MANAGING HIGHER EDUCATION IN PAKISTAN UNDER GATS ENVIRONMENT

By

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D.I.Khan, (PAKISTAN)
2007
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A Dissertation Submitted to Qurtuba University of Science & Information Technology D.I.Khan, in partial fulfillment of the requirement for the award of Doctor of Philosophy in Management Science.

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Muhammad Nasir Karim
ABSTRACT

Key words: GATS, higher education, managing, trade in services, liberalization, Pakistan.

The General Agreement on Trade in Services (GATS) is a set of multilateral, legally enforceable rules governing international trade in services. These rules are aimed at enhancing international trade in services including through promotion of progressive liberalization, free competition among service providers, and open access to national markets without any prejudice or any pre-conditionality. The agreement regulates the cross-border flow of trade and investment in services and provides important opportunities and threats for developing countries especially in higher education field. However, the potential impact of GATS is still unknown as it is a new agreement yet to be implemented fully. Without examining the purpose, motivations, content, thrust and tone of GATS and specific threats and promises it holds for the economy, society and cultural enfoldments of signatories, they would be grouping into dark. Instead of being positive impacted, negative fallout may be in store for them. Considering the role and importance of higher education for sustainable social, political and economic development in Pakistan it is imperative for the appropriate quarters to investigate pros and cons attached to this new set of globalization process. To better understand this ongoing process the research explores the viability of options for our own institutions to avail the opportunities being offered by foreign market like Middle East, Central Asia, and South Asia etc for performing an efficient role as educational providers across border and vise versa.

The research is based on the belief that insightful evaluation of consequence of opening education at various levels of GATS is essential for the formulation of rational, prudential and internationally acceptable policy and response mechanism on the part of Pakistan. Therefore, the dissertation aims to furnish helpful inputs to the authorities managing higher education in Pakistan so as to enable them to articulate realistic proposals, preempt the impact of negative effects attached with the agreement, execute necessary safeguards and reap benefits if any at appropriate stage. The resultant awareness is likely to smoothen higher education system in Pakistan compatible with the dictates of ongoing
globalization and to withstand the competitive environment shaped by the developed world. Depending on the sagacity of policy and organizational intervention the intended expansion in trade and promotion of development can be realized and perils of disposed trade rise by foreign owned and controlled academic institutions can be avoided. Research endeavours to highlight the stakes and the pearls of intended participation of the third world in the forthcoming round of negotiations of GATS and the future of competitiveness of Pakistan’s higher education system hinges upon the reduction of prospective risks and maximization of our competencies.
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INTRODUCTION

International trade in goods and services has long been a norm, for obvious benefits that accrue from it. There have been many bilateral and multilateral agreements in relation to cross border trade negotiations to liberalize the trade since the end of Second World War. These were the free trade environment from 1963-1993, that helped in growth of international trade to approximately 1000% to reach US$ 3457 billion. However, shift in trade from manufactured goods to services was evident in last decade of the last century. The General Agreement on Trade in Services (GATS) is the first ever set of multilateral rules covering international trade in services. It came into effect in 1995 and is being negotiated under the auspices of World Trade Organization (WTO). The rapid increase in globalization has resulted in significant changes in the knowledge economy and has ushered in new conditions for the provision of educational services. Trade in higher education services has emerged over the last few years as a major economic sector worth several billion dollars for a number of exporting countries such as the United States, United Kingdom and Australia. As per the report; in 2000 universities in USA have almost hosted 80000 scholars, and in 2004, Australian public universities enrolled a total of 210,397 international students, constituting 22.6 percent of the country’s total higher education enrollments. The Global Student Mobility Report, predicts that the demand for international education in Australia will increase from 1.8 million international students in 2000 to 7.2 million in 2025.

In the developing countries like Pakistan, the flow of direct foreign investment in search of lower taxes and cheap labour has expanded the market for skilled labour while at the same time generating a higher demand for adult education and
lifelong learning. Advances in information and communication technologies and the relative reduction in costs have not only opened up new markets for cross-border provision of education but also increased educational access to those who can afford it. As per the one estimate approximately 70 per cent Pakistani students want to go abroad to pursue their higher studies.\(^5\) The normal trend of student mobility for study is from South (80% world population) to North (20% of world Population) is towards Australia, Cyprus, Ireland, Canada, America and the UK. However, students pursuing post-graduate degrees in USA are required to have at least 35 thousand US dollars to bear the expenses of two year. Whereas the approximate cost for a year of an undergraduate programmes at UK or Australia, is 6,000 to 9,000 pound sterling and living expenses are from 5,000 to 6,500\(^6\). This cost of living is eliminated, if the foreign institutions are able to deliver the education to the students of developing countries at their door-steps. Resultantly decreasing cost will cause increasing demand of foreign institutions in local higher education market and switching trend of student enrolment from local universities to the foreign facilities unless the local education standards are not matching ones. Therefore, the ever-growing drive to expand the global market for trade in services including education has been accompanied by an increasing demand of liberalization and removal of all impediments to free trade in this sector. The trade creep into the education sector and the resultant inclusion of education under the umbrella of the General Agreement on Trade in Services (GATS) is thus one significant outcome of this process of globalization.

The General Agreement on Trade in Services (GATS), which came into effect in 1995, is a set of multilateral, legally enforceable rules governing international trade in services. The Agreement is aimed at enhancing international trade through promotion of progressive liberalization of trade in services, free competition among service providers, and unfettered access to national markets. The GATS, which is administered by the World Trade Organization (WTO), covers the twelve service sectors, of which education is one.\(^7\) Under education, there are 5 levels: primary, secondary, higher, adult and others for which there are 4 modes of supply
for delivery. These are: cross-border supply (distance education & virtual universities); consumption abroad; commercial presence and presence of natural persons.\textsuperscript{8}

At present, 149 nations have agreed to participate in GATS; and Pakistan is out of those 49 countries that have agreed to include at least one sector of education under GATS. There is a strong belief that the country outside GATS may not be in a position to enjoy those markets and hence may lose unrestricted access to markets in critical export areas. The pressure on member countries to join GATS is therefore tremendous. Once a country accedes to GATS, it has to abide by the general obligations of GATS and is expected to make specific commitments regarding market access and national treatment in any of the service sectors (including education). For a GATS member, every round of negotiations means increasing liberalization, committing more sectors and removing major restrictions.

1.1 BACKGROUND OF THE STUDY

Pakistan being an active member of WTO is committed to oblige Internationalization of Higher Education and Operation of Foreign Universities in Pakistan. Thus it is necessary to allow free flow of knowledge cutting across its geographical boundaries through use of any or all four type of modes. Hence, the export of higher education to Pakistan by universities of several countries has been through modes of consumption abroad, cross border supply, franchisee, twinning programs and virtual universities. People favoring WTO and GATS believe that the inclusion of education under the GATS will provide new opportunities and benefits, especially in terms of diversifying educational suppliers and enhancing access, introducing innovative ways of program delivery, building capacity through cooperative linkages and partnerships, and enhancing economic growth through increased trade. They point out that the GATS have been made flexible in its application to developing countries, taking note of their limited capacities. The GATS has come at a time when the world is experiencing
an increase in cross-border provision of higher education regardless of GATS or trade agreements. Academic mobility involving professors, researchers, students, institutions and projects moving across borders started long before GATS through development cooperation, exchanges, linkages and partnerships, etc., among countries and through commercial initiatives. The major difference introduced by the GATS is that it draws higher education into relations that are already asymmetrical. But the potential impact of GATS is still unknown as it is a new agreement yet to be implemented fully. However, it is important to be analytical and proactive with regard to its potentials and risks.

However, the inclusion of education under the GATS has caused much concern and debate among members of the higher education community in Pakistan. Salient points of this debate are:

- Student unions, teachers unions, university associations, leaders of higher education institutions, scholars and advocacy groups have raised their voice against the commodification of education by its treatment as a tradable service subject to the rules of GATS.

- The main orientation of educational institutions will shift from welfare to the profit maximization. If this happens then the Pakistani public as well as private sector universities are likely to be marginalized in the race due to existing qualitative and administrative gaps against their foreign counterparts.

- The emerging scenario of shifting of education supply function in foreign hands might result in draining of resources as well as cultural and political influence on our socio-ideological settings. Moreover there is bound to be an inbuilt unfavorable balance in the trade of education services in Pakistan.

- GATS poses potential threats to national autonomy while regulating higher education:
Changing the value of education from social provision to a commercial good thus depriving poor population of developing countries in general and Pakistan in particular from their basic human right of free education.\(^9\)

On the name of quality assurance, social equity and wider access, exporting countries may execute their hidden agenda of protection and promotion of own cultural and religious values and traditions.

The underline limited capacity of public and private educational institutions in Pakistan supplemented by weak national regulatory framework tilts the higher education market in favour of the cross-border provider. Thus generating an ultimate risk of diminishing role of the state both as a provider and controller, as well as the risk of cultural and social degeneration in values and traditions.

While these debates have been going on since the very inception of GATS, the issue of the GATS has not received the critical discourse it deserves either in scholarly or other public forums in Pakistan. Not only is there a deficiency of public attention and dialogue on the subject but there is also very little compiled and publicly accessible data on the status and impact of GATS in Pakistan. What so ever little information is available indicates that Pakistan’s commitments in education under the GATS, and related policy decisions were made apparently without adequate consultation with major stakeholders. All this points to the absolute need for public fora to raise awareness of the critical issues involved, for facilitating dialogue between stakeholders and policy-makers, identifying strategies for a proactive response to GATS as well as the major actors in realizing these strategies, and for setting priorities for research and advocacy. There is also a need for realization that our institution has to draw a competitive edge in the emerging scenario of globalization of higher education, which is characterized with the issues of increased cross border provision, new modes and technologies.
of provision, new types of providers and qualifications, and new trade imperatives
driving education.

Forgoing in view, it is imperative to reaffirm the role and importance of higher
education for sustainable social, political and economic development in Pakistan
in the context of ongoing globalization process. This background of the study
suggests the research process to discuss and determine the key issues and actions
for research, data gathering, policy analysis, consultation and advocacy on the
complexities and policy implications of cross border and commercial education in
the context of new trade policies and regulations.

1.2 STATEMENT OF THE PROBLEM

It is with above considerations in mind that compels one to ascertain potential
“Implications of GATS on Higher Education in Pakistan” so as to manage own
institutions in highly qualitative environments, filled with foreign entities lead by
highly qualified human resource, equipped with TQM techniques and belts. Our
own institutions also needs assistance to avail the opportunities being offered by
foreign market like Middle East, Central Asia, South Asia etc through performing
an efficient role as a educational providers across border. Thus contributing two
folds in Pakistan economy, firstly through preventing out flow of foreign reserve
by controlling own education market and secondly, taping foreign education
market and acting as foreign reserve earner as well. Higher education in Pakistan
has to respond to these challenges in “global environment characterized by
increasing differences in wealth, social well-being, educational opportunity and
resources between rich and poor countries and where it is often asserted that
‘sharing knowledge, international co-operation and new technologies can offer
new opportunities to reduce this gap”.

Since 1994 (establishment of WTO) number of universities or degree awarding institutions in Pakistan have jumped
from “28” to a big number of “110” in public and private sector till 2005. However, this raise doesn’t address the deeper underlying question of the quality
and credibility - rather than just the quantity – of higher education.
View of the experts and analysts on the subject points out a dismal picture about these institutions. They are adamant that over time, these institutions have witnessed marked deterioration and none of our universities find any place in the ranking of the top 50 institutions of higher learning in Asia even.\textsuperscript{13}

1.3 OBJECTIVES OF THE STUDY

Foregoing background in view, the purpose / objectives of this dissertation are manifolds. However, few of the important objectives which the research intend to pursue with more concentrated focus are given in following order of priority:

1. To discuss major issues relating to higher education in Pakistan, likely to emerge from ongoing globalization process and ascertain implications of highly competitive GATS environment.

2. To bring together the ideas and concerns of the leaders of Pakistani higher education and other stakeholders – policy-makers, institutional heads, academicians, NGOs, etc. – for raising awareness and sharing information about the key issues relating to WTO/GATS and Pakistani higher education, within the broader context of the globalization of higher education.

3. Developing strategies to assist Pakistani higher education institutions in the following areas so as to enhance their capabilities and capacities matching to their foreign counter parts in the forthcoming fluid nature of competitive environment:
   
   a. Faculty and staff development,
   
   b. Curriculum and Research oriented programs development,
   
   c. Up gradation of skill levels of trainers and trainees alike,
   
   d. Developing foreign and local links, and in reaching out and making their programs and courses accessible to all socioeconomic segments.
4. To identify the key issues for consideration and explore major areas of policy intervention;

5. To identify major actors and their potential role in generating and/or countering threats and opportunities; and

6. To suggest follow-up action, including the empowerment of key stakeholders to intervene on the basis of informed judgment in national, regional and global policy on these questions.

7. As trade in higher education becomes more and more liberalized, there would be a need for regulatory frameworks to deal with the diversity of providers, to meet national policy objectives and to protect public interest.14 There are provisions specifically aimed at increasing the supply capacity and competitiveness of developing countries (Article 4).15

8. Developing realistic, qualitative and quantitative indicators for quality assurance in higher education so as to meet the challenges and opportunities likely to confront with the wholesome enforcement of GATS.

9. To analyze the higher education environment prevailing in Pakistan leading to its SWOT analysis.

1.4 SIGNIFICANCE OF THE RESEARCH STUDY

Significance of the research study in hand is wide ranging. However for the purpose of brevity few dimensions are under lined;

- There is a serious lack of solid data on the volume and type of cross-border programs and providers. Countries world over which are alive to the problem are putting a lot of effort in gathering reliable data and statistics from their recognized higher education institutions on cross-border programs, student mobility, twin programs and provider mobility etc. In Pakistan the issue seems dormant. Prevailing paucity of information on the
subject creates an undesirable environment of speculation, confusion, and often misinformation. This can undermine confidence in the quality and dependability of cross-border education provision and impedes the analysis needed to underpin solid policy and regulatory frameworks in Pakistan. Therefore, such a study is vitally needed to have an in-depth analysis of the problem based on reliable data to facilitate decision making of public or private stack holders in any challenging situation forthcoming under GATS environment.

- The growth in the volume, scope, and dimensions of cross-border education may provide increased access and promote innovation and responsiveness of higher education, but these developments also bring new challenges and unexpected consequences. The current realities include the fact that unrecognized and rogue cross-border providers are active, that much of the latest cross-border education is driven by commercial interests, and that mechanisms to recognize qualifications and ensure quality of the academic courses and programs are still not in place in many of our universities and foreign institution operating on our soil. These realities present major challenges to our education sector. It is important to acknowledge the huge potential of cross-border education but not at the expense of academic quality, integrity, and survival of our socio-cultural value, and own under equipped institutions. Higher education is not the only sector that needs to look at ways to guide, monitor, and regulate the movement of education programs and providers. It needs to work in close cooperation with other sectors and to play a pivotal role in ensuring that cross-border education reflects and helps to meet individual countries’ educational goals, culture, priorities, and policies.
1.5 RESEARCH SAMPLE

The research intends to interact with high profile participants, including representatives of ministries of trade and education, other senior policy-makers, Vice-Chancellors and other Executives of public and private universities, heads of regional research and higher education organizations, representatives of national and regional higher education regulatory agencies, advocacy networks, as well as consultants and other major stakeholders drawn from Pakistan in general and NWFP in particular.

1.6 SCOPE OF THE RESEARCH

This research study raises a number of crucial issues of pertinence to any discussion of contemporary higher education, high-level human resource development and macroeconomic policy of Pakistan in an era of GATS. However, the main focus of the research would remain to architect a model “management system for Pakistan’s higher education institutions” so as to enable them to operate in befitting manner in forthcoming competitive environment under GATS. For the purpose of case study and collection of data universities operating in NWFP will be taken target and latterly the results would be generalized in Pakistan’s setting as a whole.

