

**GATS and Educational Services:
Issues for India's Response in WTO Negotiations**

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Abstract

Under the auspices of WTO, negotiations on liberalization of trade in services are expected to begin soon. One agenda at the negotiating table will be trade in educational services. Trade in educational services is too important an issue for India, and, a thorough homework needs to be done before we make any commitments at the negotiating table. In this context, the paper analyses the intricacies of the General Agreement on Trade in Services (GATS) as applicable to educational sector. The need for trade, and the likely competitiveness of India's educational services is also discussed. Finally, suggestions for trade negotiations and domestic reforms are presented.

1. Background

General Agreement on Trade in Services (GATS, 1995) was one of the agreements that were signed under the purview of the World Trade Organization (WTO) which came into existence in 1995. The central idea of GATS is that progressive liberalization of trade in commercial services will promote economic growth in the WTO member countries. These commercial services are of wide variety ranging from entertainment, e-commerce, and education. Under the framework developed through GATS, member countries are expected to put forward their specific proposals, engage in negotiations, and make their own commitments for the progressive liberalization of trade in such services. In fact, the forthcoming WTO Ministerial meeting to be held in Doha, may take-up issues pertaining to specific sub-sectors of the service industry. One particular sub-sector that will find place on the agenda is the trade in educational services. In this context, there are important trade related issues in educational services that India needs to address. This article is an attempt to raise the pertinent issues and suggest policy options.

In Section 2, I examine the precedence, possibility, and need for trade in educational services. Section 3 elaborates on the two-way classification of trade in educational services – namely, the educational categories and the modes of trade. Section 4 attempts to make a qualitative assessment of the competitiveness of Indian educational system within the two-way classification of trade in education. In Section 5, I discuss various safeguards available to India to counter any strong adverse impact that might be felt by opening-up trade in educational services. Finally, in Section 6, I discuss options for negotiating commitments at the WTO meetings, and bringing reforms in the domestic educational services and institutions.

2. Why Trade in Educational Services?

Precedence for trade in educational services goes back in antiquity. In the Golden Age of India, universities at Nalanda and Takshashila were famous the world over, attracting students from foreign lands. In fact, universities (*Vishwa Vidyalayas*), by definition, have to be international in character. Prior to independence, children of the rich and students earning fellowships did go to United Kingdom for higher education and returned with a wider worldview of things. After independence, students went abroad on Commonwealth and Fullbright scholarships and returned home to transplant their training and experience to the domestic conditions. And, the latest phase began when (post) graduate students started going abroad for higher studies with dollar assistantship in their pocket, never to return as if they had entered Alibaba's Cave! Of late, there are many Indian students going abroad for undergraduate education as well. Moreover, there are many Indian high schools run in various parts of the world where there is significant presence of overseas Indians.

Is there a potential for growth in trade in educational services, especially when significant contribution to this sector comes from government? Is trade in educational services compatible with WTO norms? As per Article I.3 of GATS, government services remain outside the purview of GATS, provided they are not meant for commercial purpose and do not have any competition from private service suppliers. Hence, as per this article, education does come under the purview of GATS trade

liberalization, since there are already many institutes, colleges, high schools, and coaching classes operating in private sector in India. These private service providers are in direct competition with the government-run institutions. Moreover, one must not forget that the leading public educational institutions like the IITs, IIMs and agricultural universities were funded primarily by foreign funds. The shrinking budgetary resources for education are in no way helping the cause of promoting knowledge in India. The per capita total government expenditure on education for 1995 was less than \$10 per year in India as against \$1400 in United States (UNESCO, 1998). Moreover, share of higher education in total planned resources has decreased continuously from 1.24 % in the fourth Five-Year plan to 0.35% in the eighth Five-Year plan (Joshi, 1998). As a result, the state of affairs in the government educational institutions is pathetic. Hence, private sector participation and trade in educational services seems imperative.

The paucity of funds points out the fact that capital is a scarce factor and human resource an abundant factor in India. According to the celebrated Heckscher-Ohlin (1933) theory of trade, products/services that use abundant factor more intensively get exported and abundant factor gains from such trade. With abundant qualified human resource, India must export educational products that use our human resources intensively. To achieve this, as we discuss little later, India needs to create favourable circumstances domestically and negotiate effectively at the WTO forum. An argument is always made that India is experiencing brain-drain. I.e. although the ownership of the knowledge inputs (read human resource) is Indian, ownership of the generated knowledge is with the west (Khadria, 1999). This is a one-way argument. Hasn't India benefited from the knowledge generated elsewhere? Alarm-clock that wakes one up in the morning to the zero-watt electricity bulb one uses at night, and, everything one uses during the day was mostly developed elsewhere and not by Indians. The Indian concept of zero, scientific principles of Newton, and economic ideas of Keynes and Friedman are available to all. Moreover, those who go abroad to provide educational services on contractual basis contribute to India's Gross National Product. Similarly, foreign educational institutions operating in India will contribute significantly to India's Gross Domestic Product, and, even more so if Indian government stipulates a minimum requirement on hiring of Indian faculty and staff.

