serious dilemma, as the gains that one might get by making commitments on higher education under the GATS, such as having an internationally legally binding framework, may be overshadowed by the problems it raises. Despite many objections and many practical problems, and although India is still keeping final commitment to the GATS on education pending, education in India is already becoming internationalized, and trade is taking place under all the four modes, though not necessarily within the GATS framework (see Panchamukhi, 2008). Until recently, foreign institutions could enter the Indian education market through the ‘autonomous route’ under the rules framed by the Foreign Investment Promotion Board, requiring no approval to set up their presence. Since foreign providers were not registered as a part of the national system, the domestic regulatory framework, accreditation system, and other rules were not applicable to them. Their degrees were not recognized in India, and in the case of rogue institutions they were not recognized even in the foreign country concerned (Agarwal, 2009: 333–334). One might prefer the GATS to such a relatively unregulated system, but it should be noted that an effective regulatory system is important whether one operates under or without the GATS, and that it becomes more crucial under the GATS.

There are two sets of issues, which are considered separately even though they are closely related. The first refers to trading education, particularly allowing entry of foreign institutions into India (and allowing Indian institutions to go abroad), as well as attracting foreign students and other related aspects. The second relates to making a formal commitment of higher education to the GATS. The two aspects are related, since an environment that facilitates trade will help naturally in the process of making formal commitments to the GATS. Many who do not clearly recommend making any offers to the GATS nonetheless argue in favour of trade in education.

The government is occupied with the formulation of guidelines for allowing foreign universities into India and for Indian institutions to go abroad, even though no clear policy decision on committing education under the GATS seems to have been made. One can note that trade in education under all four modes is gathering momentum in India – all outside any legal framework such as the GATS. Indian society is quite diverse, with various kinds of public

and private higher education institutions and a variety of political and economic actors, all having their own vested interests. While some public institutions like the Indian institutes of management and Indian institutes of technology, universities like the Indira Gandhi National Open University (IGNOU), public education bodies like the Central Board of Secondary Education (CBSE), and several private institutions are eager to export education – and, in fact, are already doing so – many others are not. Ministries and other organizations of commerce and trade such as the National Association of Software and Service Companies (NASSCOM), Confederation of Indian Industry (CII), and Federation of Indian Chambers of Commerce and Industry (FICCI) are keen on opening higher education for trade. The NKC also favours it. While many of them favour expanding and even regulating trade in higher education, they do not necessarily argue for making commitment to the GATS. However, there have been very few serious attempts at examining the implications of trade in higher education in India. Some authors (e.g. Deodhar, 2002; Sahni and Kale, 2004; Bhushan, 2006) have highlighted the problems the GATS would pose to higher education in India; others (e.g. Bhushan, 2004) have suggested restructuring of domestic regulations; still others (e.g. Raychaudhuri and De, 2007, 2008) have described the several barriers to trade in the era of globalization. Only a few (Chanda, 2003; Ahmad, 2005; Amin, 2008) have highlighted the opportunities it offers, and very few indeed (Raju, 2006) have suggested commitment of higher education to the GATS, with gradual liberalization.

We will examine the issues involved in India as both an exporter and an importer of higher education. First, from the Indian side: India as an exporter. Some believe that India has an immense potential to export its knowledge not only in traditional and classical disciplines such as religious and cultural studies, Ayurveda, and yoga, but also in modern disciplines like computer sciences. Institutions like IGNOU are already offering several programmes in distance mode outside the country, in collaboration with partner institutions in countries such as Afghanistan, Bahrain, Bangladesh, Ethiopia, Fiji, Kenya, Kuwait, Kyrgyzstan, Mauritius, Mongolia, Nepal, Oman, Qatar, Saudi Arabia, Singapore, Sri Lanka, and the United Arab Emirates (Mode 1). The Indian market for e-learning is expected to fetch about US\$22 million (Sahni and Kale, 2004). In addition, in 2009/2010, about 21,800 foreign students were studying in Indian universities

and other institutions of higher education in a conventional mode (Shah and Negi, 2011).⁷⁰

Table 6.1 Number of foreign students in Indian universities

World regions	1982/1983	1991/1992	1995/1996	1999/2000	2000/2001	2001/2002	2002/2003	2004/2005	2005/2006
Asia	5,701	5,079	4,832	3,496	3,866	4,312	4,452	9,849	10,493
of which South Asia	1,993	2,044	2,602	2,031	2,005	2,226	1,852	n.a.	n.a.
Australasia (Oceania)	87	28	40	12	44	45	40	55	71
Africa	4,696	7,028	4,079	2,549	2,961	2,363	1,900	2,005	2,403
Europe	138	154	126	120	180	252	142	178	206
America	593	151	309	275	327	432	353	593	654
Total*	11,219	12,765	10,087	6,988	7,791	8,175	7,738	13,267	14,456

Sources: MHRD, 1987; AIU, 2007.

Note: n.a.: not available; *: includes other countries.

Moreover, most of the foreign students are enrolled in a few selected universities. The top ten universities account for more than 10,000 foreign students, nearly two-thirds of the total (*Table 6.2*).

Table 6.2 Top ten Indian universities in terms of foreign students, 2005/2006

	Foreign students		Foreign students
IGNOU	3,000	Bharatiya Vidyapeeth, Pune	441
University of Pune	2,455	University of Mysore	389
Manipal University	1,477	Osmania University	314
University of Delhi	1,055	Aligarh Muslim University	250
Birla Institute of Tech. & Science, Pilani	912	Banaras Hindu University	214
		Total	10,507

Sources: AIU, 2007; see also *Times of India* (New Delhi), 7 August 2008.

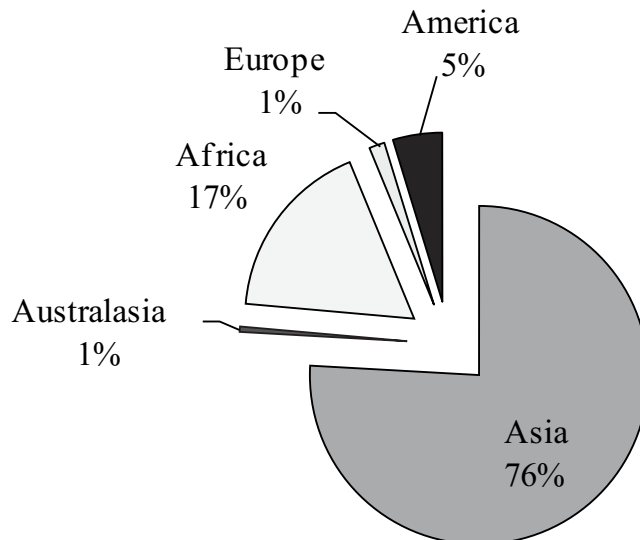
70. According to other sources, there were as many as 26,000 foreign students in India in 2006. See 'Easier visas', 2009.

It is intriguing to note that many large, well-established universities like the University of Mumbai, Calcutta University, and the University of Madras do not figure in the top ten universities. Only four universities, one of which is an open university and one a private university, have more than 1,000 foreign students. Foreign students in IGNOU are those who chose distance mode. Many universities do not have clear policies for attracting foreign students, although UGC has launched a scheme to promote this and universities are encouraged to participate in it.⁷¹

These total numbers constitute a very small proportion of the total student population in Indian higher education institutions. Furthermore, most of the students are from Asian countries, with neighbouring South Asia (primarily Nepal and Bangladesh) accounting for half, followed by Africa; students from the wealthy West are very few. India's export potential is largely confined to developing countries of Asia and Africa. In this sense, India can function in the 'centre-periphery' framework (Altbach, 2004), mainly as a 'semi-periphery' between the developed and the emerging nations, though some argue that it can become a leading force in future.⁷²

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71. The scheme called Promotion of Indian Higher Education Abroad (PIHEAD) aims at marketing Indian higher education abroad, by offering formal degree programmes and short-term non-degree programmes specially designed for foreign students, as well as establishing campuses abroad. PIHEAD focuses on Middle Eastern, African, ASEAN, and CIS countries. According to the scheme, institutions will be free to fix their fee levels, which will be internationally competitive, and to use the revenues for the development of infrastructure for international students. The scheme is being executed by UGC in cooperation with Educational Consultants India Limited (EdCIL), FICCI, the Federation of Indian Export Organisations (FIEO), the Indian Council of Cultural Relations (ICCR), and the Association of Indian Universities (AIU). See www.ugc.ac.in/new_initiatives/promothe.html
72. The centre-periphery approach means that centres of high quality education are founded only in the wealthy West which leads, and all others in developing countries are in the periphery, and can only follow those in the centre.