1.7 METHOD AND PROCEDURE

The nature of study is descriptive which involves SWOT analysis of the existing situation of Pakistani universities visa vie foreign institutions. Different sets of comprehensive questionnaires, one each for each stack holder i.e. students, educationists, educational administrators from public as well as private sector of Pakistan, and universities from abroad will be prepared for the purpose of collecting data.
1.8 THEORETICAL FRAMEWORK:

1.8.1 Higher Education:

Education beyond the secondary level, especially education at the college or university level is termed as higher education.

“Higher education is education provided by universities and other institutions that award academic degrees, such as and liberal arts colleges.”17 Like National College of Arts Lahore etc.

Higher education includes both the teaching and the research activities of universities, and within the realm of teaching, it includes both the undergraduate level (sometimes referred to as tertiary education) and the graduate (or postgraduate) level (sometimes referred to as quaternary education or graduate school). Higher education differs from other forms of post-secondary education such as vocational education. However, most professional education is included within higher education, and many postgraduate qualifications are strongly vocationally or professionally oriented, for example in disciplines such as law and medicine.

In Pakistan, the term 'higher education' refers to education at degree level and above. In the Pakistani education framework, higher education courses are those leading to the award of, bachelor's degree, graduate certificate or post graduate certificates, graduate or post graduate diplomas, master's degree, M.Phil or MS and doctoral degree etc. Most higher education in Pakistan is offered by universities or degree awarding institutes duly chartered by provincial or federal government and recognized / accredited by Higher Education Commission Pakistan. Higher education is very important to our national economy, both as a significant industry in its own right, and as a source of trained and educated personnel for the rest of the economy.

1.8.2 Tertiary Education:

Education beyond secondary education, adult education, and training services.
1.8.3 Globalization:

For some, globalization means everything. For others, it includes only the negative side of contemporary society. This research concentrates on the specific international context of higher education and the effect of globalization. In this analysis, globalization is defined as the broad economic, technological and scientific trends that directly affect higher education and are largely inevitable. Politics and culture are also part of the new global realities.

Academic systems and institutions may accommodate these developments in different ways, but they cannot ignore them. These phenomena include information technology in its various manifestations, the use of a common language for scientific communication, and the imperatives of both mass demand for higher education (massification) and societal needs for highly educated personnel. Academe is affected by, for example, patterns in the ownership of multinational publishing and internet companies, the expenditure of R & D funds worldwide, and international patterns of cultural diffusion. All of these elements and many more, are parts of a global environment that impacts higher education in different ways.

1.8.4 Internationalization:

Internationalization includes specific policies and programs undertaken by governments, academic systems and institutions, and even individual departments or institutions to cope with or exploit globalization. Internationalization describes the voluntary and perhaps creative ways of coping. With much room for initiative, institutions and governments can choose the ways in which they deal with the new environment. While the forces of globalization cannot be held completely at bay, it is not inevitable that countries or institutions will necessarily be overwhelmed by them or that the terms of the encounter must be dictated from afar. Internationalization accommodates a significant degree of autonomy and initiative\textsuperscript{18}
1.8.5 Multinationalization:

For the purpose of this study multinationalization is defined as academic programs or institutions from one country offered in other countries. Often, the programs are sponsored in collaboration, but this is not always the case. Joint-degree offerings among institutions in two or more countries, often called “twinning,” are an example of a multinational academic enterprise. Setting up offshore institutions constitutes a variation on the trend — this may be carried out through franchising (sometimes referred to as “McDonaldization”) or simply by opening a branch institution. Increasingly, the Internet is used in the delivery of multinational academic programs.

1.8.6 Most Favored Nations:

The Most Favored Nations Treatment implies: there should be no discrimination between the members to the agreement.

1.8.7 National Treatment:

The principle of "National Treatment" suggests that "each member shall accord to services and service suppliers of any other member, in respect of all measures affecting the supply of services, treatment no less favorable than that it accords to its own like services and service suppliers."

1.8.8 Modes of Supply:

GATS defines four ways in which higher education and other services can be traded, described as based on modes of supply:

- **Consumption Abroad:** Consumption abroad of service by consumers traveling to the country of the supplier, e.g. (students studying abroad) currently represents the largest share of the global market for education services.

- **Cross Border Supply:** The provision of a service to consumer country, where the service crosses the border and does not require
the physical movement of the consumer. For example; open and distance education, e-learning, virtual universities etc. It seems to posses’ great potential through the use especially the Internet.\textsuperscript{22}

c. **Commercial Presence**: Commercial presence of a service provider in consumer country in order to render service\textsuperscript{23} through:

- Local branch or satellite campuses
- Twinning partnerships
- Franchising,
- Arrangements with local institutions (e.g. offshore foreign universities)

d. **Presence of Natural Persons**: It emphasizes on the mobility of professionals to another country on a temporary basis to provide service i.e. presence of natural persons from supplying country in consuming country\textsuperscript{24} (e.g. professors, teachers, researcher working outside their home country).

9. A few comments about the use and meaning of terms used in this paper may help to provide some context. When terms from the trade sector migrate to the education sector and vice versa there is fertile ground for confusion and misunderstanding. Therefore it is important to lay out how the principal concepts are interpreted and used by these two sectors. Three common terms used by the education sector to describe the international nature of education are internationalization, cross border education and more recently trade in education. There is a hierarchy to these terms, with ‘internationalization of education’ being the most comprehensive, ‘cross border education’ being one component of internationalization and then ‘trade in education’ being used to characterize some, but not all, cross border activities.
A review of reports and articles by trade experts reveals that often when they talk about internationalization of education they actually are referring to international trade in education services. When educators talk about internationalization they are talking about a broad range of activities some of which would have absolutely nothing to do with trade. More and more, internationalization is being seen to consist of two streams or components (Knight 2004). The first is ‘internationalization at home’ which refers to the international and intercultural dimension of curriculum, the teaching/learning process, research, extra-curricular activities, in fact a host of activities which help students develop international understanding and intercultural skills without leaving the campus. The second component is ‘internationalization abroad’ that is cross border education (often referred to as transnational education) which involves students, teachers, scholars, programs, courses, curriculum, projects moving between countries and culture, in short, across borders.

So cross border education is a term which educators are using to capture a wide range of education activities that are part of international academic linkages and agreements, international development/aid projects and international commercial trade initiatives.

Therefore, ‘trade in education services’ is usually interpreted by educators as a subset of cross border education, and for the most part is described as those activities which have a commercial or for-profit nature or purpose to them. This interpretation is much narrower than one used by economists or the trade sector. From their perspective, even if a cross border education activity is seen to be non-commercial in purpose – for instance the exchange of students or professors for a semester - there is still export value in a country’s balance of payments from accommodation, living, and travel expenses and therefore there are commercial implications.25

For the purposes of this dissertation, the term ‘trade in educational services’ is primarily used in the trade and GATS sense, that is commercial and for profit.
The term ‘cross border education’ is used to depict a broad range of educational activities, which move across borders some of which are commercial, trade in nature and purpose and most of which are not.

1.9 RESEARCH OUTLINE

The research is organized in to six chapters as follows:

- **Chapter 1:** Introduction
- **Chapter 2:** Review of the related literature
- **Chapter 3:** Research methodology and procedure of the study
- **Chapter 4:** Overview of the GATS and Its Analysis leading towards identification of its implications on higher education.
- **Chapter 5:** Analysis of the higher education situation in Pakistan, identifying own strength and weaknesses as well as threat and opportunities offered by the internal and external environment prevailing around it. The Regression analysis finally will conclude into SWOT Analysis.
- **Chapter 6:** Research Conclusions and Recommendations to manage higher education in Pakistan - capable of meeting up with challenges likely to be posed by the GATS dominated environment.

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Endnotes

1 John T. Rourke, International Politics on the World Stage, 5th ed, Connecticut, Dushkin Publishing Group, p.474

2 Philip G. Altbach, “Globalization And The University: Myths And Realities In An Unequal World”, TERTIARY EDUCATION AND MANAGEMENT, (No. 1, 2004), Boston

3 Grant Harman, “Australia as an Higher Education Exporter”, Available at: http://www.chet.edu.pk/updocs/Australia.doc
4 Grant Harman, “Australia as an Higher Education Exporter”, Available at: http://www.chet.edu.pk/updocs/Australia.doc


6 ibid

7 WTO Secretariat. The General Agreement in Trade in Services - objectives, coverage and discipline. (www.wto.org/english/tratop_e/serv_e/gatsqa_e.htm)

8 ibid

9 Article-------, Universal Declaration of Human Right-948, and Convention on child right 1982


12 Pervez Hoodbhoy, REFORMING PAKISTAN’S UNIVERSITIES - II


14 Provision of such frameworks is compatible with the GATS (Article IV). Members have the right to regulate to achieve national policy objectives. Domestic regulation could cover such issues as licensing, standards, qualification requirements and quality assurance. However, the GATS seek to prevent domestic regulation from becoming a barrier to trade. For this reason, we are not sure as to the limits of this regulation. In other words, how far does this limit our right to regulate such a major social sector?

15 According to these provisions, as developing countries, we can open fewer sectors and liberalize fewer types of transactions and extend market access in line with our development situation. It must be admitted, however, that the big players – our more powerful trading partners – sometimes do exert pressure on us to open our markets more than we may be prepared to, but that does not take away from us these flexibilities

16 HEC, Parent Alert,


20 WTO Secretariat. *The General Agreement in Trade in Services - objectives, coverage and discipline.* (ww.wto.org/english/tratop_e/serv_e/gatsqa_e.htm)

21 Article I, subsection 2 of *The General Agreement in Trade in Services.*

22 ibid

23 ibid

24 ibid

CHAPTER - 2

REVIEW OF THE LITERATURE

INTRODUCTION

GATS as a specific topic has appeared in higher education research only during the last few years. However, the number of publications, articles, and studies focusing or referring to GATS has been increasing gradually. It often seems that GATS has become almost a sort of a symbol without which addressing any relevant global or international theme in higher education would be impossible. On the other hand, due to the very short life span of GATS, there are still many unanswered questions and unexplored areas regarding its impact on various parts of higher education. There are basically two main types of sources from which one can gather relevant information about GATS and its relationship with higher education. The first is represented by traditional sources including reports, studies, scientific journal articles, publications, conference presentations, etc. The other in this study contains a general discussion both inside and outside the academic community, political comments, pamphlets, as well as Internet contributions. Yet, it can be methodologically very difficult and some would even claim not desirable to distinguish between a ‘neutral’ analysis and political standpoints in social sciences in general.

In order to get the in-depth understanding of the research issue i.e. ‘Managing Higher Education in Pakistan under GATS Environment’ a detailed review of the literature existing within Pakistan and abroad was carried out. Libraries of public and private organizations, higher education institutions and relevant ministerial setups at federal and provincial levels were searched and inquiries conducted at appropriate levels so as to lay hand on relevant data. Efforts were also directed to locate any related research link containing record of different dissertations/theses or worthwhile document/research work related to the research topic. However, nothing worthwhile related to the research problem or any GATS specific
literature in Pakistan could be traced out by the research. The few odd PhD dissertations found were specific to education, educational leadership etc and having no mention of GATS or across border supply of education.

Considering the national relevance of the issue in international setting the search of the related literature was not restricted to Pakistan’s boundaries rather its scope was extended to South Asian states and beyond the continent to Europe and American peninsula as well. Despite, traversing across number of national and regional boundaries, the research could not find the matching response. However, India, Australia, Europe and America and UNESCO could offer few of the documents including one odd study to facilitate this research, for which I stand indebted to the scholars/ authorities of these countries and organizations. Therefore, the review of the literature presented in succeeding paragraphs is outwardly arranged i.e. Pakistan through South Asia to Europe and beyond in following sequence:

- Literature in Pakistan
- South Asian region
- Europe & Australia
- America
- UN/ WTO

2.1 PAKISTAN BASED LITERATURE

The worth mentioning literature/ studies reviewed for the purpose of this research includes:

- Higher education in Pakistan (A historical – futuristic perspective)\(^1\). A PhD Dissertation from NUML, Islamabad
- Problems and prospects of higher education in Pakistan. A PhD dissertation from ARID University Rawalpindi.\(^2\)
- GATS official text (attach as Annexure-G at the end)
• Pak – Millennium Conference, higher education in Pakistan, challenges for reform

• Private Higher education in Pakistan: The Need for Order

2.2 PhD DISSERTATION:

PhD Dissertation titled ‘Higher education in Pakistan (A historical – futuristic perspective), was conducted by Captain Usman Ali Isani, research scholar of the National University of Modern Languages, Islamabad, Pakistan, in 2001. The study examines the importance of Higher Education in the development of a nation. It looks at the provisions regarding education in the different Constitutions of Pakistan, and compares them with those in the Constitutions of some other countries. The conclusions are that Pakistan would be well advised to re-Look at the constitutional provisions regarding education in the Constitution of Pakistan. A detailed examination and analysis of major Education Policies / Commissions has been carried out. It covers an appraisal of the Five Year Plan outlays for education in general and in particular, Higher Education. Various problems affecting higher education have been analysed, and suggestions offered for improvement. Lack of quality in education has been discussed at length. Financing of universities, both public and private, along with the Self-financing Scheme, has been examined. The potential of Higher education through distance learning has been looked at. The role of the University Grants Commission and a National Council for Accreditation and Quality Control has been discussed. The emergence of the private sector in university education along with its pitfalls, have been dealt with. Finally, the thesis deals with plans for the future development of Higher Education in Pakistan. It presents policy proposals, and a critical ideological vision for the future, which is, none-the-less, realistic and pragmatic, in the tradition and spirit of Pakistan's founders, who were all Islamic ideological Pragmatics Visionary Futurists. The thesis has been published, under the title of ‘Higher Education in Pakistan: A Historical and Futuristic Perspective’. The thesis is a critical and a comprehensive review of our constitutions, and five-year policy plans, of how Pakistan dealt with higher education, and brings out the reasons
behind the failure of Pakistan to improve its ranking in terms of the human development index profile. The study asserts that since independence in 1947, all of the reports and policies were marred with deficiencies and lacking well-defined achievable objectives. The report blames post 1971 nationalization of educational institutions, for an unprecedented and rapid deterioration of education and politicization of educational institutions. From then on, education suffered ever increasing political machinations. A major reason for our neglect of higher education was the adopting of misleading studies that claimed that public investment in higher education brings meager returns compared to primary and secondary school levels and that higher education magnifies income inequalities. Pakistan continued to focus on micro level progress while the gap between the two groups in terms of human capital continued widening. Isani points out that it is critical for Pakistan to realize that higher education is no longer a luxury but a necessity. The study identifies four pivotal issue of higher education as follows:

- The pertinence and relevance of higher education in relation to its role and place in society.

- Ensuring provision of education and research, qualitatively at power and relevant to the world. Management of funding and education should not only be based on economic criteria; rather with the social relevance and objective oriented.

- Interaction with other levels of forms of education and cooperation involving all institutions having mission to work towards sustainable human development and culture of peace.

2.3 PROBLEMS AND PROSPECTS OF HIGHER EDUCATION IN PAKISTAN

The purpose of the study was to investigate the problems and prospects of higher education in Pakistan. The salient point of the study include following:

- Higher education plays the role of leadership in the society. It improves and promotes the economic, social, political and cultural life of the nation.
• All over the world universities are guiding and co-operating with the industrial and agricultural development organizations and they are developing their economies rapidly and meaningfully. Wheras, in Pakistan, even after more than five decades, the developmental indicators are not showing positive results. The participation rate at higher education is about three percent of age group (17-23) against the world average of 16.2 percent of this age group. The advanced countries are achieving more than 40 percent participation rate in higher education.

• There are problems of quality of staff, students, library and laboratory. Relevance with society needs, research facilities, financial crisis, arts students more than science students, weaknesses of examination, ineffective governance and academic results are not at par with international standards.

• The main objectives of the study were: (1) determining the present profile of higher education in Pakistan; (2) examining the past efforts done for the improvement of higher education; (4) highlighting the budget provisions for higher education; and (5) exploring problems of higher education in Pakistan.

• Experts dealing with education in the Ministry of Education, Ministry of Science and Technology, Higher Education Commission, Provincial Departments of Education, university teachers, university administrators, planners, examination experts, university students and community leaders constituted the population of the study. Eight universities were selected randomly for the sample. Twenty university teachers and forty students from each university were included in the sample. Thirty community leaders and fifty experts were also included in the sample.