In the second half of the twentieth century, economists like Solow (1957) and Schumpeter (1967) emphasized capital and managerial entrepreneurship respectively, as the critical factors for growth and development of economies. Romar (1986) and Lucas (1988) questioned the narrow definition of capital and broadened it to include human capital as well. In the last decade, awareness of knowledge as an engine of growth has gained ground and education is now looked upon as a tradable service. Developed countries are also keen to use this opportunity to avoid under utilization of infrastructure that exists in their educational institutions. The efforts of WTO to include education in the GATS agreement should be seen in the above-discussed context. Therefore, India has to pay a serious attention to the GATS agreement as applicable to educational services, identify opportunities and competitiveness in various sub-sectors, and negotiate WTO commitments accordingly. I turn to details of these issues below.

3. Educational Categories and Modes of Trade

There is a two-way classification of trade in educational services. First, educational services are classified in various categories such as: 1. Primary Education, 2. Secondary Education, 3. Higher Education, 4. Adult Education, and, 5. Other Education. It must be understood that GATS does not make it mandatory for member countries to open-up all the educational categories. In fact, one can reject opening-up of all the categories. Based on a country's assessment about prospective gains, specific categories can be opened up. For example, countries that are substantially dependent on trade have already opened-up all categories. These include some of the East-European countries and New Zealand. Larger economies such as United States (US) have so far committed to opening-up of Adult Education and Other Education categories, and, there are many other countries including India which have not made any commitments yet.

The second classification is based on the nature of trade in (educational) services. Article I.2 of GATS classifies trade into the following four modes - Cross Border Supply: It includes courses through distance education, online courses through Internet, educational testing services, and educational materials that are provided overseas. It will also include sale of paperback editions of books and sale of educational CDs. Consumption abroad: This refers to import of educational services through movement of the consumers/students to other country for pursuing education. A clear example is that of Indian students studying abroad and spending on educational fees and all related expenses of their stay. Commercial Presence: It means actual presence of an educational service provider of a country in another country. For example, a foreign university may start a school of journalism in India, giving a foreign degree to the students. Movement of Natural Persons: As the title suggests, it involves people moving between countries to provide educational services. Indian teachers going abroad to teach in high schools in US is one such example.

Thus, under any of the 20 category-cum-modes of trade in education, India will have to make specific commitments for opening-up, propose changes, and list specific educational services for negotiations. And, while doing this, India must ensure that the safeguard instruments available in the GATS document are credible and enforceable.

4. Competitiveness of Indian Educational Services

For the ensuing negotiations on trade in services, Indian authorities not only need to respond to the proposals and commitments made by others, but put forward India's own proposal and select commitments that are in the best interest of our country. A pre-requisite for that is to generate adequate data on the status of educational service providers and users and its aspects related to trade. Based on that, authorities will be fully able to comprehend India's competitiveness in various sub-sectors of educational services. However, based on the information available at this time, critical observations on India's competitiveness can certainly be made.

Educational Testing Services: US hopes educational testing services to be included in the country commitments. This is not surprising as US already has well established educational testing service providers and they would like to utilize the potential outside the country. India too has a long experience of providing educational testing services. Quality of testing services is well demonstrated by all-India qualifying tests such as the CAT (Common Admissions Test) of the IIMs, JEE (Joint Entrance Examination) of IITs, and GATE (Graduate Aptitude Test in Engineering). If the experience of these services is adapted for various fields, and, if such services can be offered on a year round basis with sufficient computerization and use of internet facilities, India stands to gain from liberalization of such services. However, markets for such services will have to be actively sought. Hence, India may commit to liberalize these services, but an adjustment period of at least 6 years is necessary for upgradation and marketing of these services to potential clients. Moreover, willingness of stakeholders to conduct this activity in the private sector needs to be assessed. Only then India can become competitive both in foreign and domestic markets.

Students on Foreign Campuses: 31,743 Indian students had enrolled for courses in US in the year 1995-96 (UNESCO, 1998). Currently, however, the number must have already exceeded 40,000. Moreover, there are a few more thousand Indian students studying in Europe. However, one may not worry too much about such imports of services. A significant proportion of these students would be (post) graduate students on teaching/research assistantships and fee waivers (see Teachers and Researchers Working Abroad below). Moreover, value must be attached to foreign educational experience which certainly widens the horizons of young minds.