Figure 6.1 Foreign students in India, by region of origin, 2005/2006



In addition, there is also increasing demand for admission to Indian schools – private and public – from members of the Indian diaspora. The government, without considering broad social, economic, and educational issues, has also specifically encouraged (and even required in the recent past) institutions of higher education in India to raise resources through various mechanisms. The government-appointed committees also clearly recommended increases in student fees and generating further revenues from high fees for foreign students. Many universities are vigorously pursuing these strategies, though not with great success. All of this belongs to Mode 2 of the GATS.

While institutions like the Indian institutes of management are not clearly allowed by the government to go abroad, quite a few private and public institutions are already trading education under Mode 3 of the GATS. For example, Manipal Academy of Higher Education has already set up offshore campuses in Nepal and Malaysia, the Birla Institute of Technology and Sciences in Dubai, Birla Institute of Technology (Ranchi) in Oman, and Delhi Public School Society in as many as 13 countries (UNCTAD Team, 2005), while the CBSE has opened several secondary schools in the Gulf and other Central and West Asian countries. These are in addition to institutions like the National Institute of Information Technology, which has set up offshore training centres in as many as 44 countries.

Various reports indicate that an increasing number of Indian schoolteachers are going abroad to teach subjects like mathematics, English, and sciences. This practice is akin to Mode 4. It is also associated with grave problems. Such export of education or outflows of teachers and trainers could generate foreign exchange and remittances for India, but if this is a permanent or long-term trend, it could exacerbate the existing shortage of teachers in Indian schools. Exports in general may also raise the cost of education services to the detriment of the poorer sections of the population within the country (Chanda, 2003). Thus, it is important to note that trade is taking place under all four modes, though it is not officially under the GATS, as formal commitments are yet to be made.

Financial gain is one of the important considerations in all this, though it is also claimed that these forms of trade help in attainment of global recognition of the Indian education system. The NKC (2007) also recommends internationalization mainly for economic reasons.⁷³ It pleads for allowing foreign institutions to come to India, providing incentives to good institutions and disincentives to substandard institutions, as this will reduce the outflow of Indian students to study abroad, resulting in substantial savings in foreign exchange.⁷⁴ The NKC also recommends that Indian institutions be encouraged to create campuses abroad and has advocated special efforts to attract foreign students to India. It argues that India should increase number of foreign students in Indian universities to at least 50,000, because if every one of them were charged US\$10,000 per annum, this would bring in the substantial amount of US\$0.5 billion.⁷⁵ Apart from savings to the public exchequer, NKC argues that all this

73. The approach of the NKC (2007, 2008) has been singularly pro-private and pro-trade in higher education. See Tilak (2007) for a short comment on the NKC.

74. As mentioned earlier, Indian students are estimated to be spending about US\$4 billion a year, equivalent to INR 184 billion (NKC, 2007: 57). Some also argue that the savings cannot be realized, as students will go abroad anyway, since many of them intend not just to obtain higher education but also to obtain residency rights abroad.

75. Some might argue that if US\$10,000 were charged per student per year, very few students would come to India, as it might be much cheaper to study in advanced countries.

would improve competition, provide more choices to students, and contribute towards reaching higher levels of academic excellence.

Some initiatives are already being taken to attract more and more foreign students, such as easing of entry/visa regulations for foreign students, Indian missions abroad providing personalized counselling services to students seeking to come to India for studies, empanelling of a cadre of registered trained agents for foreign students, and building of international student centres in universities⁷⁶ that will work as nodal points to assist foreign students in each university. The government's intention is to make India a global knowledge hub ('Easier visas', 2009. See also Planning Commission, 2011).

It is widely felt, however, that India may not be able to emerge as an important exporter, but can certainly become a large importer, as it cannot compete with the giants in international trade. Only a very few institutions in the country have the potential to export quality education and succeed in trade, and those institutions also need huge initial investments, which are still lacking. Further, it is also felt that export would come at the cost of educational development at the domestic level; after all, there is huge unmet demand for education within the country. Fundamentally, international trade is largely influenced by the principle of comparative advantage, and the areas in which India has a comparative advantage are not necessarily in great demand in advanced countries and/or their potential to generate revenues is not very high.

We will now consider this question from the other side: India as an importer. Collaborative arrangements with well-known foreign universities for research are also common and have been increasing in number in recent years, but these non-commercial academic collaboration projects do not come under the heading of trade. In terms of trade, it is well recognized that India, with its huge size and excess demand for education, offers a lucrative market for traders. It appears that the most prevalent mode of trade operations emerging is as follows: many foreign institutions come to India to organize 'fairs' to recruit students from India for studies in foreign

76. UGC provides assistance to universities for constructing residential facilities for foreign students.

universities, which have become a regular annual feature in several Indian cities. There were 300 foreign education providers in India recruiting students for study on their home campuses, more than one-third of them being from the United Kingdom (Powar and Bhalla, 2006). Many foreign universities also engage local agencies to advertise on their behalf for recruitment of students.⁷⁷

As a result, more than 170,000 Indian students went abroad for study in 2008 (compared with about 51,000 in 1999/2000 and fewer than 5,000 in 1990/1991), second only to China, of whose students about 100,000 are in the USA,⁷⁸ accounting for 14 per cent of all international students in that country, another 26,000 in Australia, and 26,000 in the UK⁷⁹ (UIS, 2010). The other important destinations are New Zealand, Germany, China, Canada, Singapore, Malaysia, and Sweden. Foreign degrees are a huge lure for many in India, as in many other developing countries. More than 70 per cent of the students go from India to countries like the USA for master's and doctoral degree programmes. Only a small proportion go for undergraduate studies. Similarly a large proportion of students choose management and engineering courses of study; very few opt for humanities and social sciences. For example, out of 1,757 students who went to France in 2008, 60 per cent took management courses and 30 per cent engineering courses. The opening up of the economy in the early 1990s and the increasing purchasing power of the middle and upper middle classes in India can be regarded as the two most important

77. The largest exporters of education to India are the UK, USA, Australia, and New Zealand. Perusal of advertisements by foreign education providers in Indian media in 2000 showed that the largest number of advertisers (who totalled 144) were from the UK (53), followed by Australia (40), the USA (24), Canada (7), and New Zealand. Other countries advertising were 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 were seeking to attract students to their countries, the remaining 27 were offering programmes in India (Powar, 2002).

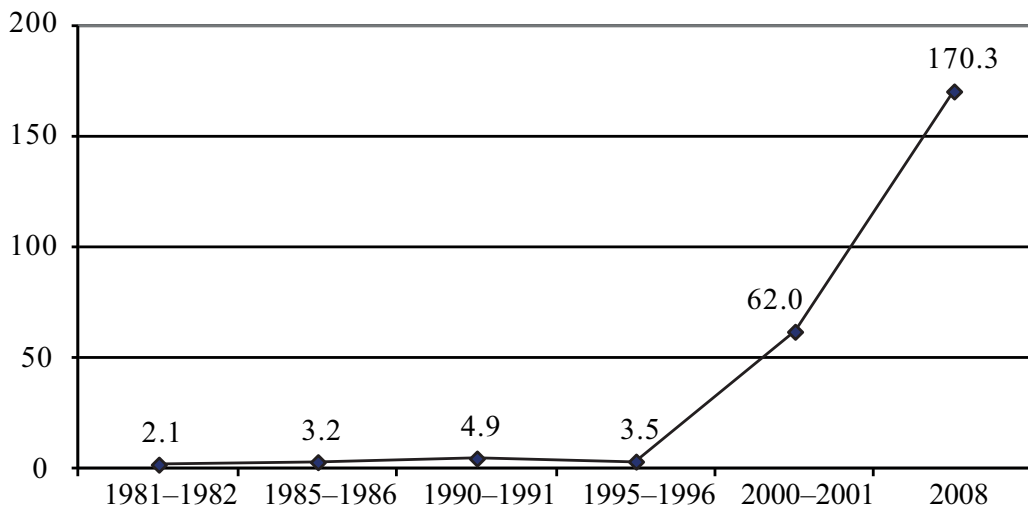
78. According to the latest estimates, Indian students, numbering 105,000 constitute the second largest foreign student population in the USA in 2009/2010 (*New York Times*, 14 October 2011). www.nytimes.com/2011/10/14/world/asia/squeezed-out-in-india-students-turn-to-united-states.html?_r=1

79. The other major destinations for Indian students are Germany and New Zealand.

*Trade in higher education:
The role of the General Agreement on Trade in Services (GATS)*