• Four questionnaires were developed after pilot testing for the collection of data. The data were collected by the researcher personally and made all out efforts to collect data from the experts, leaders, teachers and students. Data were tabulated and analyzed using the Likert's five-point scale and chi-square. After drawing the conclusions, some workable
recommendations were made for the improvement of relevance, quality, finances, effectiveness and access of higher education in Pakistan.

2.3.1 Following conclusions

were drawn from responses. (i) access was very limited in universities. (ii) quality was very low in the fields of academic, administration, research and equipment. (iii) faculty and staff need development in knowledge and skills. (iv) funds were provided inadequate and misappropriation was common. (v) character building of the students was ignored. (vi) there was no linkage between university and industry. (vii) examination system was faulty. (viii) good governance was non-existent. (ix) private sector was expanding without merit.

2.3.2 Following recommendations

were made on the basis of conclusions:

- Enrolment in universities should be increased by providing adequate all types of educational facilities.
- Quality of faculty, staff, students, library, laboratory, research and equipment should be enhanced.
- Development of faculty and staff should be ensured through meaningful continuous in-service training.
- Funds for higher education should be increased reasonably.
- Character building of students should be focused.
- Linkage between university and industry should be established.
- Good governance should be ensured.
- More open universities should be established.
- New disciplines should be started to meet the need of the market.
- Night classes should be started with transport facilities.
- Summer vacations should be banned.
- Political activities should not be allowed.
• Rules and regulations should be enforced forcefully.

2.3.3 *Pak-Millennium Conference 2002, Higher Education In Pakistan*<sup>8</sup>

**Challenges For Reforms:** The report documents the proceedings of the Pak-Millennium Conference 2002, Higher Education in Pakistan: Challenges for Reform, held in Boston, on April 13-14, 2002. The conference had sought to focus explicitly on the implementation of processes needed for higher education reform and aid the policy-makers in Pakistan. Views and points made by different educationists and policy makers can be summed up as follow:

• Government cannot be the major financer of quality higher education in Pakistan because of its resource constraints. Private universities cannot maintain quality by lowering their fees to provide access. Therefore it is imperative to find other sources of funds for higher education.

• The goals of an educational policy should not only be scientific/technological education but also civil/social/general education, for building strong institutions as well as leadership.

• International linkages for Pakistan are extremely important to learn from the experiences elsewhere. These linkages should span research, administration, course development and all activities necessary for a University’s functioning.

• Research performance of Peshawar University reflects lack of faculty quality and intellectual capacity.<sup>9</sup> In the year 2000, only 670 papers were published in all over Pakistan, which is less than the research output of a single medium sized US.

• The need for a social contract between the higher education institutions and society is closely related to the higher education system to society.

• A university fundamentally constitutes faculty and students; all rest is ancillary therefore, maximum emphasis should be put upon these main components. The faculty should be developed through acquiring quality faculty from neighboring countries, such as India may be deliberated upon
or people having good content knowledge and superior pedagogical skills should be imported from the US and Europe as master teachers.

- Lack of resources and expensive equipment for research and teaching is one of the major problems existing in Pakistani universities.

- Creation of centralized facility should be created to serve the need of teaching labs with standardized equipment. Several hundred identical labs should be set up in universities and colleges.

- 2.3.4 Private Higher Educations in Pakistan: The Need for Order.\textsuperscript{10}

This article authored by Mr James Coffman\textsuperscript{11} focuses on the issues that have been affecting the quality of higher education in Pakistan. His findings are:

- Pakistani governments have never given high priority to the educational sector (education is not even compulsory), spending a smaller percentage of its national budget on education than any of its poor South Asian neighbors.

- State assumes increasingly greater control over the financing and administration of higher education through the years.

- The lawlessness, corruption, nepotism, and intense inter group conflict of Pakistani society have become a part of the higher education system as well.

- The number of young people seeking higher education continues to grow sharply each year, as the return on university studies is still quite high.

- With the state incapable of keeping pace with this growth—coupled with a national policy to stimulate the Pakistani private sector—the government has tacitly allowed the private higher education system to expand with minimal oversight. The future of private higher education will depend on the existence of a strong state dedicated to maintaining social, economic, and political order.

- Pakistanis perceive American university studies as superior to all others, and thus as something to be sought in America if they can afford it, or
purchase locally if not. With the growing disaffection with the public system, the upper classes able to afford the $500 to $3,000 annual tuition are flocking to the local American alternatives.

2.4 RESEARCH IN SOUTH ASIA

Effort was also extended to locate / trace any relevant research conducted in the south Asia. Unfortunately despite exploring all avenues of information that include diplomatic channel, country specific internet research and communication to Higher Education institutions almost all of the south Asian countries (except India) were found devoid of any research on the subject. However in India the worth reviewing research was as follow.

- Higher Education in India and GATS: An Opportunity (report for trade ministry)\textsuperscript{12}
- GATS and its implications for developing countries: Key issues and concerns\textsuperscript{13}
- On international trade in educational services: an interpretation of the regulation and China’s WTO commitment.\textsuperscript{14}

2.5 HIGHER EDUCATION IN INDIA AND GATS: AN OPPORTUNITY\textsuperscript{15}:

This is the research report conducted by the Ministry of Trade and Commerce in year 2005. The report highlights that internationalization of higher education is occurring rapidly through the spread of international branch campuses. Most such campuses have been established since the mid-1990s and they are concentrated in the Middle East and Southeast Asia, with growth currently occurring in India, China and Central Asia. U.S. and Australian universities have the largest number of branch campuses, with smaller numbers operated by institutions based in the United Kingdom, Malaysia and Singapore. Most are branches of universities but some are polytechnics or vocational training colleges. Singapore’s Ngee Ann Polytechnic, for example, is establishing a campus in Shenyang (China), primarily for Chinese students, but also for their Singaporean students to gain international
experience. The Malaysian-based University College of Technology & Innovation has embarked on an Indian Ocean strategy, with overseas campuses in Colombo (Sri Lanka), Karachi (Pakistan), Panipat (India) and Perth (Australia). Some Indian institutes have also set up campuses abroad, primarily imparting education in Information Technology.

Even developed countries are continuing with reforms in higher education. Despite the fact that the USA has the finest system of higher education in the world, it has set up a commission to ensure that America remains the world’s leader in higher education and innovation. For this purpose, the USA intends to make an investment of US $134 billion in higher education over the next ten years. Faced with deteriorating standards and low accountability in its public sector higher education, UK government has now allowed the universities to compete for students and charge variable fees, bringing an end to the regulated fee regime in the UK.

In many developing countries in Asia, (Japan, Philippines and South Korea) and Latin American (Chile, Brazil and the Dominican Republic) private higher education has become the main venue for increasing access to higher education. These countries have majority enrolment in private sector. Agarwal (2006) has discussed that two trends i.e. towards transformation from elite to mass and privatization in higher education have been observed worldwide. Countries have responded to these challenges in various ways. The report concludes that Trade in higher education is already taking place through the movement of students, teachers, programmes and even institutions. Global trade in higher education is large; it is estimated at more than US$30 billion per annum. The major exporters of education are the USA, UK, Canada, New Zealand and Australia. China, India, the Philippines, and Indonesia are the major importers.

Governments must retain their sovereign right to determine their own domestic funding and regulatory policies. Nevertheless there is a will to liberalize trade in higher education; therefore a number of obstacles that should be removed are listed, such as:
- **Consumption abroad:** Visa requirements regulating the free flow of international student, Foreign exchange requirements regulating the free flow of international students, Qualification recognition issues which act as a deterrent to gaining qualifications at overseas institutions.

- **Commercial presence:** Limits on ownership: foreign equity, Rules on twinning arrangements which restrict the development of these institution to institution arrangements; Lack of transparent government regulatory, policy and funding frameworks.

- **Presence of natural persons:** Visa regulations restricting the free flow of academics; Restrictions on the use/import of educational materials (academic tools of trade)

- **Cross-border supply:** Erection of new barriers as governments respond to growing use of the Internet for delivering education services; Restrictions on the use/import of educational materials (academic tools of trade)

### 2.5.1 GATS and its implications for developing countries: Key issues and concerns

Rupa Chanda in this paper discusses the General Agreement on Trade in Services or GATS and assesses some of the key issues and concerns that have been voiced about this agreement, particularly with regard to its implications for policymaking in important social service sectors. The paper provides an overview of the GATS in terms of its key features, structural characteristics, and negotiating modalities. It also assesses the nature of liberalization that has been realized under the GATS during the Uruguay Round of multilateral trade negotiations. The background discussion provides the context for discussing the various criticisms leveled at the GATS. The paper then provides a critical assessment of these criticisms and distinguishes between those that are based on misapprehensions and incorrect information or lack of understanding about the GATS, from those which are genuine concerns and where future negotiations can play an important role. The discussion indicates that while the GATS may generate benefits in the form of efficiency and resource gains, it may also hurt the realization of equity and...
developmental objectives and could pose challenges to governmental autonomy in the delivery and provision of various social services. However, an important point highlighted in the paper is that underlying domestic conditions and informed domestic policies and regulations can play an important role in facilitating the gains and mitigating the adverse consequences of the GATS. The paper concludes by highlighting the position the developing countries could take in the ongoing service sector negotiations at the WTO, and with a note on the specific GATS provisions on which they need to focus in these discussions.

2.5.2 On international trade in educational services:

An interpretation of the regulation and china’s WTO commitment\textsuperscript{17}: The study explains that how does the General Agreement on Trade in Services (GATS) of the World Trade Organization (WTO) covers educational trade services. Hence, all the regulations of the GATS have to be followed in the international trade of educational services. Having acceded to the WTO, China is starting to fulfill the rights and obligations as a member by completely respecting international trade, services and intellectual property laws. At the same time, it is also starting to fulfill some of the commitments it made in the GATS, such as expanding activities on trade in educational services. Comprehending the fundamental regulations and China’s commitments is significant towards promoting China’s international trade in educational services. In summary, the regulations in the GATS and China’s commitments in relation to international trade in educational services consist of the two parts of opening and safeguarding the educational services market. Currently, they are the fundamental regulations and main commitments guiding the developments of the international trade in educational services and steadily carrying forward the opening of its market on the basis of defending China’s education sovereignty. Several problems should be further studied in the future that bear relation to international trade in educational services after China’s accession to the WTO as follow:

- First is research on the extent of opening up of the international education market and on the operating patterns of the education industrialization.
• Second is research on the systematic factors of international educational services, i.e., reform in the educational system and construction of a new system consisting of relevant laws, regulations and policies.

• Third is research on the harmonization and interaction between international trade in educational services and trade in goods, intellectual property, and economic and social development.

• Fourth is research on the role and functions of international trade in educational services in the whole trade in services as well as in the economic globalization.

• Fifth is research on human capital in relation to international trade in educational services, especially the issue of properties of human capital and the role of human capital in the educational services trade.

2.6 RESEARCH BEYOND SOUTH ASIA:

Research beyond south Asia in general and Pakistan in particular could trace few studies conducted in Europe, Australia and America was consulted for this research.

• Task force report on higher education in developing countries, peril and promise \(^\text{18}\)

• GATS, Trade and Higher Education: Perspective- Where are we? \(^\text{19}\)


2.6.1 Higher Education in Developing Countries, Perils and Promise: \(^\text{21}\)

The report was prepared by a well articulated task force on higher education in developing countries. The main objective of the Task Force has been to determine strategies for higher education reform, as well as general guidelines and principles for assessing the operation of higher education systems and institutions. The Task Force report concludes that although developing countries contain more than 80 percent of the world’s population, they account for just half of its higher education
students, and for a far smaller proportion of those with access to high-quality higher education. Overcoming these gaps is a daunting challenge that will require a concerted effort between developing and developed countries. However, it hopes this interest in general education will continue to spread across the developing world, and that many more countries will develop increasingly broad, flexible, and innovative curricula. The report synthesizes the answers to three important questions across its chapters as follows:

- What is the role of higher education in supporting and enhancing the process of economic and social development?
- What are the major obstacles that higher education faces in developing countries?
- How can these obstacles best be overcome?
- How Higher Education supports development? Statistical analysis, case study, and common observation all point to the fundamental importance of higher education to development. Higher education promotes Income growth, Enlightened leaders, and Expanding choices.

- The Major Obstacles: The experience of higher education in developing countries has been disappointing to date. Its contribution to social and economic development has not mirrored its accomplishments in developed countries. The signs of this failure are most apparent when judged by international standards as demanded by the emerging world economy. Poor educational quality, a dearth of significant contributions to knowledge, and a failure to advance the public interest are all too common. Strategies for addressing these problems need to proceed from an understanding of their underlying roots. We believe higher education in many developing countries is significantly weighed down by four sets of conditions.
- The absence of Vision: The social and economic importance of higher education systems, and of individual institutions within those systems, is insufficiently appreciated. Unlike primary and secondary education, there
is little in the way of a shared vision about the nature and magnitude of the potential contribution of higher education to development. But this understanding is crucial to a sector that requires long-term investment in return for social benefits that are difficult to measure. Without it, higher education institutions are treated, essentially by default, in the same way as other large bureaucracies, leaving them without the power to make choices that improve their individual and collective performance.

- Lack of political and financial commitment. Policymakers face a host of pressing problems under conditions of severe resource constraints and highly competitive political settings. It’s no surprise in such a policy environment that higher education often misses out. There is a common view that it is not deserving of political support because it is the preserve of the elite, who are eminently capable of taking care of themselves. While investment in higher education will surely benefit many already wealthy students, its social benefits outweigh this, raising a nation’s average income and reducing its poverty. Meanwhile, demand is increasing at a great rate, creating complex challenges associated with managing the expansion of any system. Without significant national support and guidance for managing and planning expansion, quality inevitably suffers.

- Conditions of initial disadvantage. Higher education in developing countries is severely disadvantaged by its poor baseline. Knowledge begets knowledge. Fruitful scientific inquiry is often aided by having a suitable intellectual culture. And a critical mass of scholars and teachers is often required before higher education can thrive. Escaping this low-level trap necessarily requires substantial and wide-ranging improvements, rather than the all-too-frequent patchy and incremental steps.

- The disruptions of globalization. The best and brightest faculty and students will continue to be attracted to the wealthier countries, and competition for quality graduates will remain fierce. The money markets will ensure that economic fluctuations travel rapidly around the world, potentially jeopardizing institutional budgets when currencies collapse. Institutions are at great risk of falling behind if they do not keep up with
the rest of the world in the information revolution and take advantage of the opportunities it offers. It is a two-sided coin, however, and information technology in the form of the Internet can ensure that universities are not pushed further outside the information network. These ills will not cure themselves. They must be confronted now, and aggressively. Otherwise, developing countries will miss out on the powerful boost higher education can give to development, and will face increasingly daunting barriers to system improvement.

- What To Do? This report offers numerous suggestions for unleashing the potential of higher education’s contribution to society. In doing so, our aim has been to stimulate and provoke, and to demonstrate that a menu of creative options exists. Higher education is, by its nature, optimistic and forward-looking. It is in this spirit that we offer our conclusions. In addition, a strategy for educational reform must be closely tailored to conditions in different countries—it makes little sense to endorse specific suggestions for application in any generic context. Policymakers must also be careful to do more than emulate developed-country models. Many richer countries have outdated systems that are also in need of reform. Developing countries have the opportunity to leapfrog outmoded models, planning for tomorrow’s world, not yesterday’s.

- improving educational infrastructure, especially computer and Internet access, scientific laboratories, and equipment, but also more traditional infrastructure such as libraries, classrooms, dormitories, and recreation and cultural facilities;

- the design, testing, and implementation of new curricula and academic programs, including the expansion or introduction of general education;

- the recruitment, retention, motivation, and long-term development of well-trained faculty;

- increasing access for economically and socially disadvantaged populations; and conducting more and better science education and research, both basic and applied.
Investment in the quality of secondary education is also needed to strengthen higher education, by improving the preparation of its new entrants. Also, if higher education institutions are more respected and accessible, secondary students will feel it is worthwhile to strive to attend them. Although the Task Force urges international donors to increase their support for higher education, the majority of additional resources will necessarily have to come from within developing countries.