As far as export of such service by India is concerned, i.e., foreign students coming to India for study, the current prospects are not too bright. India already gets some 5,455 international students from neighbouring developing countries (NIEPA, 2001). However, getting students from developed countries, even from East European countries, would be very difficult as our standards of campus facilities are very poor in general. However, there is a scope for developing high-value niche market for some of the programmes that India may offer. Marketing of programmes on education in Arts and Culture, Sanskrit and other languages and literature, and traditional medicinal sciences like Ayurved could be effectively done by upgrading the campus facilities for some of the specialized institutions in India. A glaring example of this is the programme offered in Ayurved by the Department of Ayurved at University of Pune. It has twinning agreements with universities in Italy, Germany and many other countries to send their students here for part of the study. The Indian Institute of Management, Ahmedabad, although does not have any foreign students enrolled in its two-year programme, has a successful exchange programme for students. More than 45 students go abroad for a term for which they do not have to pay fees. One must also remember that fees in western countries are much expensive than those in India. Promoting such exchange programmes on reciprocal fee-waiver basis will certainly be useful to India both in terms of not losing foreign exchange, and, providing Indian students an opportunity to broaden their worldview.

Establishing Schools Abroad: At present, many countries including US are only looking inwards as far as secondary education is concerned. However, Indian proposal should include scope for commercial presence of institutions in the

secondary education. India's CBSE system of secondary education is quite robust as compared to the state-board systems. In fact, there are more than 100 (Indian) CBSE schools abroad. With ever increasing Indian Diaspora spreading rapidly all over the world, there would be a great demand for CBSE-like schools in UK, USA, Fiji, and many other parts of the world. Of course, some initial groundwork will have to be made by identifying and bringing together private providers and the prominent figures from the non-resident Indian community. In the long-run, the school system could be expanded away from the ethnic Indian focus that will be required in the short-run. On the import side, India need not worry much as our system of secondary education is both cost and quality competitive. As far as establishing institutions of higher education abroad is concerned, India's competitiveness is very much in doubt as she needs to address the core issues of capital expenditure requirements. In fact, instead, domestic higher education problems be addressed first to stay import-competitive. However, one exception must be brought to our notice. Central Institute of English and Foreign Languages (CIEFL), Hyderabad, has successfully launched English Language Teaching (ELT) programme in Kirgizistan. The institute won the contract in succession although there was strong competition from other countries (Kolhatkar, 1999). India must capitalize on such experiences and duplicate the efforts elsewhere.

As far as presence of foreign higher-education institutions in India is concerned, India should allow it, however, the process of liberalization must be gradual so that our domestic educational institutions are capable of effectively competing with the foreign institutions. India will need a transition period of at least 6 years to upgrade our campus facilities. Upgrading facilities in all institutions will be difficult, however, select import-competing institutions must be able to upgrade their facilities. Among other things, these facilities will include: Availability of course schedules on internet, telephone registration system for various courses, option of payment of fee through credit cards, well equipped dormitories, classrooms, libraries and sports facilities of international standards, and facilitating growth of off-campus housing infrastructure in the private sector for faculty, staff, and students. Moreover, accreditation system for foreign educational institutions will have to be developed. Indian authorities may need to study how foreign/developed governments manage the accreditation system in their own countries.

Teachers and Researchers Working Abroad: Although the annex to GATS mentions that movement of natural persons is excluded from GATS, it clearly provides scope for negotiating commitments on movement of persons in specific services. India must put in its proposal to include commitments on movement of teachers and researchers both at the secondary and higher education level. Already, about 10,000 secondary school teachers are working outside the country for sometime now, and, increasingly there is a growing demand for Indian teachers, especially in mathematics, sciences, and English. The trend will continue given the scarcity of teachers in developed world and the sufficient supply of qualified teachers in India. Nevertheless, there is a need for making projections of export of this educational service. The export of teachers need not be construed to imagine that Indian schools will be deprived of their valuable asset. In fact, a healthy market for teachers will encourage many more to join the profession domestically as well.

Moreover, it must be remembered that many of the Indian (post) graduate students who go abroad for higher studies receive teaching and/or research

assistantships and tuition waivers. This is a form of export of educational service in the form of movement of natural persons. The fact that western countries need foreign (post) graduate students to teach independent courses in their universities shows the need for qualified university-level teachers abroad.

5. Availability of Safeguards

While India seeks to liberalize trade in educational services and offer specific commitments in its proposals for negotiations, Indians must understand that they are not trading-off their rights and controls on issues that are integral to their nationhood, cultural ethos and security. There are many exemptions and safeguards allowed in GATS which can be effectively utilized to protect Indian interests.

Article II.1 introduces the Most Favoured Nation (MFN) clause by mentioning that a country will accord another member country treatment no less favourable than that it accords to any other country. However, in the same breadth, Article II.2 allows countries to negotiate exemption from this commitment and those exemptions must be mentioned in the schedule of commitments made. For example, India can give special treatment to students of SAARC and NAM countries without giving the same special treatment to others, provided this is mentioned in the commitment schedules.