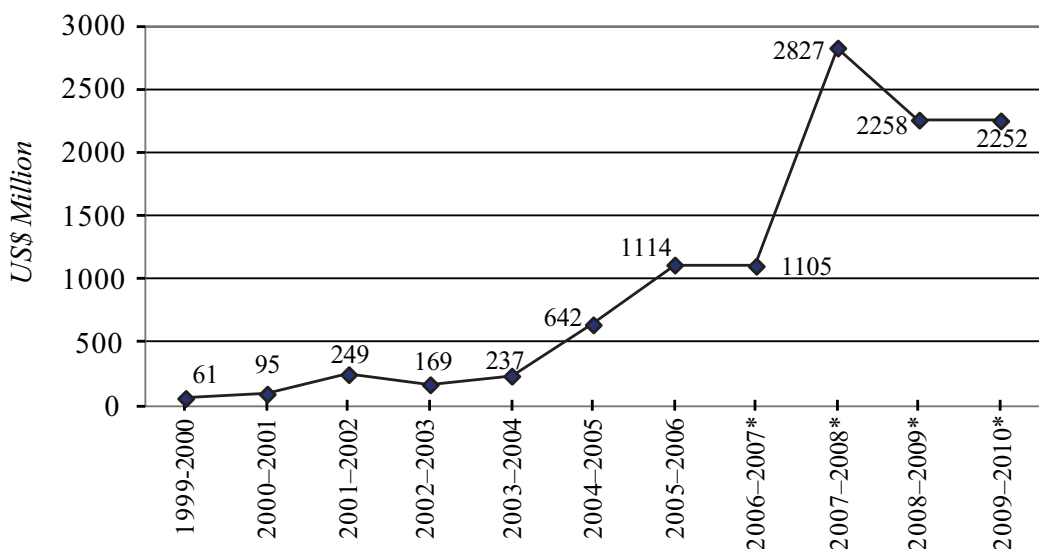
reasons for the rapid rise in numbers of students going abroad. This may be true of other countries as well, particularly China.

Figure 6.2 Trends in outward mobility of Indian students ('000s)



Source: MHRD, several years; UIS, 2010.

Figure 6.3 India's import (payments) for educational services



Source: Based on Raychaudhuri and De, 2008, supplemented by the Reserve Bank of India for recent years.

Note: * partially revised; actual figures might be much higher.

In financial terms, it is estimated that, based on statistics made available from the Reserve Bank of India, the total import (payments) under trade in education services increased from US\$61 million in 1999/2000 to US\$2.3 billion in 2009/2010 (Hill and Chalaux, 2011: 27). The current figure amounts to about 3 per cent of the total payments for import of services by India.

There is a difference between the present practices of this mode and those in the earlier days, though they seem to be the same as the ones in vogue for several decades. Nowadays foreign universities come to India to market their programmes aggressively and to woo students of not necessarily high quality, who will be required to pay high levels of fees equivalent to full cost recovery, if not higher. In the earlier periods, students used to seek admission to foreign universities and were given admission based on merit, mostly along with fellowships and tuition waivers. There are also a large number of foreign education providers in India, and they are increasing in number rapidly. It was estimated that there were 144 such providers in 2000 and 438 in 2006 (Powar and Bhalla, 2006). This, a less prominent but also visible mode, includes foreign education providers offering programmes in India under twinning arrangements.⁸⁰ According to another estimate (NIEPA, 2004), 130-odd programmes have been offered by foreign institutions in the last ten years in India. Of the 131 institutions in the sample in the study conducted by NIEPA (2004), 59 institutions partnered with UK universities and 66 institutions partnered with US universities, mostly second- or third-tier institutions in their academic standing.⁸¹ No top-notch foreign universities have been attracted to India (see Paul, 2009). Out of this total sample, 82 per cent were providing

80. This also includes offering of 'validated programmes': a programme offered by local higher education institution is validated by a foreign institution as equivalent to its own, and a foreign degree is awarded to the student.

81. Such universities include Maris University, Maharishi Institute, Marshall University, Andrews University, and Montclair State University in the USA; Heriot-Watt University, Dudley College, Wigan & Leigh, and Northumbria University in the UK; and Waltham Forest College, Western International University, Grambling State University, Clark University, Liverpool John Moores University, Coventry University, De Montfort University, Oberlin College, Mount Holyoke College. Few details are available on these and many other foreign providers in India. See also Powar and Bhalla (2006).

vocational programmes, 15 per cent technical programmes, and only 4 per cent general education.

In the vocational category, management programmes were the most popular. Business management and hotel management programmes constitute approximately 80 per cent of the total number of programmes. Available information also shows that the state of Maharashtra has the largest number of programmes in hotel management and Delhi the largest number of programmes in business management. At present, not much interest is shown in technical courses, although 19 institutions were active in technical sectors as well.

Many of the programmes offered by these institutions are found not to have been accredited and recognized in their own countries. It is increasingly noted that the *de jure* status of many of these foreign education providers and their programmes is dubious, but they are exploiting the craze for foreign education of gullible students and equally gullible parents. For example, it was found that as many as 46 foreign providers were not recognized or accredited in their own countries. Moreover, 23 of the 26 Indian partners were not affiliated with any Indian university. Many of the foreign institutions and their Indian collaborators are not formally recognized higher education institutions. All of this is an indication of the kind and nature of business that is going on. The business flourishes because of asymmetric and imperfect information. The largest number of programmes is offered under twinning arrangements, one of the preferred methods for foreign institutions to attract international students to the home country. Twinning is a relatively cheap option, as a part of the programme is undertaken in the host country and it does not require huge additional investments by the foreign providers or by the Indian partner. A good number of Indian institutes are also collaborating with foreign universities. It is reported that at present around 150 Indian institutions are in collaboration with foreign universities and are awarding degrees, but most of them are private institutes not recognized by the UGC or the All-India Council for

Technical Education (AICTE), and hence the degrees are not valid.⁸² Most of them can be considered as some sort of tie-up.⁸³ There are very few partnerships with public universities and colleges.⁸⁴ The net result is that internationalization of higher education of this form has been dominated by foreign and Indian institutions ‘which are not in all cases known for their high standards and educational quality’ (Paul, 2009: 37). One might say that the craze for foreign degrees may not last long, and hence that such foreign providers will also perish. As long as asymmetry in information continues and regulatory mechanisms are weak, however, this business will continue with the continuous arrival of new actors – education providers and students.

The least important mode chosen so far is setting up of campuses in India by foreign universities, which involves an inflow of foreign direct investment in education to India and the establishment of institutions. However, this mode is preferred by the government as it reduces the outflow of students for study abroad and the corresponding outflow of money to other countries in the shape of fees and related expenditure, apart from the inherent attractiveness of foreign direct investment in the form of foreign capital. One hundred per cent foreign direct investment in higher education in India is now allowed by law under the ‘automatic route’, but this is the least preferred mode, as opening a branch campus requires huge investments in infrastructure. None of the 131 foreign education providers have set up any campuses of their own in the country, although some have entered through joint ventures. While some foreign universities have evinced interest in setting up

82. In 2007, as many as 104 institutions of technical education were offering programmes in collaboration with foreign universities, all without any approval of the All-India Council for Technical Education (Agarwal, 2009: 334).

83. Examples include the Indian School of Business tie-up with Kellogg, the NIIT tie-up with ITT Educational Services (USA), Modi Enterprise with Western International University, Institute of Management Technology with Fairleigh Dickinson University, and Tata Infotech with Hertfordshire University.

84. *id21 insights education* 7 (September 2008, p. 6), www.id21.org/insights/insights-ed07/index.html

campuses in India, so far there is no case of this kind.⁸⁵ In the case of quite a few, it is not clear whether they are offshore campuses of a foreign institution, franchise institutions, operating under twinning arrangements, or independently operated institutions. According to media reports, 40 international universities have sought land from the government of Maharashtra to establish campuses, but there is not much information about these projects. Laureate started a university in Andhra Pradesh, but pulled out when the regulatory environment seemed too complex, in a state which is generally found to be friendly to foreign providers (Altbach, 2009b). Only when the full cost is borne by the host country, as in the Gulf countries, do foreign universities establish full facilities and expensive programmes, such as the Cornell University Medical School in Qatar.⁸⁶ The motive of these institutions is clearly commercial, to make quick money, without making huge long-term investments. They 'are not interested in investing in high-cost academic infrastructure such as

85. There has been only one instance of a foreign investor coming to India, which was a disastrous experience. The investor was a US-based private commercial institution, Sylvan Institute, which came to offer higher education programmes in Hyderabad. The institute had an office in Malaysia, and it offered this programme from there. Sylvan got 125 acres of land at a subsidized rate from the Andhra Pradesh Industrial Infrastructure Corporation to float the South Asia International Institute in Hyderabad. Despite the support from the government of Andhra Pradesh, it folded up its operations in India within a year, leaving students, faculty, and everybody else in the lurch, citing a hostile regulatory climate. It was a disaster (Blumenstyk, 2004). Two other institutions, which can be described as top-tier, also came in through their commercial wings. One was Carnegie Mellon University in Pittsburgh, and the other the Illinois Institute of Technology in Chicago, which offered postgraduate engineering degree programmes. These were also failures, because the fees were very heavy and the programmes were not able to attract enough students. See Anandakrishnan (2006).