Effective efforts to improve higher education in developing countries will reflect an overlapping division of labor among tertiary institutions, public policymakers, and international donors. As we have argued, institutions must take the lead in strengthening their internal governance; and improving the quality of existing academic programs such as those involving science and technology, and developing new programs, especially for the provision of general education and for helping bright and motivated students from disadvantaged backgrounds to overcome their academic deficits.

2.7 GATS, TRADE AND HIGHER EDUCATION: PERSPECTIVE- WHERE ARE WE?22

The study “GATS, Trade and Higher Education: Perspective- Where are we?” Published by the Observatory in May 2003 (May 2003), by Dr Jane Knight, Ontario Institute for the Study of Education, University of Toronto, Canada is an update on developments one year on and a thorough discussion of the emerging issues and an update of Dr Knight’s first report on GATS, published by the Observatory in March 2002. Following the initial deadlines, which countries have made requests for other nations to remove barriers to trade in education services, and which countries have offered their own education markets to foreign competition? Dr Knight notes that the majority of nations have yet to make any formal statement in the process, on any service sector, and points to education as one of the least committed sectors. Many of the issues raised in the first report still hold today. There remains considerable uncertainty about the coverage and implications of GATS in the education sector, and a wide range of opinion about
possible benefits and risks. Dr Knight raises important questions concerning quality assurance, professional mobility and recognition of qualifications, and considers the issues from the perspectives of both the developed and developing world. Included in the paper is a list of prominent organizations and groups that have taken an active interest in GATS. The purpose of this paper is threefold. Firstly, to update on the current GATS negotiations, secondly, elaborate on the implications of trade for the higher education sector, and lastly, begin to situate trade of higher education services in the broader context of cross-border education.


Independent case studies on following regions were carried out by UNESCO to ascertain the current situation of new providers in higher education.24

- **Africa Region**: This case study concentrates on the situation in Kenya.

- **Arab States Region**: This case study provides information from a number of different countries in the region.

- **Asia and the Pacific Region**: These four case studies cover China, India, Kazakhstan and Malaysia.

- **Latin America and the Caribbean Region**: The Latin American case studies concentrate on Argentina, Brazil and Mexico.

Every case study based on the common questionnaire was developed, which focused on the following five topics:

- Overview of new providers in the region;
- Regulatory frameworks governing new providers;
- Perspectives and policy implications arising from the emergence of new providers;
- Issues surrounding the liberalization of trade in higher education services;
• The feasibility of an international framework.

2.8.1 **Overview of New Providers in the Region**

**Africa Region:** IT academies, twinning arrangements with other universities, corporate universities, for-profit providers (making up most non-university providers offering education at the certificates, diplomas and higher diploma levels), distance education providers (including hosting the African Virtual University through two institutions) are found prevalent in Kenya. At present, there are no foreign university campuses in Kenya due to the current law governing higher education. This law is likely to be changed in the near future, and a number of new institutions are expected to register under the new law. This case study also highlights that Kenya exports higher education services through several Kenyan universities which operate outside the east Africa, in particular to southern Africa.

**Arab States:** A variety of institutions are known to exist in this region. Jordan, Sudan, Tunisia and Yemen, countries where a registration process for new providers exists, new providers account for 55 per cent of all ‘new’ and ‘very new’ universities.

**Asia and the Pacific:** All countries reported the existence of new providers of higher education in a variety of forms. In China number of Chinese-Foreign cooperative education institutions, modern long distance education experiments of higher education institutions (e-education colleges), and a number of training courses held by joint ventures or transnational corporations (such as IBM, Microsoft, Cisco, etc.). The Kazakhstan case study stated that private universities, which first appeared in the country in 1995, at present account for 70 per cent of all universities. The Malaysian example reported a number of new public providers and the proliferation of new private providers in a variety of categories (foreign university with branch campuses, corporate universities/state universities, universities/university colleges, an open university, a virtual university/e-university, non-university institutions and IT academies). The Indian case study stated that there are self-financing colleges, and some corporate institutions
(considered non-university sector). However, in India, while there are no foreign universities or private national universities, since the establishment of a university requires legal sanction either from the parliament or from the state legislature, there are collaborative arrangements between Indian institutions and foreign universities. Furthermore, the growth in mixed mode distance education, through both open universities and traditional distance education centers, was highlighted in the Indian example. The Indian example stressed that India is an exporter of higher education, through the Indira Gandhi National Open University (IGNOU) as well as state open universities and the distance education units of traditional universities that offer courses outside India.

**Latin America:** New modes of educational supply through existing providers rather than through new providers were found to be more prevalent in this study. This case study provided examples of institutions using the following modes of delivery in Argentina and Mexico: distance education, locally supported distance education, branch campuses, corporative programmes, franchising and articulated programmes. In addition, examples of institutions in Argentina and Mexico funded privately, publicly or in mixed modes are provided in this report. Articulated programmes were found to be the most frequently used mode of delivery. Articulated programmes are described as foreign institutions which are linked to domestic institutions through diverse associations. In this category of programmes, relations between state institutions and combined institutions were the most common, in particular in the Mexican case. The origin of new foreign providers and foreign institutions with which programs are articulated varies in the two cases analyzed, with more European institutions in Argentina, and more institutions from the United States in Mexico.

**2.8.2 Availability of information on new providers**

**Africa:** The Commission for Higher Education is in the process of producing a Directory of Post-Secondary Training Institutions. The majority of these training institutions are new providers of higher education. To date information has been obtained on nearly 500 institutions.
Arab States: There is no permanent observatory on the evolution of higher education institutions and programmes in the region. This case study stresses that the variety of institutions and authorities with responsibility for these institutions prevents any established body from having a clear comprehensive picture of the post-secondary situation in many Arab States.

Asia and the Pacific: with the state departments of education in each of the 35 states and the statewide information can be obtained on request. In addition, information on new providers and new forms of provisions is available on the websites of the existing public universities with which they are linked. Information about foreign institutions is not available from a single source and one has to approach the respective embassies and/or their national agencies for details.

Latin America and the Caribbean: This case study states that it was not easy to gather information on new providers, and in particular foreign providers, in the region. Therefore, the authors note, the information provided in this case study is based on the data registered with no intention of generalizing. Furthermore, this case study states that it is important to note that many representatives and offices of foreign institutions may be registered in the host country as companies and not as higher education institutions; or that they are presented as being in the process of application for authorization under the national private university regime at the time of the study.

2.8.3 Regulatory Frameworks Governing New Providers

Africa: The regulatory framework for providers in Kenya falls into six broad categories each of them has its own realm of responsibility: the Commission for Higher Education, the Ministry of Education, Science and Technology, Line Ministries, the Registrar of Companies, Professional Bodies; as well as Public and Accredited Universities. The Commission for Higher Education is the regulating body for all providers at the university level. All private providers at the university level apply to the Commission for a Letter of Interim Authority, which among other things, allows them to advertise programmes and to admit students.
The responsibilities of the Ministry of Education, Science and Technology include inspecting new institutions that intend to award qualifications other than degrees, postgraduate diplomas and certificates, before they are registered. With regard to Line Ministries, a number of government ministries have established their own institutions and are also expected to supervise any private institutions in their line. Certain providers have found it easier to register their companies with the Registrar of Companies. Registering with the Registrar of Companies gives institutions legal status, but does not make any provision for supervision, accreditation or quality control. Professional bodies are involved in approving curriculum offered or taken by prospective members of their profession.

**Arab States:** Most Arab States have adopted rules and regulations, generally through legislative actions, for licensing new providers of higher education. The diplomas issued by new providers are eventually considered for recognition by the state. A table showing the list of selected recent normative instruments adopted by most states in the region to regulate the provision of higher education is available in the case study. As public higher education institutions are established through legislative means, new legislative actions are meant to provide regulatory frameworks for the licensing of ‘for-profit’ and ‘non-profit’ private institutions. However higher education authorities seem to be absent from regulating providers of higher learning that are outside the mainstream of the education systems (e.g. corporate institutions and providers using non-traditional delivery modes such as virtual universities). The degree of state restriction on the establishment of new independent higher education institutions varies throughout the different countries in the region. In addition this report states that there are also new providers of higher education that fail to abide by the State regulations or that operate without the knowledge of the national authorities.

**Asia and the Pacific:** All countries reported the existence of regulatory frameworks at the state-level. The Chinese case study reports three regulatory frameworks addressing new providers. The Malaysian case study states that all educational institutions must be licensed according to an educational act in place.
In addition, this case study states that all private providers are subject to the regulations of a further educational act governing private higher education institutions. The Indian example stressed the differences in regulatory frameworks for national and foreign new providers. In particular, though private providers legally without either state or federal government(s) approval can establish no new institution, this national regulatory framework is not applicable to international new providers of higher education. With regard to overseas providers of higher education, there is no regulation to abide by either prior to establishing their ventures or thereafter. There are, nonetheless, some procedural obligations on the part of Indian partners in participating in collaborative agreements with international institutions, though the government is generally supportive of these agreements. At present, in India, there is no obligation on the part of the foreign institutions to register before operating their educational services. Under a new regulatory framework being formulated for transnational providers, a condition for mandatory registration is stipulated.

**Latin America:** In the cases of three countries studied there is little regulation for foreign providers, and where any mechanism exist, they were difficult to apply. For example, in Argentina, there is a regulation issued in 1998 governing distance education offer; However, this regulation is not applied in cases where the foreign university is not settled in the country and the offer is made via Internet, virtual classroom, teleconference, electronic mail, cassette, videos, etc. In such cases, Argentinean law cannot reach the institution and, therefore, cannot forbid, regulate or condition its operation.

The options that the state has in this framework include the provision of official information regarding the accredited programs and the legal validity of the degrees awarded by the different universities within the country. For example, in Brazil two official websites, including the web site of the Ministry of Education, provide information on authorized institutions. Despite these efforts, the Ministry of Education of Brazil considers that some 4,000 students are currently enrolled in irregular courses.
2.8.4 Quality Assurance and Accreditation

Africa: The Commission for Higher Education is the sole accrediting body for higher education in Kenya. This Commission only deals with degree programmes offered by universities. Currently it is concentrating on accrediting private universities. An accredited institution has the authority to award its degrees, diplomas and certificates. Students from such institutions have access to loans from the Higher Education Loans Board. The Commission for Higher Education regularly publishes the names of accredited institutions, institutions with Letters of Interim Authority and those that are registered. A Letter of the Interim Authority is a sort of provisional accreditation to allow an institution to assemble resources and improve the quality of its offerings.

Non-university institutions do not receive formal accreditation. However public institutions and a large number of private institutions teach curriculum that is developed by a professional public organ. When the bill is passed into law, it is expected that all higher education institutions, including middle level, transnational, ‘for profit’, private and electronic institutions will be accredited by the Commission. However it is expected that electronic and other distance education programmes will be subjected to different rules from that of residential programmes.

Arab States: Quality assurance and accreditation of higher education institutions and programmes are quite new in most of the Member States of the region, and still absent in many of them. Jordan took a lead in this area by establishing a national body for quality assurance and accreditation in 1996. The activities of this national board have focused more on licensing and recognition of programmes rather than on in-depth assessment leading to accreditation. Other Arab States, such as Egypt, Lebanon, Oman, the Palestinian Authority, Saudi Arabia and the United Arab Emirates, have adopted or are in the process of adopting rules and procedures for quality assurance and accreditation. The Council of Ministers responsible for higher education requested that the Association of Arab Universities establish a Regional Committee for Quality
Assurance and Accreditation. This body, in which UNESCO is an active participant, has set standards for licensing new universities as well as a guide for self-assessment and accreditation of universities. This case study also states that some higher education institutions in the region have requested and sometimes obtained accreditation for their programmes from foreign internationally recognized bodies outside the region.

**Asia and the Pacific:** All four countries reported measures for assuring the quality of new higher education provisions. The Chinese case study stated that the Ministry of Education has drafted “Provisions for Chinese-Foreign Cooperation in Running Schools” and taken measures to ensure quality in response to certain problems, which have arisen with new providers. The Ministry of Education has also taken measures to ensure the teaching quality of experimental e-education colleges.

In Malaysia, the government established a national quality assurance and accreditation agency for private higher education, as it perceived that the liberalization of the education system would bring with it the rapid development of the private higher education industry. All registered private providers including the transnational providers are subjected to the quality assurance system set by this body. This body formulates policies on standards and criteria for quality assurance and accreditation for courses of study at certificate, diploma and degree levels. It makes recommendations for course approval, minimum standards, confers accreditation status and sets procedures for evaluation. With regard to professional courses, evaluations for accreditation are carried out by and together with professional bodies. The outcome of the evaluation process is used to determine the accreditation status of the programme by the concerned professional board. The public is informed of accredited courses via various media, but the report is only made available to the providers and other relevant authorities. There are, nonetheless, difficulties in subjecting the transnational providers who operate outside Malaysia and offer courses to students electronically.
There are two bodies responsible for accreditation in the Indian higher education sector, the National Assessment and Accreditation Council (NAAC) and National Board of Accreditation (NBA). NAAC accredits higher education institutions and their units. NBA accredits the engineering and related areas exclusively at the programme level. Both are supported by the federal government, but function fairly independently. NAAC, a member of INQAAHE, is a fully autonomous body catering to more than 90 per cent of the educational offerings in the country.

In India, the outcome of assessment and accreditation process are used for the benefit of the stakeholders - government, parents, students, employers and the institutions themselves. Incentives for institutions linked to the accreditation status include access to a grant funding for public institutions (making accreditation mandatory for public institutions), greater autonomy, the privilege to be an international provider of education, freedom to charge higher tuition and other fees and further diversification of programmes of studies. According to this case study, both monetary and non-monitory incentives indicated above have strengthened the quality assurance movement in the country. Many in-country private providers, which do not depend on funding from the government, have undergone the assessment for accreditation voluntarily because of the above non-monitory advantages, and to attract students to their institutions. Assessment for accreditation is undertaken only with the established institutions that have been in place at least for five years or sent out at least two batches of students.

In addition to the accreditation of established educational institutions, NAAC undertakes other evaluations at the request of bodies such as the Ministry of Education. Recently, NAAC was asked to prepare for the responsibility of accrediting the transnational educational offerings in all forms - private or public, formal or non-formal, traditional or electronic. Both accrediting agencies are already assessing national new providers of higher education. It is the intention of the government and its statutory bodies that the same quality assurance agency that is assessing the national education system also assess programmes offered by transnational providers using the same yardsticks.
The case study from Kazakhstan stresses concerns regarding the quality of the education provided by the quickly emerging private higher education institutions and their branches. Two normative instruments for regulation of quality exist in Kazakhstan. Kazakhstan has an ‘attestation’ and an accreditation process in place. Accreditation provides state recognition of universities, which have the right to give graduates documents on education with ‘state sample’. The state has also created the ‘Association of Accredited Universities’, which plays a significant role in the integration of higher education.

**Latin America:** In the 1990s some countries in the region made great efforts to develop assessment and accreditation systems for their national higher education systems. National assessment and/or accreditation systems have been established in the three countries studied (Argentina, Brazil and Mexico). However, none of the systems developed included accreditation of foreign institutions. The case study provides in-depth descriptions of the regulatory frameworks in place.

### 2.8.5 Perspectives On New Providers

**Africa:** In Kenya, new providers are seen as both providing certain benefits to the country, while posing challenges to regulatory bodies. On the one hand, new providers are perceived as: filling a need to provide training opportunities; being flexible in their curriculum development which responds to the needs of industry; and being economical in their use of resources. On the other hand dangers posed by new providers include operating without appropriate government supervision, and providing low quality educational services while aiming to make the maximum of profit from the provision of the service.