Article XII.1 allows countries to take measures to control the balance of payments problems (BOP). This may include restrictions on transfer of payments and foreign exchange until the BOP situation improves. India does not face BOP problem at this time. However, if it does in the future, India can exercise the option of restricting trade in educational services to prevent flight of foreign exchange from the country. Moreover, Article XIV allows measures to protect public morals, maintain public order and national security, and prevent fraudulent practices. For example, if Indian authorities believe that some of the educational material coming into the country is not according to the mores and values of this land, restrictions may be imposed to protect public morals. In fact, Article X even provided for emergency safeguard measures as well.

6. Indian Proposal/Commitments and Domestic Reforms

In the light of the above discussion, India must act in self-interest. She must send proposal and commit to areas where there are opportunities to be exploited through trade. It also entails radical reforms in the domestic educational infrastructure. In this context I suggest the following:

Suggestions for Proposal:

1. India should endorse the US view of including educational testing services to be included in the country commitments. However, India should ask for phased liberalization. A lead-time of at least 6 years is necessary to upgrade our reputed testing services to compete effectively with foreign suppliers in the domestic market, and gather market intelligence to focus on adaptation of our services for the export market.

2. India may commit to all modes of trade in higher education as well. However, it must be borne in mind that India will have to actively seek niche markets for India-specific knowledge programmes. Moreover, infrastructure upgradation of our premier and import competing institutions must be done on a priority basis so that they can effectively compete with foreign institutions based in India. Again, for this purpose, India must propose for gradual liberalization. A transition period of at least 6 years is needed to bring our priority institutions on par with the foreign ones in terms of infrastructure and facilities.

3. India may make a specific proposal to other countries to commit themselves for commercial presence in secondary education. This is in view of the prospect that accredited private high schools of CBSE standard stand a good chance to be exported the world over. More than 100 already exist in other countries. Similar US schools exist in India and elsewhere that are primarily meant for the non-resident US citizens.

4. India may propose for a specific commitment on inclusion of teachers and researcher both at the secondary and higher education level under the trade mode – ‘movement of natural persons.’ With increasing demand for teachers in the developed countries India may want to ensure opportunities for our human capital. In this context, we have the potential to replicate the experience of CIEFL, Hyderabad, in other educational fields. The commitments will also apply to (post) graduate students who go abroad and earn teaching/research assistantships and tuition waivers. In this respect, India may seek equal pay for these persons, no deduction of social security tax, and no mandatory deduction for teachers/individual retirement accounts. Even if social security tax is deducted, it should be recoverable when a person returns to his/her home country. Moreover, there need not be penalty for withdrawing money from the teachers retirement account when one returns to his/her home country.

5. Indian authorities must request for assistance from UNESCO and/or other world bodies for improving educational infrastructure in the country. This has been done in other WTO agreements such as Agreement on Sanitary and Phytosanitary measures (SPS) and Agreement on Technical Barriers to Trade (TBT). Moreover, such assistance must be provided in a structured, time-bound fashion. The motivation for such request is that developing countries such as India will find it extremely difficult to cope-up with abrupt issues that will arise if commitments were to be adhered-to immediately after an agreement is reached.

6. To compete effectively with the developed nations, to upgrade our facilities and infrastructural needs, developing countries must have a transition period of at least 6 years, after which complete implementation of the agreement can be undertaken.

Suggestions for Domestic Reform:

1. Authorities must develop a database on information on all categories of education regarding number of educational institutions, their enrolments (domestic and foreign), faculty strength, financial sources, and quality and accreditations.

Further, market intelligence regarding situation in other countries be sought through our diplomatic attaché in the Indian embassies abroad.

2. Existing reputed educational testing services will have to be modernized. To compete with testing service such as say, GRE, GMAT, and TOEFL, our reputed testing services such as CAT, GATE, JEE and others must be upgraded and modernized. A committee be constituted to suggest upgradations and implementation of the suggested upgradation. The upgradation will be in terms of year round availability of the testing service, computer-aided and internet-based testing, and universal acceptability of the tests by various academic institutions including foreign institutions. Moreover, assessment will have to be done whether or not private providers can take on the mantle of running such services for its efficient functioning.

3. Improvement in the educational infrastructure must take priority. The following items need to be addressed if the infrastructure of import-competing institutions has to be of international standard:

- a. University course schedules must be available through internet.
- b. Automated telephone course registration for every term must be available to students.
- c. Payment of fees by credit-card should become a standard option.
- d. Classrooms, libraries, dormitories, sports facilities should be of international standards.
- e. Off-campus housing arrangements must be facilitated through private sector for faculty, staff, and students.

4. Authorities must study the system of regulation and accreditation of educational institutions in foreign countries. Our own accreditation system and laws for foreign institutions must be developed taking into account the treatment given to them in their respective countries.

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