86. This school set up in 2004, following an agreement signed in 2001 between Qatar Foundation and the university, is regarded as the first medical school campus of Cornell University outside the USA. The Qatar Foundation contributed \$750 million to the construction of the school and agreed to meet the operating costs for the first 11 years. The school currently offers expensive medical and premedical programmes. Another example in this regard is Georgia Tech University, which has very recently expressed its desire to set up a campus in Andhra Pradesh, provided that some 500 acres of land is gifted to it along with an initial capital grant of INR 1 billion (approximately US\$20 million at the 26 October 2011 exchange rate)!

science laboratories and research facilities. They wish to minimise the investment and maximise the profit, like any corporation' (Altbach, 2009b).

Education 'imports' to India are increasing because of deficits in domestic provision of education or high interest in foreign education or both. Despite rapid expansion, there still exists huge unmet demand for higher education in the country. Foreign degrees are viewed in India, as in many developing countries, as yielding very high returns. The foreign label itself has a premium in the labour market. Hence there can be private demand for education programmes offered by foreign education providers, even if the education provided by the inferior foreign institutions is not better than the run-of-the-mill education provided by most of the accredited institutions in India. Furthermore, most of the foreign providers offer only graduate programmes in areas generating high profits. But there is private demand for undergraduate programmes, as the students hope that such programmes will not only be of higher quality but also facilitate easy admission to postgraduate programmes in foreign universities or employment abroad. Students perceive foreign education programmes as practical and market-oriented with flexible curricula and examinations, attractive evaluation systems, and good job prospects abroad. For the same reason, Indian partners prefer to collaborate when they get a brand name of a foreign university to award the degree. Moreover, the twinning arrangements may help domestic institutions to obtain domestic and international validation for their low-quality programmes, some of which could be described as 'sandwich' programmes, and to attract domestic students looking for foreign degrees and also international students. It is also possible that there may be better monitoring of these programmes by the parent foreign universities, particularly if an accredited foreign university is involved in the programme. However, data about the placement record of the foreign education programmes operating in India or in other developing countries are not readily available, nor do studies estimating the cost–benefit ratios of expensive foreign educational programmes seem to have been conducted.

It is important to note that the education business is going on across borders without any regulations, in the absence of any clear government policy. This is also happening because the

existing regulatory mechanisms are weak, if not inexistent, and are also associated with enforcement failures, overlaps and conflicts between regulatory bodies, and collusion due to political or other influences (Paul, 2009: 39). The government has been dilly-dallying on the problem. In fact, the need to formulate regulations to cover foreign institutions was first felt in 1997, when the Union government admitted the existence of ambiguity in the relevant legal arrangements in the Madras High Court. In the following years, it has prepared some regulations on the entry of foreign education providers to India, which have not been effective in preventing unapproved foreign institutions of dubious quality from doing business in India. These regulations are discussed below. India, like many other developing countries, may have genuine fears that domestic institutions will be swamped by foreign institutions, which are ‘intent on earning a profit but not in contributing to national development’ (Altbach, 2006: 27). It has already liberalized foreign exchange regulations for study abroad, and 100 per cent foreign direct investment in education is allowed under the ‘automatic route’, but a clear, coherent policy approach is yet to emerge. Conflicting statements are made. There is even some confusion with respect to the commitment of education to the GATS. The Department of Commerce made an offer to the WTO under the GATS and included higher education services in its revised offer of August 2005 (WTO, 2005).⁸⁷ This offer includes all modes of supply. However, under Modes 1, 2, and 3 it places no limitations on market access, while under Mode 1, it is subject to the condition that service providers be subject to regulations, as applicable to domestic providers in the country of the origin; under Mode 3 it is subject to the condition that fees can be fixed by appropriate authorities and that such fees do not lead to charging of capitation fees or to profiteering; it is also subject to such regulations as are already in place or to be prescribed by the

87. In the revised offer, in which 11 sectors and 94 subsectors were covered as opposed to 7 sectors and 47 subsectors in the initial offer made in January 2004, India ‘not only showed a willingness to expand the scope of its Uruguay Round commitments by tabling several new services and sub-sectors for negotiations, but also signalled that it was willing to remove commercial presence restrictions in some key areas that it had already committed’ (Chanda, 2006: 5). India has also adopted the plurilateral approach, along with the USA and the EU, with a view to expediting the discussions on services by bringing together a critical mass of countries that are the main requesters and recipients of liberalization requests.

appropriate regulatory authority; and in the case of foreign investors having prior collaboration in that specific sector in India, it is subject to approval. Under Mode 4, access is unbound 'except as in the horizontal section'. There are also no limitations on national treatment in any of the first three modes.⁸⁸ In short, the offer made includes the following, along with limitations on market access, as shown in *Table 6.3*.

In return, India has also received several requests from others, including the USA, Australia, New Zealand, Norway, Singapore, and Brazil. These requests were for full market access and national treatment commitments in Modes 1, 2, and 3. India has also been requested to put in place a transparent mechanism for the accreditation of programmes of study provided by foreign education service providers and an appeal process for redress of grievances. In general, India was asked to make commitments with regard to transparency in domestic regulations, simplify procedures, eliminate differential treatment of foreign service providers, and facilitate the movement of natural persons under Mode 4 (WTO, 2005; see also Agarwal, 2006).

Table 6.3 India's offer to the GATS on higher education

Mode	Limitations on market access
Mode 1 (cross-border trade):	None. However, service providers would be subject to regulations, as applicable to domestic providers in the country of origin.
Mode 2 (consumption abroad):	None
Mode 3 (commercial presence):	None. However, fees to be charged can be fixed by an appropriate authority and this does not lead to charging capitation fees or profiteering. Also, service providers are subject to regulations, already in place or to be prescribed by the appropriate regulatory authority. In the case of foreign investors having prior collaboration in India, FIPB approval would be required.
Mode 4 (movement of natural persons):	Unbound

Source: WTO, 2005: 36.

88. See: http://commercie.nic.in/wto_sub/services/service-offer.htm. See also Raychaudhuri and De (2008).

The Ministry of Human Resource Development (MHRD), however, proposed removal of education from the offer and the adoption of a cautious approach in this regard in view of the likely problems it poses, including an influx of low-quality institutions and their effect on overall quality, the loss of freedom for the government to make its own policies, and the absence of strong regulatory mechanisms.⁸⁹ However, MHRD seems to be favouring export of education, and even importing education under Mode 2, but not under Mode 3. The Department of Commerce, on the other hand, lays stress on monetary gains from trade, including likely foreign direct investment. Despite the ‘offer’ and ‘revised offer’, no ‘final’ formal offer appears to have been made so far by the government of India to the GATS.

The NKC (2007: 46) has already recommended that the government ‘formulate appropriate policies for the entry of foreign institutions in India and the promotion of Indian institutions abroad, while ensuring a level playing field for foreign and domestic institutions within the country’. Accordingly, as mentioned above, the government has been busy formulating some guidelines that provide a framework for trade in education – both export and import, but essentially for importing education. The Association of Indian Universities (AIU, 1999) prepared some guidelines essentially to grant equivalence to foreign degrees, and later AICTE (2005) prepared another set of regulations for foreign education providers (in 2003, revised in 2005) in relation to technical education. Somehow, the UGC was not involved in this. Recently, a committee chaired by CNR Rao (hereafter referred to as CNRRC; Government of India, 2006a) submitted a report on general higher education.