**Arab States:** The Arab States case study outlines the perceived benefits and dangers of new providers. The beneficial effects of new providers outlined included: enhancing the range of learning opportunities, supporting the innovation of higher education through cooperation agreements with foreign institutions, providing beneficial competition for other higher education institutions, and fostering the widespread use of new technologies in education at low cost. The dangers cited in this report included: undermining the equality of access to higher
education; lack of sufficient control of institutions by competent authorities (including institutions that do not fall into state quality assurance frameworks such as institutions using distance education modes of delivery); lack of protection of students (e.g. problems with the recognition of diplomas); competition between new and traditional providers may be characterized by differences in investments, with new providers making smaller investments; and finally that institutions which do not respect certain criteria may damage the image of other institutions which are trustworthy.

Asia and the Pacific: The majority of the case studies stated that new providers of higher education are perceived as enhancing opportunities for access to higher education. The Malaysian example stressed that new providers are perceived as customer focused, market driven, flexible, affordable and offering a range of different levels of courses. The Indian example highlighted that the demand-based growth of new providers is uneven in the academic sectors: it is more prevalent in professional education. The Indian example also stated that in spite of initial apprehensions new providers are now accepted well both by the public and the labour market. The new providers are not looked upon as a threat to national developmental issues, cultural identity or the advancement of knowledge. They seem to fill the gap for relevance in the traditional system of education.

2.8.6 Policy Implications Emerging From The Growth Of New Providers

Africa: The four main policy implications for new providers in Kenya outlined in this report are: the legal framework; quality control; relevance; and equity. With regard to the legal framework, the act protecting TNE providers may conflict with the act, which recognizes universities as corporate bodies with perpetual succession. Quality concerns center around conflicts between standards for accreditation in the home country of the provider and the country of provision. Relevance concerns focus on the fact that some new providers expect their parent institutions to offer curriculum identical to that offered by their home institutions, even if this is not relevant to Kenya’s needs. The equity issue centers on the fact that the cost of education by new providers is quite high. For this reason, while all
students, and in particular those from more modest backgrounds do not benefit from the education services provided by new providers, new providers benefit from all public national infrastructures (e.g. roads and piping for water), to assist them in delivering their service.

**Asia and the Pacific:** The Chinese case study highlights the interest of the government in encouraging cooperation between domestic and foreign institutions as this is seen as contributing to the quality of education. However, this case study stresses the importance of maintaining Chinese leadership in these collaborative relationships.

The Indian case study stated that efforts are underway to establish a set of basic codes and criteria for the operation of foreign education institutions in the country. Salient features of this policy framework for regulating the operation of international educational institutions in the country and promoting foreign direct investment in the education sector have been identified in a draft policy paper prepared by the Ministry of Human Resources Development. In India, the ministry has identified the Committee for Promotion of Indian Education Abroad (CoPIE) as the nodal agency to establish specific guidelines for registration of foreign education service providers. However, there are larger issues which may have to be resolved through policy decisions at the national level such as who will control higher education in the long-term— the nation or international tribunals such as WTO? Other generic questions address issues such as: what will happen to traditional academic values; how will nations or individual universities maintain their academic freedom in the new competitive environment; and will national universities become part of the international jurisdiction?

Another trend in this context is the conscious effort to promote Indian education abroad as a policy. The consideration in favour of this policy is that India, which has a huge higher education system with many institutions of international standing, can benefit both economically and politically by exporting education, in particular to developing countries as well as to those with a substantial population of Indian-origin. Consequently, universities are now permitted to open institutions
and campuses abroad. These examples are indicative of the national trend in becoming both a provider and a recipient of transnational education. This trend has great deal of bearing on the policy and the formulations of regulatory clauses dealing with international providers.

2.8.7 Liberalization of Trade in Higher Education

Africa: The concept of trade in higher education is beginning to appear in Kenya in a variety of forms and at different levels. At the regional level, the Inter-universities Council of East Africa is encouraging students to obtain their education outside their countries. Several Kenyan universities are marketing their services outside East Africa, in particular in southern Africa. Kenya is also importing educational services from countries such as Australia, Britain, Canada, India, and the U.S.A. Higher education, adult education and other forms of tertiary education and training is regarded as tradeable services and a number of agreements between countries have been signed to regulate this trade. These include agreements on the recognition of academic qualifications and regulations for students going abroad to study. These agreements, spearheaded by the Ministries of Education and Foreign Affairs, were signed with Britain, China, and India. In recognition of the importance of this trade, the Universities Act is being amended to make it easier for foreign providers and other new providers to operate in Kenya.

Discussions have been held between relevant government ministries articulating Kenya’s needs in the context of GATS and WTO agreements. Kenya has already made requests through its mission in Geneva to be allowed to export educational services to a number of countries including Botswana, Eritrea, Ethiopia, Indonesia, Mozambique, Rwanda, Sudan and the U.K. These requests would include allowing Kenyans to establish educational services in partnership with nationals of these countries and allowing Kenyan teachers to teach in these countries.

Arab States: The case study states that there is a great deal of variation in the region regarding Member States’ stand vis-à-vis the liberalization of trade in
higher education services. This case study also states that authorities responsible for higher education are absent from GATS negotiations. Furthermore, authorities have not officially stated a position regarding the GATS negotiations.

**Asia and the Pacific:** The Chinese case study highlighted China’s recent entry into the WTO in November 2001 and outlined China’s commitments in education trade services.

The Malaysian case study states that Malaysia has received requests from several WTO Member States for access in all modes recently to be negotiated at a round of debate at WTO. The requests include all educational activities and other related services. In educational matters, the Ministry of Education has been consulted and workshops and discussions involving the responsible departments have taken place. Furthermore, in-depth discussions have been carried out between the Ministry of Education and the Ministry of International Trade and Industries on trade in education services. Private institution associations have also been consulted and invited to participate in workshops and meetings.

In India, there were nation-wide discussions on the implications of considering the higher education as a tradeable service as proposed by WTO in its GATS formulations. Discussions have been held at the inter-ministerial level (involving Ministries of Education, Commerce, Trade and Industry and Finance), at other governmental levels as well as at the non-governmental level in this regard. The outcomes of such deliberations are generally positive towards liberalizing the trade in educational and other services. There is a growing awareness of the inevitability of committing towards progressive liberalization. With regard to WTO negotiations, a pragmatic approach is emerging in favour of making commitments in one of the sub-sectors of higher education with suitable saving clauses.

The case study from Kazakhstan stated that there have been discussions regarding the introduction of market principles into the field of education. This case study voiced the concerns of possible negative consequences of treating education as a tradeable service.
Latin America: The Latin American study states that with or without the GATS, the reality is that there is commerce of education that will probably grow in the coming years. Also, it is important to consider that perhaps, for the first time in the modern times, the Latin American academic community - as well as the international academic community - will not hold the monopoly over decisions in the area of education as the economic value of knowledge is currently prevailing in the commercial globalization model. As of August 2002, only two Latin American countries had signed educational commitments with the GATS at the tertiary level: Mexico and Panama. The academic community has recently expressed critical opinions in regional meetings (two in Porto Alegre, Brazil and one in Lima, Peru) regarding the GATS. In one of the Porto Alegre meetings and within the framework of the III Ibero-American Summit of Presidents of Public Universities, participants signed a document addressing the nefarious consequences of GATS and requesting the governments of their respective countries not to become engaged in any commitment concerning higher education. However, there has been no reaction on the part of the academic community within the countries, with the exception of Brazil. This may be due to the lack of knowledge as negotiations are conducted through the ministries of commerce or foreign affairs or owing to lack of the adequate information, as it is not easy to assess the impact that such agreement may have on different countries.

2.8.8 Proposition of an International Framework

Africa: The Kenyan report states that while new providers of higher education have done a commendable job in responding to the needs of the country, coordination efforts made by regulatory bodies need to be strengthened through an international framework. According to this case study the following should be provided for in such an international framework:

- General guidance on curriculum standards for new providers;
- Ethical principles for new providers;
• General guidance on quality control and quality assurance mechanisms for new providers;

• International obligations of states with regard to new providers; and

• International responsibilities of states with regard to foreign students.

The Kenyan report also states that these guidelines should be harmonized with the provisions of the Convention on the Recognition of Studies, Degrees, Diplomas, Certificates and Other Awards in the African Region (Arusha Convention), as well as any bilateral agreements.

Arab States: This report states that all of the Arab States which responded to the UNESCO Regional Office consultation concerning new providers on higher education requested that UNESCO may take the lead in developing regional and international frameworks to assist the states in the region in dealing with the new developments in higher education. The most frequent requests for assistance from Member States in this region, according to this report, concern:

• The continuous updating and dissemination of information on systems of higher education, and characteristics of diplomas awarded;

• Working towards the harmonization of the recognition of qualifications of higher education at the regional and international levels;

• Setting standards for the accreditation of higher education institutions and programmes at the international and regional levels;

• Building national capacities to undertake quality assurance and accreditation both at the institutional and programme levels; and

• Establishing a roster of qualified Arab-speaking specialists in quality assurance and accreditation.

Asia and the Pacific: The Chinese and Malaysian case studies stated that there was a need for an international framework for quality assurance and accreditation. The Chinese case study expressed concerns that the development of such a framework would be difficult to develop in the short term. The Indian case study stated that another regulatory framework for quality assurance at the international
level would be redundant, but highlighted that the introduction of a universal code of good practices by UNESCO coupled with national regulatory frameworks would be useful.

The Malaysian example stated that a strong national education and quality assurance system is not enough to manage the impact of electronic-based education. According to the Malaysian case study, an international framework should seek to identify global quality assurance practices for transnational providers and seek consensus on those best practices from all member countries. This framework should address the following matters: policies on establishment of providers; governance structures; outcomes-based standards; practices of self evaluation; quality assurance mechanisms; human resources; culturally relevant content; delivery modes; assessment procedures; accreditation procedures; and other relevant matters. Quality assurance of on-line education should be specifically addressed and subjected to an accreditation process. The applicability and enforceability of international framework should also be examined. This case study stressed that an international framework based on consensus or general international agreement would generally influence the national quality assurance system only to the extent that it is incorporated into the national system in accordance with national policy and differing contexts.

This case study stresses that the national quality assurance systems in most developing countries are just emerging and are not yet firmly established. Standardizing the quality, standards and benchmarks at the national level itself is a formidable task. It would be even more difficult to determine the international benchmarks. Furthermore, the implications of such a framework and the tension it might have with the national system are not clear – it would be important that this may not become yet another intrusive step in the progress of global educational services.

Furthermore, the Indian case study stresses that the UNESCO initiative to elaborate a code of ethical practices for transnational providers could be construed as an international framework since it is drawn from many sources and through
extensive consultations. According to this case study, this universal code of ethical practices coupled with the simple and non-restrictive national regulatory framework as outlined above, along with WTO functioning as an appellate authority, should respond to the interests of all the stakeholders in the international trade in education services.

The Indian case study also highlights the links between recognition of qualifications and quality assurance by stressing that developing an international qualifications framework should get the priority to promote international trade in educational services. Recognition of the qualification through mutual recognition of the credible national quality assurance agencies (possibly with a quality label) would be one way of facilitating the international trade in education. According to this study, efforts in this regard are already underway by many international agencies and institutions. Nevertheless, the elaboration of an international regulatory framework and promoting a super (international) quality assurance agency for the purpose of recognizing qualifications at the global level may not be workable. At best they may be useful, when the international trade picks up the tempo, to regulate the operation of the new providers of higher education internationally, but not to ensure the recognition of the qualifications without further intervention of the national quality assurance or recognition centres.

**Latin America:** This case study states that it is essential that international frameworks for regulation be built mainly with transparency in transnational education. As described in the cases studied in this paper, transnational processes exceed the states’ ability to act. The truth is that, with or without GATS, trade flows are operating, and it is necessary that new phenomena be faced immediately protecting the positive aspects achieved by the national systems of the non-advanced countries. International entities have the responsibility of demanding that education be considered part of the public domain – not just in theory but also through concrete and efficient support.
2.9 THEORETICAL FRAME WORK

The theoretical frame work developed after the detailed review of the literature available is appended below to be used as foundation for the inhand research.

2.9.1 Terminologies & Definitions

**Service:** Services" includes any service in any sector except services supplied in the exercise of governmental authority". A service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers.26

**Relevant International Organizations:** The term "relevant international organizations" refers to international bodies whose membership is open to the relevant bodies of at least all Members of the WTO.27

"Measure" means any measure by a Member, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form.28 Measures by Members affecting trade in services include measures in respect of:29

- The purchase, payment or use of a service;
- The access to and use of, in connection with the supply of a service, services which are required by those Members to be offered to the public generally;
- The presence, including commercial presence, of persons of a Member for the supply of a service in the territory of another Member;

**Supply of a Service** includes the production, distribution, marketing, sale and delivery of a service.30

**Commercial Presence** means any type of business or professional establishment, including through:31

- The constitution, acquisition or maintenance of a juridical person, or
- The creation or maintenance of a branch or a representative office, within the territory of a Member for the purpose of supplying a service;
Sector of a service means, with reference to a specific commitment, one or more, or all, subsectors of that service, as specified in a Member's Schedule.\textsuperscript{32}

Cross-border supply is defined to cover services flows from the territory of one Member into the territory of another Member (e.g. banking or architectural services transmitted via telecommunications or mail).\textsuperscript{33}

Consumption abroad refers to situations where a service consumer (e.g. tourist or patient) moves into another Member's territory to obtain a service.\textsuperscript{34}

Commercial presence implies that a service supplier of one Member establishes a territorial presence, including through ownership or lease of premises, in another Member's territory to provide a service (e.g. domestic subsidiaries of foreign insurance companies or hotel chains).\textsuperscript{35}

Presence of natural persons consists of persons of one Member entering the territory of another Member to supply a service (e.g. accountants, doctors or teachers). The Annex on Movement of Natural Persons specifies, however, that Members remain free to operate measures regarding citizenship, residence or access to the employment market on a permanent basis.\textsuperscript{36}

MFN Treatment: Under the GATS, Members are held to extend immediately and unconditionally to services or services suppliers of all other Members “treatment no less favourable than that accorded to like services and services suppliers of any other country”.\textsuperscript{37} This amounts to a prohibition, in principle, of preferential arrangements among groups of Members in individual sectors or of reciprocity provisions which confine access benefits to trading partners granting similar treatment. Derogations are possible in the form of so-called Article II-Exemptions. Members were allowed to seek such exemptions before the Agreement entered into force. New exemptions can only be granted to new Members at the time of accession or, in the case of current Members, by way of a waiver.\textsuperscript{38} All exemptions are subject to review; they should in principle not last longer than 10 years. Further, the GATS allows groups of Members to enter into economic
integration agreements or to mutually recognize regulatory standards, certificates and the like if certain conditions are met.

**Transparency:** GATS Members are required, *inter alia*, to publish all measures of general application and establish national enquiry points mandated to respond to other Member's information requests.39

**Market Access:** Market access is a negotiated commitment in specified sectors which may be made subject to various types of limitations.40 For example, limitations may be imposed on the number of services suppliers, service operations or employees in the sector; the value of transactions; the legal form of the service supplier; or the participation of foreign capital.

**National Treatment:** A commitment to national treatment implies that the Member concerned does not operate discriminatory measures benefiting domestic services or service suppliers. The key requirement is not to modify, in law or in fact, the conditions of competition in favour of the Member's own service industry. Again, the extension of national treatment in any particular sector may be made subject to conditions and qualifications.41

**Schedules of Commitment:** Each WTO Member is required to have a Schedule of Specific Commitments which identifies the services for which the Member guarantees market access and national treatment and any limitations that may be attached. The Schedule may also be used to assume additional commitments regarding, for example, the implementation of specified standards or regulatory principles. Commitments are undertaken with respect to each of the four different modes of service supply. Most schedules consist of both sectoral and horizontal sections. The “Horizontal Section” contains entries that apply across all sectors subsequently listed in the schedule. Horizontal limitations often refer to a particular mode of supply, notably commercial presence and the presence of natural persons. The “Sector-Specific Sections” contain entries that apply only to the particular service.
**Internationalization:** The process of integrating an international dimension into the teaching, research and service functions of higher education.\(^{43}\)

**Borderless Education:** Education initiatives which cross the traditional borders of higher education, whether geographical or conceptual.\(^{44}\)

**Cross border Education:** A generic term to describe the delivery of education where the teacher, learner, program, institution or course materials cross a national jurisdictional border.