All of these efforts provided a somewhat loose framework of rules and regulations for trade in higher education and recommended that foreign education providers be allowed into India. AICTE and CNRRC did not favour franchising or the setting up of offshore

89. Conflicting views and stands in this regard between the ministries of trade/commerce and education within a country seem to be common. Argentina has had a similar experience, where the ministry of education vetoed the proposal of the ministry of trade (see Verger, 2009a: 389–340). Thus a government can have different players with conflicting interests, with the stronger player winning the game (Jessop, 1990).

centres. CNRRC also recommended against repatriation of profits by foreign institutions to their parent institutions, and ‘poaching’ of faculty from Indian institutions. Normally, universities in a country offering programmes in another country are not subject to quality controls and other regulations of the exporting country, if the programmes are meant only for foreign students, particularly if the universities do not seek public funding in their own countries. This has allowed universities to offer all kinds of programmes. AICTE (2005) insisted that the institutions/programmes need to be recognized in their own countries if they are to be exported to India and that the degrees to be offered would have to be treated at par with the degrees in the exporting country, and also at par with Indian degrees. AICTE did not favour the entry of *de novo* institutions. CNRRC felt that, besides accreditation of the programmes by the relevant agencies in the countries of origin, the foreign institutions need to be registered with the UGC in India as ‘deemed’ universities and should be subject to a suitable regulatory and monitoring mechanisms developed by the government of India.⁹⁰ They also need to provide for a ‘substantial’ security deposit, which they would forfeit in case of their closure. Twinning programmes can be allowed only with existing Indian institutions. According to the AICTE guidelines, where fees and admission procedures are concerned the foreign institutions will be bound by AICTE regulations. CNRRC suggested that foreign universities be given only a limited period on trial to start with. Further, it suggested almost a reciprocal arrangement: only foreign universities from countries that offer Indian universities a business opportunity abroad should be allowed in, though this might mean that India will not get top-ranking universities which do not offer a business opportunity to Indian universities. CNRRC also recommended that foreign institutions be classified into three categories and accorded differential treatment: the first category will comprise prestigious universities like Harvard, Stanford, and Oxford, which will be invited on their own terms; in the case of middle-level institutions (second category), terms of

90. This is similar to what Hong Kong has provided for. Hong Kong requires all foreign providers to register and be subjected to an external check, either by the Hong Council for Academic Accreditation or under certain circumstances by the Hong Kong partner organization (Woodhouse, 2007: 150).

entry will be negotiated on a case-by-case basis; and the lower-end institutions (third category) will be required to comply fully with all the regulations applicable to deemed universities.

Many seemed to favour somewhat a selective approach. For example, Kapur (2008) suggests that India should allow any university ranked in the world's top 1,000 to enter the Indian education system and commit a minimum amount of investment (say US\$50 million). Paul (2009) makes a similar suggestion that the twinning arrangements and collaborations should be limited to foreign providers of established reputation and quality, say, to those who are in the first 300 in the Shanghai rankings.⁹¹ The Yashpal Committee (Government of India, 2009) also argues, 'if the best of foreign universities, say amongst the top 200 in the world, want to come here and work, they should be welcomed'. They should award an Indian degree and be subject to all rules and regulations that would apply to any Indian university. In fact, the Committee argues that as India wants the best learning experiences to be shared by its students, this can be done by inviting foreign scholars to come to Indian universities to teach and by making our rules and regulations more flexible in this regard. However, the Yashpal Committee does not argue for internationalization for monetary benefits or for trade in education. It categorically observes that

giving an open licence to all and sundry carrying a foreign ownership tag to function like universities in India, most of them not even known in their own countries, would only help them earn profit for their parent institutions located outside or accrue profit to the shareholders (p. 40).

91. *The Academic Ranking of World Universities* is compiled by Shanghai Jiao Tong University. It involves comparing 1,200 higher education institutions worldwide according to a formula that takes into account alumni winning Nobel Prizes and Fields Medals (10 per cent), staff winning Nobel Prizes and Fields Medals (20 per cent), 'highly-cited researchers in 21 broad subject categories' (20 per cent), articles published in *Nature* and *Science* (20 per cent), the Science Citation Index and Social Sciences Citation Index (20 per cent), and the per capita academic performance (on the indicators above) of an institution (10 per cent). The rankings have been conducted since 2003 and are updated annually. For details, see Shanghai Jiao Tong University (2007); Liu and Cheng (2005); and http://en.wikipedia.org/wiki/Academic_Ranking_of_World_Universities

These committees are, however, concerned mainly with the issue of allowing and regulating the entry of foreign universities into India, not with commitment to the GATS *per se*.

The Department of Commerce (Government of India, 2006b) has prepared a consultation paper on trade in education services, which highlighted the inadequacy of public higher education, noted the rapid growth of private education, and, like typical trade and commerce negotiators at WTO, emphasized the opportunities that commitment of education under the GATS and opening up of higher education to foreign investors offer to India in improving access, quality, and equity in higher education. It highlights the need to improve literacy, to train large numbers of workers, essentially in IT and related sectors, to contain the outflow of money to other countries in the form of fees and related expenses, and to realize the ambition of joining the league of education-exporting countries like the USA, the UK, and Australia. The assumption is that foreign direct investment in higher education will help in all these cases, but this assumption may not be right. First, it is difficult to visualize links between literacy and foreign direct investment in higher education. Improvement in literacy is generally related to primary education, adult education, and other literacy programmes, but not with foreign direct investment in higher education. Second, the Department of Commerce feels the need to produce labour in IT-related services. Indian institutions are probably good enough to produce what the McKinsey-NASSCOM team asks for: IT graduates in large numbers to meet the global demand. Further, there is already a boom in the number of IT graduates being produced in India, and the excess supply⁹² has already pushed down the wages of these graduates in the global and domestic markets. Another reason cited by the Department of Commerce is to join the league of education-exporting countries, and for this, importing of education in terms of allowing foreign institutions and foreign direct investment in higher education is suggested. There is no sound logic to the argument that India should import higher education to become

92. The unbridled growth in private engineering colleges resulted in excess supply, with the number of student places available exceeding the demand for engineering education in several southern states in India (Mohandas, 2008; see also *New Indian Express* (Bangalore), 29 August 2005).

a major exporter of the same. The capacity of India to become a major exporter of higher education like the USA, UK, Australia, and New Zealand is, in fact, limited, even if it is desirable. Thus, some of the arguments of the Department of Commerce are unsound and others are familiar arguments.

The government of India (2007) has also prepared a draft bill for regulating the entry and operation of foreign educational institutions.⁹³ According to the bill, all foreign institutions have to be registered as deemed universities in India with the UGC;⁹⁴ they must be legally set up and accredited in the country of their origin. They will be governed by an advisory board consisting of officials of the UGC, AICTE, and other organizations, as well as academics. The institutions are required to maintain a corpus fund of not less than INR 100 million. There are penalties for violation of any provisions of the law, in the form of withdrawal of the status of the deemed university, attachment of the corpus fund and a fine up to INR 5 million. All domestic laws applicable to the deemed universities are applicable to the foreign institutions. Though in the bill there are no restrictions on admission, fees, and reservations in admissions (quota systems), it appears that the government might change its stand on some of these issues, as according to another provision of the bill, all domestic laws will be applicable to the foreign institutions.

The objectives of the bill and all other regulations and recommendations of the committees such as CNRRC are ‘maintaining the standards of higher education within the country as well as to protect the interests of the student community’, to check and control substandard or fly-by-night operators, and prevention of

93. It was reported that the bill, deferred earlier due to lack of political support, was likely to be introduced in Parliament in 2009. The government intended to pass this bill in 2009, along with another bill to set up a constitutional body of the kind suggested by NKC and the Yashpal Committee, which would also have provided barrier-free entry to foreign institutions from 2010–2011 (*Hindustan Times*, Mumbai, 28 August 2009, p. 7). The bill was withdrawn and a new bill was introduced in May 2010. See Tilak (2010) for a commentary on the bill.

94. According to the continuing discussions on the proposed revisions in the bill, foreign institutions may not be granted university status, but only degree-awarding facilities.

commercialization in higher education. But one would rightly fear that the bill might actually open the gates for the influx of foreign institutions into India and even allow domestic public institutions which are starved of public funds to go for twinning and other arrangements with foreign institutions, and that the whole situation would be uncontrollable, given the limited ability of the government to regulate. The fears are genuine, given the experience with private institutions in the country. After all, the rules and procedures framed to regulate private institutions have actually helped the proliferation of cheap, poor quality, even dishonest and uncontrollable private institutions, which are crowding out the public institutions and the government is not able to do anything significant in this regard (see Tilak, 2007a). This is why, as Akerlof (1970) rightly stated, because of asymmetrical information, high-quality institutions will be crowded out by poor-quality institutions. Although Akerlof does not refer to higher education – foreign or otherwise – the principle is exactly relevant for education. High-quality institutions will be crowded by poor-quality institutions due to asymmetry of information: no buyers can accurately assess the value of a programme before it is purchased; incentives exist for the sellers to pass off a low-quality product as a higher quality one; sellers have no credible disclosure methodology; deficiencies exist in the public mechanism of effective quality assurances and absence of warranty/guarantee.⁹⁵ So, in the absence of tough regulatory mechanisms, low-quality institutions, both domestic and foreign, but more importantly foreign, which are also associated with low levels of investment and high rates of profit, will survive and high-quality institutions might not be able to flourish.

Second, monetary gains in trade do seem to dominate the thinking of the government. Profit-making is a normal part of trade. Thus, contrary to the recommendation of CNRRC, the bill allows institutions not only to make a surplus, but also to repatriate the surplus in revenues generated by the foreign education providers in India by way of fees and other charges from students. These and several other provisions are overlooked by the critics of the bill, who

95. Tilak (1999, 2009b) discussed this issue in the context of public and private institutions in India and Asia, and described it as the operation of Gresham's Law ('bad money drives good money out of circulation') in education.

argue that these regulations are ‘complex and demanding’; they aim at ‘erecting barriers to entry ... [and] to control almost every detail of the operations of such institutions on Indian soil’. They

impose costs that legitimate foreign institutions are unwilling to bear ... At the same time, they attract illegitimate providers, looking for short-term gains, who recover the costs of regulation by exploiting students ... the outcome of the existing regulator set-up has been the exclusion of legitimate players to the benefit of illegitimate ones (Mukherjee, 2008: 35, 37).

To say that these regulations are ‘demanding’ may not be proper. They should indeed be tougher and demand strict adherence to a minimum set of rules and practices.⁹⁶ That they are weak and undemanding is clear when we notice no tough measures against the low-quality and illegitimate providers taking undue advantage.

Government is yet to come out with a comprehensive set of rules and regulations in this regard. Some feel that tough regulations, such as on fees and reservations (or quota systems) in foreign institutes providing education in India, will make India unattractive for foreign education providers. They feel that the *level* playing field has to be redefined. With small numbers of foreign students enrolled in Indian universities,⁹⁷ India is already ‘not an attractive destination for international students, not even as much as it used to be 30 years ago’, as noted by the NKC (2007). But many also feel the contrary. Despite tough regulations, many may still come, as (1) India offers a big lucrative market, (2) the regulatory mechanism is weak in India, (3) there are possibilities of exploiting the weaknesses in the regulatory system, (4) employment-oriented training programmes can be offered, which may not be subject to tough regulations,

96. For example, China has quite tough regulations in this regard. According to the 2003 regulations: foreign institutions must partner with Chinese institutions; partnerships must not seek profit as their objective; no less than half the members of the institution’s governing body must be Chinese citizens; the post of president or the equivalent must be held by a Chinese citizen residing in China; the basic language of instruction should be Chinese; and tuition fees may not be raised without approval (Richard, 2004).

97. The number of foreign students declined from 12,800 in 1991–1992 to 7,700 in 2002–2003. However, in recent years it seems to be increasing, as shown in *Table 6.1*.

and (5) even with regulations, enough profits can be made legally or illegally by entering into trade in education in India, and these profits could be repatriated. But it is widely realized that it would be difficult to set standards, norms, and quality indicators and to ensure foreign education providers' adherence to them. Practically speaking, it would also be very difficult to oversee the contents and curriculum of foreign education and to safeguard values and cultural aspects.⁹⁸ Further, markets are imperfect and methods of consumer protection and information disclosure cannot be really effective, as higher education markets are largely sellers' markets.

The draft bill (2007), the consultation paper of the government, the bill itself (2010) and the other regulations prepared by several bodies and committees have not closely examined the issue from the educational point of view. What are the disciplines of study for which there is an 'excess' demand in the country, which are the areas in which India has a comparative advantage and hence in which involvement of foreign institutions has to be avoided, which are the areas characterized by shortages and surpluses in labour, what are the alternatives to trade (multilateral and bilateral) in education, and above all, what will be the positive and harmful effects of trade on teaching and research practices, and on Indian higher education as a whole? After all, as in many other countries, it is the Department of Commerce and Trade, not MHRD, which is interested in committing higher education to the GATS. Second, being fatally attracted by potential monetary gains in trade, private educational institutions and even the government often overlook the socio-cultural implications. The approach of the government seems to project trade in education as a *fait accompli* and to respond to it with some kind of a loose framework of rules and procedures. It occasionally issues advisories to students not to join programmes offered by domestic or foreign institutions that are not approved by AICTE or UGC; AICTE also 'pursues' foreign institutions to try to make them register under its regulations. On the whole, the government has not taken a clear stand on the trading practices in education. Even though it does not

98. Despite the difficulties, Malaysia is reported to be doing just that. As noted above, countries like Japan, Singapore, and Malaysia have stringent regulations in place, requiring prior approval of the curriculum offered by all foreign institutions.

favour commercialization of higher education, no mechanisms have been developed to prevent this domestically or internationally. The implicit assumption of the government in allowing privatization and internationalization seems to be that India can be transformed into a knowledge society by relying on the private sector and on internationalization, an untenable assumption given the historical and contemporary experience of other countries.

As Mukherjee (2008: 35) observes, ‘imaginative and flexible regulation is a prerequisite for reforms like foreign participation in the Indian system’. This is indeed a very difficult task, given the conflicting academic and economic objectives. The regulations need to address myriad concerns, including specifically national goals and safeguarding domestic systems, apart from protecting the noble role of education as a public good in development and as a human right. But it is very difficult to balance these genuine concerns against the commercial motives of native and foreign actors.⁹⁹

99. Protection of the local system has been an important goal of regulatory mechanisms introduced in some places, such as Hong Kong and Malaysia. See McBurnie and Ziguras (2001).

VII. Policy implications for the development of higher education and perspectives for the future

Internationalization of higher education has existed since ancient times. And it has long been favoured for its potential ‘to transform the lives of international students, its role in sustaining, and growing science and scholarship through vigorous academic exchanges; and its potential to build social and economic capacity’ of the nations (Scott, 2011). But one doubts whether the present forms of internationalization perform these roles. Relatively speaking, internationalization of higher education in its present form is of very recent origin, but it has gained in importance, with significant implications. Globalization and internationalization have become the major drivers of sweeping reforms in higher education all over the world.

A close look at the global trends reveals that the following are the dominant characteristics of the process of internationalization of higher education (Bode 2009: 219):

- a growth in mobility of students and academic staff and the emergence of a global ‘education market’ with an increasing number of institutions of higher education competing to attract paying clients or smart brains in an ever fiercer ‘war of talents’;
- the internationalization of curricula through integration of international and intercultural elements into national study courses, often expanding them into international networks or double degree programmes;
- the dominance of English as the *lingua franca* of the global academic community;
- the increasing ‘exportation’ of education and research services to developing and emerging countries;
- a rapidly growing number of transnational partnerships and networks in the fields of study and research, as well as international education consortia;

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- the implementation of international research schemes trying to find answers to global challenges; and
- the rapidly growing supra-regional coordination of national policies of higher education (e.g. the Bologna Process).

Under the name of internationalization of higher education, international higher education markets have emerged. In contrast with national education markets which are still regarded as quasi-markets, international higher education markets are full ‘classical’ markets, as there are fewer direct constraints on how they operate (Foskett, 2011: 34). Hence the importance of a well-designed regulatory framework, which is absent in many developing countries.

Internationalization of higher education is viewed by many as a response to the pressures created by the worldwide wave of globalization, which has also resulted in increasing demand for higher education of diverse types and natures. In the increasingly globalized contemporary world, many feel that internationalization of higher education becomes an unalterable component of globalization. Even many educationists find virtues in the internationalization of higher education; after all, universities are and should be universal in their nature and scope, and international exchanges have existed for several centuries. What is new is the current form of internationalization, or more precisely international trade in education, which is a matter of contention. Few question the old mode – in fact, many favour internationalization of the traditional type – but many have serious reservations about the emerging trends of trade in education under the name of internationalization, as these trends are mostly about generation of income for cash-strapped higher education institutions.

Those who support modern forms of internationalization can be divided into three groups:

1. those who favour internationalization of education under all four modes of the GATS, but may not support trade and the GATS (this category may be quite numerous);¹⁰⁰

100. Some discuss the whole issue of internationalization without any reference to the GATS and the WTO. For example, see many papers in *Higher Education Policy* 22(3) (September 2009); the issue is titled ‘African Universities and Internationalization’.

2. those who favour foreign direct investment and do not mind trade in education, and indeed welcome it under all four modes of the GATS, but do not necessarily favour any commitment to the GATS (possibly the second-largest group); and
3. those who favour foreign direct investment and trade in education under the defined framework of the GATS (this group may be small in relative terms).