**Trade Liberalization:** The promotion of increased trade through the removal of barriers which impede freer trade. Trade agreements such as GATS, NAFTA, EU and APEC are legal entities with formal rules and obligations designed to systematically liberate trade from current barriers or impediments.

**Can specific commitments be withdrawn or modified?** Pursuant to GATS, specific commitments may be modified subject to certain procedures. Countries which may be affected by such modifications can request the modifying Member to negotiate compensatory adjustments; these are to be granted on an MFN basis.\(^{45}\)

**Are there any specific exemptions in the GATS to cater for important national policy interests?** The GATS permits Members in specified circumstances to introduce or maintain measures in contravention of their obligations under the Agreement, including the MFN requirement or specific commitments. The relevant Article provides cover, *inter alia*, for measures necessary to:

- Protect public morals or maintain public order;
- Protect human, animal or plant life or health; or
- Secure compliance with laws or regulations not inconsistent with the Agreement including, among others, measures necessary to prevent deceptive or fraudulent practices.
Which countries participate? : All WTO Members, some 140 countries at present, are at the same time Members of the GATS and, to varying degrees, have assumed commitments in individual service sectors.

What services are covered? : The GATS applies in principle to all service sectors, with two exceptions.

- Services supplied in the exercise of governmental authority. These are services that are supplied neither on a commercial basis nor in competition with other suppliers. Cases in point are social security schemes and any other public service, such as health or education that is provided at non-market conditions.

- Further, it exempts from coverage measures affecting air traffic rights and services directly related to the exercise of such rights.

Endnotes
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19 Dr Jane Knight, “GATS, Trade and Higher Education: Perspective- Where are we?” The Observatory, Ontario Institute for the Study of Education, University of Toronto, Canada, May 2003.


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24 Ibid

25 The questionnaire is reproduced in Annexure 3.1. attached at the end of this chapter

26 Article 1, b, c, “Part -I”, General Agreement on Trade in Services”

27 Article 2, (6), “Part -III”, ibid

28 Article -28 (a), part VI, ibid

29 Article -28©, ibid

30 Article- 28(b), ibid

31 Article- 28(d), ibid

32 Article- 28(e), ibid

33 Article 1(2) a, Part –I, “Scope and Definition”, General Agreement on Trade in services”

34 Article 1(2) b, ibid

35 Article 1(2) c, ibid

36 Article 1(2), d ibid

37 Article 2 “Part –II, General Obligations And Disciplines”, General Agreement on Trade in services”

38 Article IX:3 of the WTO Agreement

39 Article 3, ibid

40 Article 16 (2). , part-III, ibid

41 Article 17, ibid

42 Article XX, part-iv, ibid


45 Article XXI, part-iv, ibid

46 Article I(3) of the GATS

47 Annex on Air Transport Services, GATS
CHAPTER – 3

RESEARCH METHODOLOGY

This chapter has been developed through two distinct tiers. Initially, the first portion touches upon the significance of research, research objectives, and its motivational aspects serving as a background of the study are highlighted. Lately, the chapter unfolds the research methodology and its related nitty-gritty details i.e. research design, nature of the research, scope, area and the extent of the universe / population, different variables pertaining to research problem, selected sample of the study and rationales for its selection, sample frame. It also identifies the sources of data, nature of data, mentions types and techniques of the data collections followed by the details of instruments used for collection of data and its measurement. At the end, the chapter is concluded with the statement of limitations and delimitations.

There is no denying the fact that the issue in hand carries serious implications upon Pakistan’s socio-cultural environment and is critical to the growth of our economy and development of our higher education institutions. Seriousness of the research problem and its importance when solved has already been discussed with detailed rationales in chapter 1. The study is designed to enhance the existing knowledge base and deepen the prevalent understanding about the GATS and ascertain its impacts with the aim of raising the awareness amongst the masses, academia, intelligentsia, and policy makers in public and private sector of higher education in Pakistan. To achieve this end the research intends to achieve following objectives:

1) To analyze the higher education environment prevailing in Pakistan leading to its SWOT analysis.

2) To discuss major issues relating to higher education in Pakistan, likely to emerge from ongoing globalization process and ascertain implications of highly competitive GATS environment.
3) To bring together the ideas and concerns of the leaders of Pakistani higher education and other stakeholders – policy-makers, institutional heads, academicians, NGOs, etc. – for raising awareness and sharing information about the key issues relating to WTO/GATS and Pakistani higher education, within the broader context of the globalization of higher education.

4) Developing strategies and empowering and equipping the stakeholders to read, appreciate, predict, counter and exploit the threats & opportunities being offered by the fluidity of global changes.

5) Suggest to facilitate Pakistani higher education institutions to enhance their capabilities and capacities so as to achieve competitive edge over their foreign counter parts in following areas of concerns:
   a. Development of Infrastructure in resource constraints environment
   b. Faculty and staff development to present day market requirement,
   c. Curriculum development and up-gradation of market oriented programs without compromising our socio-cultural values and dictates.
   d. Inculcate the research culture, revive and strengthen the merely non-existing research base in our universities without compromising the quality standards compatible at international level.
   e. To tape the socio-economic benefits attached to the GATS, attract the foreign students and lure the faculty resource by establishing links and channels, cultivating our academic programs and courses accessible to them and matching to their requirement.
   f. Developing realistic, qualitative and quantitative indicators for quality assurance in higher education so as to meet the challenges and opportunities likely to confront with the wholesome enforcement of GATS.
3.1 NATURE OF THE STUDY

The research in hand is exploratory as well as descriptive in nature, which aims in contributing and discovering general nature of the problem in functions of management of higher education institutions under GATS environment and variables related to such environment. The study is a product of both primary and secondary sources of data, acquired through survey of the contemporary institutions of higher learning, serving questionnaires, and taking interviews of the academia, educational managers and public/private policy makers at strategic level positions. Besides, the help of walking/talking interviews, the feedback/opinion from the teachers and students is also obtained so as to look the issue from other perspective. Research methodology followed in the study is a compound one, comprising historical, descriptive, analytical, empirical, comparative as well as statistical approaches. It encompasses both types of sources of data i.e. secondary as well as primary.

3.1.1 Primary:

Although the research problem is of national standings, but for the purpose of the research survey, its scope was narrowed down to the province level i.e. NWFP. The data for the research was collected from the universities/degree awarding institutions (part of sample frame) employing all possible means and instruments. To link the data obtained from NWFP universities with the national settings/aspirations, the survey was extended beyond the provincial boundaries through formal/informal discussions with intelligentsia, public officials related to the WTO/GATS specific assignment, Higher Education Commission especially authorities relevant to research scholarships (inland and abroad), admissions for foreign students, quality assurance cell, faculty hiring including foreign one, and accreditation aspects. The outcome of survey in total was used to:

- To measure the strengths, and weaknesses of our existing system of higher education.
• To ascertain the level of our preparedness, and competitiveness vis-à-vis our foreign competitors waiting to play their assertive role with the imposition of GATS.

• To record the views of academia, intelligentsia, and management of public and private sector higher education as to, how they perceive this new invasion on the name of providing education across borders, its impact on socio-cultural and politico-economic sectors of Pakistan’s society.

• To reach the options available to Pakistan to withstand the envisaged competition in befitting manner, accruing maximum benefits out of the external environment without losing ground/space at home to the foreign competitors.

• Suggest regulatory framework to the government, organizational/structural changes in the institutional framework, reengineering in our processes, fixing new parameters in our quality circles/standards.

3.1.2 Secondary:

The most part of the research is based on the secondary data. The secondary sources include; the overview of the GATS, Pakistan’s schedule of commitments, detailed information about the system of governance and academic environment of Pakistani’s institutions of higher educations and their foreign counterparts, compatibilities & value of courses/degrees in the employment markets, our present outflow and in take of students and followed pattern/trend of flow, physical and academic infrastructure, teaching of foreign based curriculum and its consequences/cost our society has to pay for, and so on. The most of the secondary sources of the data collected included;

1) University Charters

2) Policy and programmes of Higher Education Commission executed since its inception after University Grant Commission.

3) Pakistan’s Schedule of Commitments made under GATS

4) Research publications on the subject
5) Articles published on the subject
6) Doctoral Dissertations
7) Journals
8) Official reports
9) Policy documents (GATS Agreement)
10) News papers

3.2 RESEARCH INSTRUMENTS:

Almost all of the techniques of data collection were employed in the research. Besides, personnel study of the secondary sources and own observations, number of questionnaires were served to various respondents identified for the purpose. Numbers of structured and semi-structured interviews were conducted with individuals of related field in academia, government officials, and intelligentsia of public, and private sectors that influence the decision-making process at different levels and to varying degrees. Even some of the questionnaires and interviews were conducted electronically and telephonically. These target individuals included were selected on the basis of their relevancy and relativity to the issue and subject to their availability and access to the researcher.

3.3 RESEARCH POPULATION:

Population refers to the entire group of people, elements under study, events or things of interest that the researcher wishes to investigate. Therefore, the population of this research included all stack holders of higher education in Pakistan. Elements of the universe figured out for this research were mainly:

a. The senior management of higher education institutions of public and private sectors located in NWFP.

b. Concerned individuals from Ministry of trade and commerce, WTO wing Islamabad.

d. Professional consultancies involved in education services. (Representing the interest of foreign universities in Peshawar with reference to Pakistan).

e. Higher Education Commission especially authorities relevant to research scholarships (inland and abroad), admissions for foreign students, quality assurance cell, faculty hiring including foreign one, and accreditation aspects.

f. Randomly selected students from the universities of N.W.F.P enrolled in MS/PhD studies.

g. Eminent scholars.

3.4 SAMPLE SURVEY

Since the time and resource constraints did not allow conducting the census for the research, therefore, the need for choosing the right sample for the research investigation cannot be overemphasized. The sample can be defined as a subset of the whole population\(^2\). Owing to the heterogeneous nature of the population, the sample for each strata and category was taken in such a way that ensured objectivity of the information, and maintained impartiality of the sources, thereby providing reliability and validity to the research. The survey was based upon field visits to the Public and Private sector universities of NWFP falling in sample frame, serving of questionnaires to their management; interviews were conducted of relevant / strategic positions. Their charter, regulatory framework, governance structure, their various decision making bodies and their proceedings were studied, conclusions drawn and referred in the relevant chapter ahead. The study also focused on the contemporary policies/ practices of HEC Islamabad, and extracted lot of useful information which has become an important part of the debate and analysis of the research. Data was also acquired through use of
different instruments from the selected representatives from the department of education at federal/ provincial levels, Ministry of trade and commerce, private educational consultancies like ICAS, ZAHAQ, and ZAWIA etc. Few of the selected eminent scholars having relevant experience/ interests were interviewed and their views recorded.

The base line for the selection of sample for different strata of the population was outlined as follow:

- Universities in NWFP: 40% with the equal representation of 50 % each for public and private sectors universities/ degree awarding institutions.
- Secretary Higher education Govt of NWFP
- Chairman Higher Education Regulatory Authority (NWFP)
- Higher Education of Pakistan
- Senior officials of Ministry of Commerce dealing with WTO/ GATS.
- Heads of the Education related Consultancies operating in NWFP, which included ICAS, ZAHAQ, and ZAWIA, HR Consultants, EURO and LGE.
- British Council Representative dealing with foreign education

3.5  SAMPLING METHOD:

The process of selecting a particular element from the sample was mainly determined through employing combination of techniques including, simple, random, stratifications and even multi storied sample. The selection of eminent scholar was done through snow balling. However, while using any respondent, it was ensured that element of neutrality of research and its objectivity is not compromised so that a study of the sample and an understanding of its properties or characteristics would make it possible for us to generalize such properties or characteristics to the population elements. By keeping objectivity in mind the research process ensured that appropriate sampling method is chosen, and validity and authentication of the data is not compromised.
### 3.5.1 Sampling frame

Sampling frame consists of 6 major groups, which are explained, earlier in research population.

a. 40% universities (located and chartered by NWFP, and duly recognized by HEC\(^3\)) with the equal ratio of 50% each public and private institution of higher learning of the selected sample.

b. Five senior position officers of HEC representing different section like, Quality Section (faculty development, curriculum development, and research), Accreditation Section, and Foreign Students admission section, Research Scholarship Section, Statistical section.

c. Five senior officer / representative of Ministry of Commerce dealing with WTO/ GATS as Pakistan representative.

d. Selected six eminent scholars having their interest in WTO related ventures/ projects.

e. Four representatives of British Council dealing with the students going abroad for foreign education.

f. Head of ten Peshawar based (with better position) foreign education consultancies.

g. Ten interactive meetings with the groups of MS/ PhD students were also held to record their concerns/ feedbacks.

### 3.6 DATA COLLECTION

As mentioned earlier, the empirical part of this study mainly comprised of primary and secondary sources of data. These different sources were used to form a comprehensive view on the issues. The validity of respondents was ensured, in order to avoid biasness of data, while the distribution of questionnaires by researcher himself. Although it was a time consuming process, but it added a significant authenticity to the data collected.
Interviews in semi structured and unstructured form were also conducted by different set of respondents to have further insight of the issues.

While collecting this information various indicators, like awareness of GATS agreements, student’s intake quality, impact of global change on higher education, significance of higher education in economic uplift of country were used.

The data was systematically collected from 2001 to 2005 onward in specific and before 2001 in general. Internet was the main tool for the retrieval of relevant information’s by using electronic search engines and intensive search of relevant websites. This primary “Online” search method was complemented by selected research articles, WTO website, World Bank and UNESCO reports on higher education along with many other publications from journals official reports and policy documents.

The main criteria’s for selecting materials for further investigation was because of their explicitly in representing the view of an individual or group on the relation between GATS and higher education. Documents and reports focusing on “commercialization”, “commodification” and further “liberalization” were also taken in to account as to some extent they represent the same issue which has been researched.

Documents describing or explaining the way GATS work were not included for analysis as the major focus of this study was to understand the implication of GATS in relation to higher education of Pakistan.

It is significant to note that personal visits were made to different department like HEC, Ministry of trade and commerce of Pakistan, education ministry as well different universities by the researcher himself to access secondary source of data.

3.6.1 Interviewing:

Interviews and informal discussions were held with target respondents to capture their perceptions which helped our study to great deal. The respondent included policy makers / senior management of various ministries, HEC, and eminent
scholars. Interviews include personal interview as well as electronic/ telephonic ones. Similarly the questions asked were structured as well as unstructured ones.

3.6.2 Questionnaires:

Four different questionnaires were developed as follow:

**Questionnaire-A (Annexure A):** consisted of 25 main questions which were further divided in sub-questions designed to capture information about the partial effects and peripheral effects of GATS in Pakistan’s higher education environment. It covered socio-economic and cultural and managerial effects of GATS and Pakistan’s inabilities and constraints in fulfilling the obligations it consented through the schedule of commitments. These questioners were served to acquire the information/ judge the view point of our government officials/ policy makers from the ministry of commerce, higher education, ministry of education and eminent scholars, and selected intelligentsia. Main questions were directed to know:

- Status/obligations of Pakistan with regards to GATS Occupation
- Schedule of Commitments made by Pakistan for Education Sector
- Identification of the countries, with which Pakistan has the MFN status with reference to commercialization/ trade in higher education?
- Identify the mode (s), for which Pakistan has committed to GATS, with reference to higher education.
- When GATS is most likely to be effective for Pakistan’s higher education
- Limitations GATS imposes on Pakistan, and Advantages/opportunities GATS does offer to Pakistan.
- Diversified perception about the threats (if any) likely to faced by the Pakistan’s higher education institutions from their foreign-based counterparts, if the GATS is fully implemented.
- Market wise strengths and weaknesses of Pakistan higher education in comparison to its foreign based competitors.
• Ascertain the relative competitiveness of Pakistan’s public and private sector competitiveness.

• What effects/impacts are likely to be on Pakistan’s foreign trade in education / foreign education account due to GATS.

• Government responsiveness in preparing Pakistan’s higher education institutions to competitively operate under GATS environment.