All three groups, however, treat education as a commodity that may be used for making money, and strongly argue in favour of private education – even profit-seeking private education. The conventional type of internationalization, lacking narrow economic motives, does not need the GATS; it is primarily the modern forms of internationalization that require the GATS, as a legally binding multilateral system. In fact, trade in education will take place with or without the GATS, but the advantage claimed in favour of the GATS is that it ensures not merely rule-based trade, but also free trade – trade with no barriers – within the framework of a legally binding agreement and under the supervision of an international body.

The GATS has many implications for education (Knight, 2003), which differ from one country to another. One should note that the world is not flat, contrary to what Friedman (2005) argues. The gains seem to accrue disproportionately to the advanced countries and losses to the developing countries. Private and some public institutions in the developed countries would be the main beneficiaries of exporting education to developing countries. The countries that import education, public institutions in developing countries, and academically and socially important areas of study are likely to be the losers. While commercially viable disciplines, particularly professional, technical, and vocational programmes, would flourish, they would be at the expense of disciplines that are needed to build a humane society, which include the humanities, social sciences, natural sciences, and physical sciences. The latter disciplines are also critical for the very sustenance of sound education systems. Skewed development of education is not good for society. Furthermore, the loss of local government control over national systems of higher education will result in a loss of national autonomy.

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Even if there are some advantages to trade in education, the GATS aims at ‘the development of *free* trade, not *fair* trade’ (Devidal, 2009: 75) and seems to entail many disadvantages that accrue essentially to developing countries, thus impairing the realization of equity and developmental objectives and eroding national autonomy in education policy issues. The myth that foreign universities will provide high-quality degree programmes in developing countries under trade in education is already being exploded. This has been a matter of serious concern for all public bodies and some committees in India.¹⁰¹ Trade may promote spurious demand for foreign degrees, since the overseas study fever and the craze for foreign labels are still strong in many developing countries, characterized by imperfect markets and gullible students and parents. If foreign universities decide to enter developing countries, they may exploit and dominate the imperfect education markets and may adversely affect local universities and other institutions of higher education, instead of improving their quality and standards through competition. Lastly, it is important to note that higher education is intricately related to almost all aspects of the society, and as a result any change in higher education will affect the whole society. As Panchamukhi (2008: 501) argues, the GATS ‘would engulf the activities of the entire economy if trading of higher education in the true sense of the term, takes place under the above mentioned [four] modes’ by imposing international trade disciplines on all services. As Wallach (2005) observes, ‘almost no human activity from birth (health care) to death (funerals) remains outside these rules’. According to the very rules of the GATS, it can cover ‘any service in any sector’ (Article 1-3-b). The problems involved are too serious to be ignored.

The champions of the GATS claim, on behalf of developing countries, benefits relating to access, availability of diversified systems, innovations, competition, efficiency, and quality. The critics question the very role of the GATS as a threat to democracy, since people’s choices and national sovereignty will be subjected to the international market regime under the name of the GATS: ‘governments are free in principle to pursue any national policy objectives *provided the relevant measures are compatible with the*

101. Some of the evidence and the concerns are discussed in *Chapter VI*.

GATS' (WTO, 1999: 5;¹⁰² emphasis added) or free to formulate only those policies 'which are not inconsistent with the provisions' of the *GATS* (Article XIV). As Article III (3) requires, 'each member shall promptly and at least annually inform the Council for Trade in Services of the introduction of any new, or any change to existing, laws, regulations or administrative guidelines which significantly affect trade in services covered by its specific commitments under the agreement.' In short, governments have to submit all their trade policies in all areas to the WTO, for evaluation in relation to criteria such as free and open trade predictability, transparency, and guarantees for foreign providers and exporters. These evaluations 'condition the behavior' of the governments of the member countries (Verger, 2009b: 385–386). Further, claims concerning transparency seem to be excessive. The protocol of the *GATS* prohibits any country from making public the requests it makes to and receives from other countries.¹⁰³ As Sinclair (2000: 1) notes, the *GATS* negotiations are closed-door discussions: 'Essentially unknown to the public, the agreement is designed to facilitate international business by constraining democratic governance. The talks are taking place behind closed doors in close consultation with international corporate lobbyists.' Critics who consider higher education to be a public good also question the very idea of treating it as a commercial good.

It is difficult to calculate the impact of trade in higher education on higher education in the developing and the developed countries, as such trade is still evolving, but some aspects are somewhat clear. As Robinson (2008) warned,

Trade agreements are legally-binding treaties that promote liberalization, not just by eliminating barriers to trade and investment, but also by encouraging domestic liberalization in the form of privatization, commercialization, and deregulation of public services like education. Trade agreements don't necessarily force governments to *per se* privatize and

102. Quoted by Wallach (2005).

103. South Africa is perhaps the only country that has broken this protocol (Sørensen, 2005).

commercialize education.¹⁰⁴ But they can have the effect, through the legal restrictions they place on governments, of intensifying and locking-in pressures to do so.

Education is traditionally considered to be a public good, or public service rather than a market-based activity, but the GATS regards it as a tradable commodity, and the supply of education as commercial trade. The GATS makes no distinction between trade in services like education and trade in automobiles, computers, textiles, and financial services. Thus, the GATS in education essentially implies privatization and commercialization of higher education and international trade in education with no barriers to market access by foreign firms for trade and investment. The GATS is mainly and explicitly for trade, and not for promoting education in developing countries, nor for improving the access of weaker population groups to education. If it does improve access to education at all, this is only an unintended effect. The concerns expressed about the impact of the GATS on various dimensions of education need to be taken seriously. As Paul (2009: 39) observes, ‘The risks that come with trade and unequal exchanges are real and cannot be wished away.’

Some argue, however, that these fears are exaggerated, as even after half a decade of emergence of the GATS, there has been no wholesale privatization or commercialization of higher education or loss of national government control over higher education systems. This is not necessarily correct. Higher education in many developing countries is rapidly being privatized, and in some developing countries in South Asia, South-east Asia, and sub-Saharan Africa, this is happening at an alarming rate, especially in, but not confined to, professional education (see Tilak, 2009*b*). Moreover, the whole system is escaping from the control of governments, and the ability of governments to regulate it is increasingly limited (Tilak, 2009*a, b*). It is true that in many European countries and in North America, higher education is not yet largely privatized, and many think that it is not likely to be extensively privatized in the near future. One should note that, after all, many governments have not yet made commitments on higher education to the GATS, and that

104. As Nielson (2004) also states, the GATS is interested only in foreign supply – not in privatization *per se*.

our experience with education under the GATS is little more than a decade old.

Some feel that strong regulatory, accreditation, and quality assurance mechanisms will eliminate all the potential adverse effects of the GATS. The mechanisms suggested include foolproof methods of registration, accreditation, approval, equivalence recognition, and quality assurance. One of the most important concerns of many countries with the GATS is governments' potential loss of autonomy to regulate and make policies for development of quality education and improvement in equitable access. They may rightly feel that while it is difficult to regulate effectively a higher education sector in which the private sector is heavily involved, it would be still harder to regulate a sector which is characterized by foreign commercial presence. As Altbach (2009*b*) cautioned, 'vetting and regulating these institutions will not be easy'. Regulation is one major issue: the GATS is not interested in regulatory authorities; it negotiates liberalization, not regulation (Nielson, 2004).

Many believe, however, that it is not just a matter of regulation, but that the dangers involved are much more deeply embedded in the very nature of trade and in its application to education. The new environment, characterized by an altogether new terminology, has changed the objectives, definition, nature, and scope of education, mechanisms of transaction processes (teaching/instruction, research, and the whole academic profession), the teacher, the student, the institutional structure, and its management. It has even raised somewhat awkward questions, such as what a university is, who a professor is, who a student is, which subjects need to be taught in a university and which should not. Enrichment of quality and diversity in higher education, which was for centuries an important reason for attracting overseas students, is no longer the objective of internationalization. Equity, philanthropy, and ideological and philosophical considerations no longer figure in these activities. In short, mottos such as 'higher education is a right', 'higher education for all', and 'it is a public good' are replaced by popular slogans like 'education for sale', and international trade in education. National sovereignty in making educational policies, in regulating educational development, and in serving nation-building functions is also believed to be at stake, as almost every aspect

of educational policy and planning will be under the control of the WTO radar. Alternatively, some (Haigh, 2008: 436) argue that internationalization, conceived of as education for planetary citizenship, which means trading national goals in favour of global concerns, can be a counterweight to the commercial forces that drive higher education to abet future destructive practices. But this may prove to be an unrealistic dream.