• Know strategies the government intends to follow to meet the challenges of GATS.

• To judge the level of coordination between HEC (former UGC) and Ministry of Commerce and other related Ministries on issues related to GATS and sharing of information, and concerns.

• To know and consult any research Pakistan has conducted on the issue.

• To evaluate incentives GOP offers to enhance/increase foreign students’ arrivals or incentives offered or barriers rose to encourage/ hinder foreign universities to launch their operation in Pakistan through opening up their campuses.

• Financial benefits/ tax and other relief/concessions being offered/ or required in order to enhance the local Pakistani universities foreign students in take.

**Questionnaires-B, C and D** consisted of 25, 15 and 25 main questions respectively. Each set of questionnaire was focused on different group of respondents as stated against each below:

• Questionnaire B (Annexure B). Senior management of higher education institutions.

• Questionnaire C (Annexure C).Selected officials at strategic Management level in HEC.

• Questionnaire D (Annexure D). Aimed to obtain the response from the eminent scholars from Academia, faculty and selected students of Management Sciences and was designed to test the hypothesis that
commercialization of Higher Education under GATS has negative consequences

3.7 ANALYTICAL FRAMEWORK

Data analysis

Data collected through questionnaires, interview, observation and other secondary sources was tabulated and analyzed by applying regression method to measure and interpret the relationship between dependent and independent variables.

At the end of questionnaires and interview every respondent was asked to suggest the ways and means for the development of higher education system to counteract GATS implications. Majority of the document were analyzed how GATS is perceived by various stakeholder. The analysis embraces a very broad range of views and standpoints including attitude towards liberalization of education in general.

Two broad dimensions labeled opponents, i.e., those who were against the idea of inclusion of education services into GATS agreement and proponents, who were of the opinion that with the changing global view, education need to be commercialized was explicitly in focus of the researcher.

Information with regard to outward flow of students for admissions and inward intake from abroad in Pakistan’s universities, allocation of funds for the development of higher education sector in Pakistan were analyzed mainly through the tabular method, percentage, average and central of tendency, by using statistical package for social sciences (SPSS) and trend analysis techniques. Secondary information with regard to existing infrastructure, standard of faculty in qualitative and quantitative terms, quality of research organizations/infrastructure available and the prevailing research culture visa vies foreign competitors were analyzed by comparison. The trend analysis was conducted to measure the future growth in enrolment and institutions. The outcome of all analyses led to reach at wholesome and in-depth SWOT Analysis.
3.8 SWOT ANALYSIS:

SWOT Analysis of the Pakistan’s higher education environment likely to prevail in GATS dominant environment was conducted with multidimensional in-put through number of statistical analyses, organizational matrixes, so on and so forth. The final SWOT analysis led the study to determine the existing strengths and weaknesses of the Pakistan’s higher education sector and identify threats and opportunities which could be avoided or exploited respectively by the management at respective level.

Limitations:

The study suffers from some limitations, as is usually the case in managerial and organizational research of this type. Most of the difficulties cropped up in analyzing the human behavior, their guesses / personnel views upon effects of foreign based education and curriculum. The analysis of the human behavior, and socio-economic effects was affected by factors discussed below:

- The proportion of reliability of information given by the respondents.
- It is also very important to understand that most of the effects of GATS are not easily quantifiable, and also that many of these effects surface in the long run.
- Most of the findings of the study are based on the information obtained from the primary data and field survey. The study is interested not in the exact measurement but rather in the direction of change and its approximate magnitude. Time and resource constraint prevented a more through probe.

3.9 PILOT TESTING

To check the contents validity, pre-testing was conducted in Public and Private Sector Universities. 30 questionnaires were distributed among different sets of respondents to give their suggestions freely for the improvement of the questionnaires. The questionnaires were redesigned / reconstructed on the basis of
input from respondents and were randomly circulated among the randomly selected sample to have free and unbiased responses.

Endnotes

1 Uma sekaran, Research methods for business, 4rth edi , John Wiley and Sons, Inc 2003 P.5).

2 ibid

3 See Annexure-D (attach) having list of chartered and recognized universities.

4 See Annexure-A,B attached.
CHAPTER – 4

THE GATS AND HIGHER EDUCATION AN
OVERVIEW

(SECTION-I)

GENERAL

The General Agreement on Trade in Services (GATS) is a relatively new agreement. It entered into force in January 1995 as a result of the Uruguay Round\(^1\) negotiations to provide for the extension of the multilateral trading system to services and WTO Members are committed to entering into further rounds of services negotiations.\(^2\) All Members of the World Trade Organization are signatories to the GATS and have to assume the resulting obligations.\(^3\) So, regardless of the state policies, trade officials of Pakistan and others need to be familiar with this Agreement and its implications for trade and development. As stated in its Preamble, the GATS is intended to contribute to trade expansion "under conditions of transparency and progressive liberalization and as a means of promoting the economic growth of all trading partners and the development of developing countries". Trade expansion is thus not seen as an end in itself, as some critical voices allege, but as an instrument to promote growth and development. The link with development is further reinforced by explicit references in the Preamble to the objective of increasing participation of developing countries in services trade and to the special economic situation and the development, trade and financial needs of the least-developed countries. The GATS was inspired by essentially the same objectives as its counterpart in merchandise trade, the General Agreement on Tariffs and Trade (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.\(^4\)
The need for a trade agreement in services has long been questioned. Large segments of the services economy, from hotels and restaurants to personal services, have traditionally been considered as domestic activities that do not lend themselves to the application of trade policy concepts and instruments. Other sectors, from rail transport to telecommunications, have been viewed as classical domains of government ownership and control, given their infrastructural importance and the perceived existence, in some cases, of natural monopoly situations. A third important group of sectors, including health, education and basic insurance services, are considered in many countries as governmental responsibilities, given their importance for social integration and regional cohesion, which should be tightly regulated and not be left to the rough and tumble of markets.

This reflects a basic change in attitudes. The traditional framework of public service increasingly proved inappropriate for operating some of the most dynamic and innovative segments of the economy, and governments apparently lacked the entrepreneurial spirit and financial resources to exploit fully existing growth potential. Services have recently become the most dynamic segment of international trade. Since 1980, world services trade has grown faster, albeit from a relatively modest basis, than merchandise flows. Defying wide-spread misconceptions, developing countries have strongly participated in that growth. Whereas in 1980 their share of world services exports amounted to 20%, in 2004 it was 24% on a Balance of Payment (BOP) basis. Excluding public services, services account for more than 60 per cent of GDP in industrial countries and 50 per cent in developing countries (Corner House, 2001). Services are also the fastest growing component of international trade, jumping from US$0.4 trillion in 1985 to US$1.4 trillion in 1999—equal to almost one quarter of global trade in goods and about three-fifths of foreign direct investment flows (Mashayekhi, 2002). In 1997 industrial countries accounted for about two thirds of trade in services (exports and imports). From a development perspective the General Agreement on Trade in Services (GATS) is one of the most important agreements...
in the World Trade Organization (WTO). The agreement regulates the cross-border flow of trade and investment in services and provides important opportunities for developing countries. But it is not without problems. The human development impact of the agreement will depend on its implications for WTO members’ ability to formulate development policies (policy space) and on whether the potential of several of its articles is realized.

While services currently account for over 60 percent of global production and employment, they represent no more than 20 per cent of total trade. However the trend in services mobility across national boundaries is on increase day by day and many services, which have long been considered genuine domestic activities, have increasingly become internationally mobile. This trend is likely to continue, owing to the introduction of new transmission technologies (e.g. electronic banking, tele-health or tele-education services), and regulatory reforms in hitherto tightly regulated sectors. GATS consists of three parts:

- The framework, containing the general principles and rules.
- National schedules, which list a country’s specific commitments on access to their domestic market by foreign providers.
- Annexes, in which specific limitations for each sector can be attached to the schedule of commitments.

Trade in education is organized in five categories of service, based on the United Nations Provisional Central Product Classification (CPC):

- Primary education, covering preschool and other primary education services, but excluding child care services;
- Secondary education, including general higher secondary, technical and vocational secondary and technical and vocational services for disabled;
- Higher Education, covering post secondary technical and vocational education services as well as other higher education services leading to university degree or equivalent;
• Adult Education covers education for adults outside the regular education system;

• Other Education; which covers all other education services not elsewhere classified; nonetheless education services related to recreation matters are not included.

4.1 BASIC PRINCIPLES

The entire structure of the GATS is based on the following principles the details of which is made in succeeding paragraphs.

• All services are covered by GATS

• Most-favoured-nation treatment applies to all services, except the one-off temporary exemptions

• National treatment applies in the areas where commitments are made

• Transparency in regulations, inquiry points Regulations have to be objective and reasonable

• International payments: normally unrestricted

• Individual countries’ commitments: negotiated and bound

• Progressive liberalization: through further negotiations

4.1.1 The GATS covers 12 core service sectors in its preview.

These sectors are further subdivided into a total of some 160 sub-sectors. Under this classification system, any service sector may be included in a Member's schedule of commitments with specific market access and national treatment obligations. The main service sectors include:

• Communication services

• Construction and related engineering services

• Distribution services

• Educational services
• Environmental services
• Financial services (including insurance and banking)
• Health-related and social services
• Tourism and travel-related services
• Recreational, cultural and sporting services
• Transport services
• Other services not included elsewhere

4.1.1.1 Most-favoured-nation treatment is a fundamental principle of the multilateral trading system as it was conceived after World War II and reconfigured in the Uruguay Round. Any departure should thus be limited to exceptional circumstances and, where possible, be phased-out over time. The Annex on Article II Exemptions stipulates that MFN exemptions should not exceed ten years in principle, and provides for a review of all existing measures that had been granted for periods of more than five years. The latter review is destined to examine whether the conditions that led to the creation of the exemptions still prevail. More importantly, the Annex also requires that MFN exemptions be subject to negotiation in any subsequent trade round (Annex on Article II Exemptions). The first review was concluded in May 2001, and a second one was conducted in 2004. Members decided to launch a third review not later than June 2010.

National treatment entails that Foreign Service providers must be treated at least as well as domestic providers. The wording of this article suggests it should be interpreted to have wide effect, as it states that even if a government intervention is not intended to affect “the conditions of competition in favour of services or service suppliers of the member” it can be deemed to be discriminatory. Disputes over alleged breaches of the GATS are not dealt with by domestic courts, but at a government to government level at the WTO in a process dominated by trade lawyers and
officials, who aim to see trade rules complied with, even if the case involves education issues.

4.1.1.2 Countries choose the sectors and modes of services trade they wish to include in their schedules as well as the limitations to market access\(^6\) and national treatment\(^7\) they wish to maintain. There is no compulsion to take commitments in one or the other sector so that members are free to leave entire sectors out of their GATS commitments. Moreover governments may limit commitments to one or more of the four recognized modes of supply. Commitments may also be withdrawn or renegotiated. The agreement contains a number of general obligations for all services, the most important of which is the Most Favoured Nation (MFN) rule. Apart from these obligations each member state defines its own obligations through the commitments undertaken in its schedule. Market access and national treatment obligations for instance apply only to the sectors in which a country chooses to make commitments.\(^8\) GATS applies in principle to all service sectors, with the fragile exception of those characterized as being supplied in the exercise of governmental authority, which could not be supplied on a commercial basis and neither in competition with one or more service suppliers.\(^9\)

4.1.1.3 Sufficient information about potentially relevant rules and regulations is critical to the effective implementation of an Agreement. The GATS demands that Members publish promptly all measures pertaining to or affecting the operation of the GATS.\(^10\) Moreover, there is an obligation to notify the Council for Trade in Services at least annually of all legal or regulatory changes that significantly affect trade in sectors where specific commitments have been made. Members are also required to establish enquiry points that provide specific information to other Members upon request. However, there is no requirement to disclose confidential information.\(^11\) Given strong government involvement in many service markets – for various reasons, including social policy objectives or the
existence of natural monopolies – the Agreement seeks to ensure that relevant measures do not undermine general obligations, such as MFN treatment or specific commitments in individual sectors. Thus, each Member is required to ensure, in sectors where commitments exist, that measures of general application are administered impartially and in a reasonable and objective manner (Article VI: 1). Service suppliers in all sectors must be able to use national tribunals or procedures in order to challenge administrative decisions affecting services trade.\textsuperscript{12} During the Uruguay Round only 29 member countries of the WTO (considering EC as a single member country) made commitments in education and only 21 of these included commitments in higher education. It is interesting to note that Congo, Lesotho, Sierra Leone and Jamaica have made full unconditional commitments in higher education, perhaps with the intent of encouraging foreign providers to help develop their education systems. Australia’s commitment for higher education covers provision of private tertiary education services, including university level. The European Union has included higher education in their schedule with clear limitations on all modes of trade except ‘consumption abroad’, which generally means foreign tuition paying students. Only four (Australia, New Zealand, USA and Japan) of the 21 countries with higher education commitments have submitted a negotiating proposal outlining their interests and issues. WTO members have chosen to impose considerably more limitations on trade in educational services in modes 3 and 4 than in modes 1 and 2. Commercial linkages may exist among all four modes of supply. For example, a foreign company established under mode 3 in country A might employ nationals from country B (mode 4) to export services cross-border into countries B, C etc. Similarly, business visits into A (mode 4) may prove necessary to complement cross-border supplies into that country (mode 1) or to upgrade the capacity of a locally established office (mode 3).
4.1.1.4 There are some barriers that are applicable to all sectors, while other impediments are specific to the education services sector. The barriers with general application are:

- The majority of generic barriers are from an exporter country’s point of view and focus on the supply modes “cross border supply” and “commercial presence”:
- There is a certain lack of transparency of government regulatory, policy and funding frameworks
- Domestic laws and regulations are administered in an unfair manner
- Subsidies are not made known in a clear and transparent manner
- Tax treatment which discriminates against foreign suppliers
- Foreign partners are treated less favorably than other providers.

4.1.1.5 The principal barriers to trade in higher education services as regards cross-border supply (mode 1: e.g. distance delivery or e-education; virtual universities) are the following:

- Inappropriate restrictions on electronic transmission of course materials
- Economic needs test on suppliers of the services in question
- Lack of opportunity to qualify as degree granting institution
- Requirement to use local partners, with at the same time a barrier against entering into and exiting from joint ventures with local or non-local partners on a voluntary basis
- Excessive fees/taxes imposed on licensing or royalty payments
- Restrictions on use/import of educational materials

4.1.1.6 The principal barriers to consumption abroad (mode 2, e.g.: students studying in another country) are:
Measures that restrict the entry and temporary stay of students, such as visa requirements and costs, foreign currency and exchange controls

Recognition of prior qualifications from other countries

Quotas on numbers of international students in total and at a particular institution

Restrictions on employment while studying

Recognition of new qualification by other countries

4.1.1.7 For trade via commercial presence (mode 3: branch or satellite campus; franchises; twinning arrangements), common barriers include

The inability to gain the required licenses to grant a qualification

Subsidies provided solely to local institutions

Nationality requirements

Restrictions on recruitment of foreign teachers

Government monopolies

Difficulty in obtaining authorization to establish facilities

Prohibition of higher education, adult education and training services offered by foreign entities

4.1.1.8 Barriers to mode 4, i.e. presence of natural persons (e.g. teachers traveling to foreign country to teach) are:

Measures that restrict the entry and temporary stay and work for the service suppliers, such as immigration barriers, nationality or residence requirements, quotas on number of temporary staff, employment rules

Economic needs test

Recognition of credentials

Minimum requirements for local hiring being disproportionately high
• Repatriation of earnings is subject to excessively costly fees or taxes for currency conversion

4.1.1.9 Like GATT in merchandise trade, the GATS also has special provisions to exempt countries participating in integration agreements from the MFN requirement. Article V of GATS permits any WTO Member to enter into agreements to further liberalize trade in services on a bilateral or plurilateral basis, provided the agreement has "substantial sectoral coverage" and removes substantially all discrimination between participants. Recognizing that such agreements may form part of a wider process of economic integration well beyond services trade, the Article allows the above conditions to be considered in this perspective. It also provides for their flexible application in the event of developing countries being parties to such agreements. Article V also requires that the overall level of barriers is not raised vis-à-vis non-participants in the sectors covered. Otherwise, should an agreement lead to the withdrawal of commitments, appropriate compensation must be negotiated with the Members affected. Such situations may arise, for example, if the new common regime in a sector is modelled on the previous regime of a more restrictive participating country. Article Vbis relates to, and provides similar legal cover for, agreements on labour markets integration. The main condition is that citizens of the countries involved are exempted from residency and work permit requirements.