One of the most important reasons why higher education institutions, including some of the best universities, have engaged in internationalization has been the decline in public budgetary support, which has resulted in the emergence of commercial concerns and promotion of international trade and in the disappearance of educational considerations. The traditional mechanisms of offering scholarships, grants, and other direct and indirect subsidies to foreign students have not only been stopped or drastically cut, they have been replaced by the introduction of high fee systems for overseas students in many universities in the West, although there are still many traditional universities in North America, Europe, and Japan which still offer scholarships to a good number of foreign students. For many other universities, both new and old, full (if not more than full) cost recovery seems to be the principle applied to overseas students.

Interestingly, academia in not only developing countries but also advanced countries is either not interested in or even dead against trade in education (see e.g. Altbach, 2003, 2006). For example, international organizations such as Education International, the International Association of Universities, the Association of Universities and Colleges of Canada, the American Council on Education, the European University Association, and the Council for Higher Education Accreditation in Europe have strongly pleaded for rejection of the inclusion of education in the GATS negotiations.¹⁰⁵ Ministries of education and culture in many developing and developed countries are also not much interested in it. UNESCO, which recognized higher education as a public good in the World

105. See Guarga (2009) for more details on opposition to bringing higher education under the GATS in North America, Latin America, and Europe.

Conference on Higher Education in 1998 and in 2009,¹⁰⁶ does not seem to favour trade in education much, although it is engaged, in collaboration with the OECD (UNESCO-OECD, 2005), in preparing ‘guidelines’ in this regard, particularly as regards ensuring quality of education that is offered across borders, including accreditation and so forth.¹⁰⁷ In contrast, ministries of trade and commerce, national and transnational associations of industries in developed and a few developing countries, ‘Friends of Private Education Export Groups’, multinational companies (whom Verger, 2009b: 393, found to be less aware of the passionate debates on the GATS and its effects on education), the WTO, and other supranational organizations are all strongly in favour of the GATS and trade in education. The World Bank, the International Finance Corporation, the OECD, and the European Commission favour it and are extending support for expanding private investments in education and the international education markets (Rhoads and Slaughter, 2006; Schugurensky, 2006).

Recommendations

Countries will become increasingly engaged in the near future in issues related to internationalization and particularly trade in higher education. It is therefore important that they become fully aware of the implications and also of the alternatives available, while responding to these issues.

First, as Scott (2011) argued, ‘there is an urgent need to reset the compass of internationalisation, to steer towards to the good and *away from the ugly*’ (emphasis added). All traditional – non-trade – forms of internationalization of higher education are significantly different from trade forms, and that they make huge positive

106. See <http://unesdoc.unesco.org/images/0014/001419/141952e.pdf> for the declaration of the 1998 conference. For the communiqué of the 2009 conference, see www.unesco.org/fileadmin/MULTIMEDIA/HQ/ED/ED/pdf/WCHE_2009/FINAL%20COMMUNIQUE%20WCHE%202009.pdf

107. The aims of these voluntary and non-binding guidelines were to support and encourage international cooperation, protect students from low provision and disreputable providers, and encourage quality cross-border higher education (Lee, 2007). UNESCO has also prepared a toolkit in this regard (UNESCO-APQN, 2006).

contribution to the development of higher education. Such forms therefore need to be encouraged, through collaborative research programmes, faculty and student exchanges, and so on, as they immensely benefit educational systems in the developing as well as developed countries. These forms recognize higher education and research as national and global public goods and involve public subsidy. It is not only morally right, but it will also be in the best interests of developing strong and sustainable higher education systems. The Lisbon Convention (1997), the Sorbonne Declaration (1998) and finally the Bologna Declaration (1999) have not only favoured such forms of internationalization within Europe, but also stressed the need for facilitating it by establishing principles of compatibility or equivalence in degrees, mutual recognition of degrees, transferability, and transparency, without laying much emphasis on economic gains.

Second, in the case of current forms of internationalization – trading in education under the GATS – extreme caution is necessary. Many have recommended selective approaches – selective in terms of countries, universities (domestic as well as foreign), and perhaps even programmes – making a distinction between education and research activities, between education and training programmes, between degree programmes and non-degree programmes, and between humanities and social sciences on the one hand, and engineering, science, and technology on the other. Such selective approaches require identification of universities of high quality which are genuinely interested in the development of higher education and research, and provision of an environment conducive to their participation in internationalization.

Third, in order to benefit from trade – selective or otherwise – a strong higher education system is important, in addition, of course, to its importance in its own right. To reap the gains of trade in education, it is necessary, before one thinks of internationalization, to improve the domestic higher education system. This system needs to be raised to a level equivalent to the best systems in the world, so that competition becomes meaningful and will be between equals rather than between unequals. It is also important to note that top-quality foreign universities collaborate and would like to collaborate further with high-quality institutions in developing

countries rather than with second- and third-tier institutions. Hence the need for rejuvenation of the system arises. This is a prerequisite for, and cannot be treated as an expected outcome of, internationalization. If this prerequisite is not fulfilled, fragile local higher education systems might eventually vanish altogether. Any move towards internationalization will be counterproductive if the system in the country concerned is not made excellent in terms of quality of education, quality of teachers, and quality of the graduates it produces. This should be considered as the bottom line. It might require huge public investments in education, but it is necessary. The higher education system in several developing countries is severely under-invested. A strong, well-funded public higher education system would be an antidote to many of the problems faced by developing countries.

Fourth, many of the higher education systems in developing countries are expanding without any clear long-term policy perspective and plans, resulting in uneven and unstructured expansion. In this regard, one may identify the following lines of action:

1. It is necessary to formulate coherent and sound policies in higher education and to chalk out suitable long-term plans, along with efficient strategies for implementation of the policies and execution of the plans. Realistic benchmarks have to be set.
2. Many systems require a strong regulatory framework that promotes development of higher education and also checks the growth of undesirable components of the sector. The scope of such regulatory frameworks may have to extend beyond national borders.
3. It is very important to have efficient accreditation mechanisms, which cover all academic aspects of all universities and higher education institutions in the country – public, private, and foreign. This is critically necessary regardless of whether the country opts for internationalization. After all, most of the advanced countries have strong regulatory mechanisms and sound accreditation systems that regulate private universities as well as foreign universities and their functioning.
4. Besides ensuring adequate infrastructure facilities, it is necessary to recruit teachers of high quality, as after all the teachers are

the backbone of the whole higher education system. Admission policies and recruitment methods should seek to ensure top-quality faculty and students.

5. Many systems also need to establish quality assurance mechanisms. A good set of performance indicators has to be identified and used in planning and management of higher education institutions; these indicators can also be used in the allocation of resources and in other aspects of the development of higher education systems.
6. The principles of equivalence in degrees and transferability need to be established both nationally and internationally. Many countries may have such mechanisms only for transfer between domestic universities.
7. Above all, the government should be firmly committed to the development of higher education, and this should be reflected in policy-making and allocation of national resources to higher education.

To conclude, internationalization is here to stay, either within the framework of the GATS or otherwise – but most likely within the framework of the GATS. Once countries have developed strong higher education systems, they will be in a position to choose the mode of internationalization; they can be selective and encourage internationalization of higher education without any concern for trade and the GATS. Strong and vibrant public higher education systems may help developing countries both with their own concerns and in participating successfully in the internationalization of higher education, as a strong, high-quality system of higher education will attract the best students and faculty from all over the world. Moreover, this will help them to avoid the negative effects of internationalization and, more significantly, to escape from national and international pressure to commit education to the GATS. After all, once higher education is recognized as a service that is provided ‘in the exercise of governmental authority’, meaning that it is supplied ‘neither on a commercial basis, nor in competition with one or more service suppliers’, it must be exempted from the GATS altogether,

like all government-controlled services.¹⁰⁸ The development of a strong higher education system of high quality and excellence is important even for its own sake. In fact, one can hypothesize that had public investment in education been higher, say 6 per cent of GDP, as recommended by the Indian Education Commission (1966) long ago, and had higher education of good quality been sufficiently expanded, there would have been no justifiable reason for developing countries like India even to consider any proposal of making a commitment of education to the GATS today. There is an inverse relationship between growth in higher education in a country and the outward mobility of students (Bashir, 2007). Students may not go abroad if the national system of higher education is of good quality and expands fast. In this case, in fact, the whole case for trade in education, particularly for import of education, would disappear. As each national system becomes strong, the case for trade in higher education as whole might gradually fade away over the years and only the classical mode of internationalization of education might prevail. It can be argued that this is the best option, and perhaps there is no other meaningful option.

108. However, as discussed earlier, it might be very difficult for a country to have its higher education sector exempted altogether from commitments under this provision.

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