4.1.1.10 Transparency: Under provisions of GATS, each Member is required to publish promptly "all relevant measures of general application" that affect operation of the Agreement. Members must also notify the Council for Trade in Services of new or changed laws, regulations or administrative guidelines that significantly affect trade in sectors subject to Specific Commitments. These transparency obligations are particularly relevant in the services area where the role of regulation – as a trade protective instrument and/or as a domestic policy tool – tends to feature more
prominently than in most other segments of the economy. Members also have a general obligation to establish an enquiry point to respond to requests from other Members. Moreover, pursuant to GATS provisions, developed countries (and other Members to the extent possible) are to establish contact points to which developing country service suppliers can turn for relevant information.  

4.1.1.11 Domestic Regulation: Members are committed to operating domestic mechanisms ("judicial, arbitral or administrative tribunals or procedures") where individual service suppliers may seek legal redress. At the request of an affected supplier, these mechanisms should provide for the "prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in service".

4.1.1.12 Monopolies: Members have to ensure that monopolies or exclusive service providers do not act in a manner inconsistent with the MFN obligation and commitments. It further specifies, in turn, that a "monopoly supplier" is an entity that has been established by the Member concerned, formally or in effect, as the sole supplier of a service.

4.1.1.13 Subsidies: Members that consider themselves adversely affected by subsidies granted by another Member may request consultations. The latter Member is called upon to give sympathetic consideration to such requests.

4.1.1.14 The market access provisions of GATS cover six types of restrictions that must not be maintained in the absence of limitations. The restrictions relate to:

- The number of service suppliers
- The value of service transactions or assets
- The number of operations or quantity of output
- The number of natural persons supplying a service
The type of legal entity or joint venture

The participation of foreign capital

4.1.1.15 Payments and Transfers: GATS requires that Members allow international transfers and payments for current transactions relating to specific commitments. This is subject to the proviso that capital transactions are not restricted inconsistently with specific commitments, except where provision exists, or at the request of the Fund. Furthermore, it also circumscribes Members' ability to restrict capital movements in sectors where they have undertaken specific commitments on cross-border trade and commercial presence.

4.2 COMMITMENTS ON HIGHER EDUCATION

The education sector is one of the least committed sectors. The reason is not clear, but perhaps it can be attributed to the need for countries to strike a balance between pursuing domestic education priorities and exploring ways in which trade in education services can be further liberalized. Or it could be linked to the fact that other more lucrative service sectors are taking priority. To date, education has taken a low priority in the major bilateral/regional trade agreements and the same may be true for GATS. As of January 2006, a total of 45 countries (the EU is counted as one country) have made a commitment to the education sector. Thirty-six of these countries have agreed to liberalize access to the higher education subsector. Education is one of the three sectors (health, education, and culture) that are often referred to as the "sensitive sectors" and seen to be under committed. They may well be targets for increased pressure. The major focus, however, will continue on the big sectors such as financial services, information technology, telecommunications, and others.
SECTION-II

SITUATIONAL ANALYSIS & IMPACT OF GATS ON HIGHER EDUCATION

4.3 PREVAILING SITUATION

Education remains one of the least committed sectors in the GATS, in part reflecting the concerns of many countries that trade liberalization may negatively affect quality and accessibility. These concerns are underlined by the broad scope of the GATS. As per the current position, education is one of the least committed sectors in GATS. Only 44 countries have scheduled commitments in education and out of which 21 have committed for higher education. The countries such as Congo, Lesotho, Jamaica and Sierra Leone have made full unconditional commitments in higher education, perhaps with the intent of encouraging foreign providers to help develop their educational systems. Only four of the 21 countries such as USA, New Zealand, Australia and Japan with higher education commitments have submitted a negotiating proposal outlining their interests and issues. The four proposals underline the need for governments to retain their sovereign right to determine their own domestic educational policy, a right that is also confirmed in the provisions of the WTO.

- Australia believes that governments must retain their sovereign right to determine their own domestic funding and regulatory policies and measures.
- New Zealand claims that the reduction of barriers to trade in education does not equate to erosion of core public education systems and standards.
- The United States’ proposal envisions that private education and training will continue to supplement, not displace, public education systems.
• Finally, Japan suggests that any measures in the education services sector should be considered with primary interest in maintaining and improving quality.

The agreement covers any measure, taken by any government or delegated authority at any level, which affects the supply of a service. Except for Article I.3, the agreement contains no specific exclusion for public services like education, or an exclusion that protects governmental regulatory authority associated with public service systems. It also treats public and private service providers and delivery as “like”. Similarly, the GATS treats non-profit and for-profit service providers the same. In most countries, however, education services are normally supplied through a mixture of public and private suppliers, or frequently include certain commercial aspects. A strict reading of Article 1:3 would indicate that such services fall outside the exclusion. In any case, wherever uncertainties about the scope of the exclusion arise, the language will almost certainly be interpreted narrowly. The WTO Council for Trade in Services, for instance, has supported the view that even in the context of sensitive public service sectors such as health and social services, the exclusion “needed to be interpreted narrowly”.

4.4 OPERATIONAL IMPLICATIONS

4.4.1 The WTO General Agreement on Trade in Services (GATS) could have enormous implications for domestic laws, for developing countries. The GATS agreement contains built-in obligations to continuously expand and deepen coverage of services through regular negotiating rounds that extend the rules and increase country-specific commitments. This built-in commitment to further liberalization means that, as currently constructed, GATS is a one-way road to greater commercialization of services. Under GATS, the distribution of a good also counts as a service, because the distribution is a service. Consequently, supplying water to a community is a service, even though water is a good. In many countries, the state has traditionally provided (either directly or through nonprofit agencies) services such as education and health care for its citizens to ensure that
these services remain affordable and accessible. Some of the articles of the GATS have apparently created ambiguity in their meanings and application when impacted at national level. The components of GATS requiring determination of their operational applicability, most commonly are the articles; Article 1.3 – ‘the Exemption Article’, Article II – Most-Favored-Nation, Treatment, Article VI – Domestic Regulation, Article VIII – Monopolies and Exclusive Service Suppliers, Article XVI – Market Access, Article XVII – National Treatment, and finally the part four covering Progressive Liberalization.

4.4.2 Article 1.3 (the Exemption Article): This is a most often analysed and talked about article of the GATS. The article specifies that services include any service in any sector except services supplied in the exercise of governmental authority; ‘a service supplied in the exercise of government authority’ means any service which is supplied neither on a commercial basis, nor in competition with one or more services suppliers. Before the debate is initiated and questions are raised on the validity & reliability of the article, lets define “public service”. In general language, public services are usually regarded to be services provided by the governments to their citizens, either directly through the public sector or indirectly by financing private provision of these services.33

The WTO Secretariat's background paper on education services34 does not directly discuss the application of the “government authority” exclusion in the education sector. However, it concludes that: “Basic education provided by the government may be considered to fall within the domain of, in the terminology of the GATS, services supplied in the exercise of governmental authority (supplied neither on a commercial basis nor in competition),” (emphasis added). The statement is noteworthy because it does not deny that basic education may not, in fact, fall
within the “governmental authority” exclusion depending upon the degree of private sector involvement and competition in a country’s education system.

Owing to the need for protection of general public interest and in order to guarantee non-discriminatory access to these services at a reasonable price, the state involvement with special regulations becomes necessary especially when public services are being provided by private business. Generally public services include; health care services, education, electricity and gas, telecommunications, transport, water, and waste management. The essential features of public services are:

- State guarantee that a quality service is provided to everyone everywhere at an affordable price.
- Public services should be available to all, regardless of income, place of residence, and other recipient-related matters.

4.4.3 The term “public service” is not used neither defined in the GATS. Instead, Article I: 3(b) refers to “services supplied in the exercise of governmental authority” in setting limits on the scope of application of the GATS. This means that services are supplied in the exercise of governmental authority when they are supplied neither on a commercial basis nor in competition with one or more service suppliers. The only determinant factors in assessing the reach of the GATS to public services are the parameters of non-commerciality and non-competitiveness. The definition of the exemption indicates that the scope of the GATS does not exclude any particular service because of its nature as a public service, or because it is supplied by a public authority. Therefore, in order to define the scope of application of the GATS, the essential question is how the terms “commercial basis” and “in competition” should be understood in relation to Article I: 3(b) GATS.

4.4.4 The research finds that the academic as well political consensus for interpretation/clarification of the article 1.3 is missing, and any specific
interpretation lacks credibility, therefore, calls for negotiations at WTO forum. Many analysts/ critics find the meanings of this provision rather ambiguous. The critics from different camps raise questions from different angles and of different dimensions:

4.4.5 Since the government universities supply higher education in most of the countries therefore, can it be excluded from GATS like other public services by virtue of this article?

4.4.6 Does the fact that fees might be charged for some government services, e.g. for school enrolments etc make the service supplied on a commercial basis or otherwise? It means, for instance, that in education, if any government charges any tax or fees, offers paid courses directly or through corporation or institutional agreements, or develop research and receives financial compensation – which is increasingly taking place in many countries – this government will be offering services on a commercial basis and, therefore, it would be excluded from the exception. Indeed, if a government offers, for example, distance education, language courses, or MBAs, and private suppliers do the same, such a government is in competition with these service providers, it would also be excluded from the exception. However, the cases of exception in point are social security schemes and any other public service, such as health or education that is provided at non-market conditions.

4.4.7 Some of the public run institutions of higher education in most of the countries provide part of their services on a commercial basis or compete with private sector institutions that provide their services commercially. And it is commonly understood that education services supplied by private institutions are subject to application of GATS. Thus applying GATS on private run universities and exempting public ones will be against the morals of fair and transparent market competition hence needs revamping.

4.4.8 The supporter of liberalization and deregulation of higher education and other services argue that privatizing the public sector and forcing public
providers to compete with for-profit firms will lead to more efficient service delivery, a greater variety of service providers, and ultimately, higher quality services. History suggests otherwise. Pakistan has privatized WAPDA, KESC, Government Transport Services, and few of hospitals in different parts of the country. The productivity and quality of service has declined manifolds since then. Karachi is witnessing every year with new record breakdowns in electricity failures/ load shedding hours. Similarly, there is marked difference in quality of service in public vs. private hospitals. Same principle is applied to the trust of students on public schools visa vie private schools and so on. Another example worth quotation is Chile, which has privatized and opened its economy more than many WTO members. When primary health care service was transferred either to municipalities or to the private sector, the quality of hospitals, beds, and preventative health programs declined. This led to more emergency consultations, longer waiting lists for hospitals, and a higher incidence of infectious diseases.

4.4.9 The above discussion suffice to reveal that:

- The provisions of the Article 1.3 do not offer clear meanings /interpretation.

- Owing to the need for protection of general public interest and in order to guarantee non-discriminatory access to public service like higher education at a reasonable price, the state involvement with special regulations becomes necessary especially when public services are being provided by private business.

- Since, in most of the countries, higher education is treated as a public good and lion share of its supply is shouldered by the public run universities therefore, it would be very difficult to apply provision of this article differently on state run universities and private sector institutions in a different manner.
4.4.10 **Article II** (Most-Favoured-Nation Treatment -MFN). For example higher education in Pakistan is subject to MFN treatment and one of the Indian institutions is granted a right to operate within the jurisdiction of NWFP. According to the provisions of the article of MFN, such a treatment must be granted to all other institutions of other WTO Member countries. However, it raises few questions, which are yet unanswered in the GATS:

4.4.11 Considering the education as a provincial subject in Pakistan, it still remains unclear whether a foreign university operating within the jurisdiction of one province of Pakistan (NWFP) can automatically operate in other provinces of Pakistan or otherwise. Similar questions can also be raised regarding on-line providers accredited etc.

4.4.12 While much of the work related to GATS could be facilitated through national and local higher education bodies, it is the federal government that controls negotiations, and thus the federal role in higher education services would be enhanced against the constitutional provisions of Pakistan.

4.4.13 The provision of Opening door to one foreign for-profit provider to be communicated automatically to others, seems to promote liberalization through the back door. Liberalisation also has severe disadvantages as the nature of liberalisation in the GATS is permanent - once a concession is made it cannot be revoked except under pain of a heavy penalty. The need to have control over changing public sector ideals is an important sovereign right that should not be given up permanently and forever, notwithstanding the benefits.

4.4.14 The GATS through increased reliance on the private sector for the provision of higher education will keep it subject to the dictates of the market that is solely driven by profit. This has serious social implications for the majority of population of developing countries like Pakistan who cannot afford to acquire education on market price.
4.4.15 Article VI – Domestic Regulation: Domestic regulations are a veritable Pandora’s box within GATS. Government regulations cannot restrict trade any more than is necessary to ensure the quality of service being provided. Many domestic regulations could be challenged as being unnecessarily trade-restrictive, and WTO trade panels would render the decisions. Regulations that are not covered by MFN, national treatment, or market access rules could still be challenged under the domestic regulations rules. GATS could effectively cede local, state, and federal decision making authority to WTO trade panels. This is particularly troubling, since public officials are more accountable to their constituents and tend to craft policies that attempt to balance public welfare with private sector interests. To date, the WTO trade panels have demonstrated no such balance.

4.4.16 National Treatment: Currently, transparency commitments simply require governments to publish their liberalization schedules for various industries and sectors, and identify domestic regulations that may be trade restricting. National treatment rules and market access provisions only apply to sectors that governments have written in their schedules of commitments. National treatment means that a government must provide Foreign Service suppliers equal treatment with domestic service suppliers. Market access obligations prohibit numerical limits on services or service suppliers, even if a regulation applies to both national and foreign suppliers (i.e., is nondiscriminatory). An example of a market access violation would be a limitation on the number of tourism operators in a conservation area.

4.4.17 The national treatment obligation under Article XVII of the GATS is to accord to the services and service suppliers of any other Member treatment no less favourable than is accorded to domestic services and service suppliers. A Member wishing to maintain any limitations on national treatment - that is any measures which result in less-favourable treatment of foreign services or service suppliers - must indicate these limitations in
the third column of its schedule. There are three problems in the interpretation of the national treatment obligation in GATS as follows:

- First, the precise domain of Article XVII on national treatment has not been clearly delineated, particularly in relation to Article XVI dealing with market access.

- Secondly, there is a conflict between the text of Article XVII and the structure of the schedules of commitments, which makes it difficult to interpret the scope of the national treatment obligation even for identical services supplied through different modes.

- The final, and most complex, problem arises in establishing the definition of "like" services and "like" service suppliers. Uncertainty about the precise meaning of the national treatment commitment may undermine the key GATS objective of creating a secure, predictable trading environment. Moreover, the extent of liberalization implied by the commitments under GATS depends on the precise choice of interpretation.

4.4.18 The GATS national treatment obligation may therefore apply to subsidies given to public universities and schools. In the case of the hospital sector, the WTO background paper indicates that: “In scheduled sectors, this suggests that subsidies and any similar economic benefits conferred on one group would be subject to the national treatment obligation under Article XVII of National Treatment.” Similarly, in responding to concerns about private service providers seeking a share of public subsidies currently provided only to public services, the WTO Secretariat has indicated that a public service would not be excluded if the government were “simply to own a service provider operating in competition with the private sector”. The implication is that in such circumstances and where relevant specific commitments have been made, private for-profit education providers would have grounds under GATS to seek a share of subsidies that otherwise would be provided only to public or private non-profit, service
suppliers. This could affect attempts by governments to improve access to schools, colleges and universities. In most WTO countries, education services are rarely delivered exclusively by government, but rather through a mix of public and private funding and public, private not-for-profit and private for-profit delivery. A more effective exclusion for “public services” would be needed to protect governments’ ability to deliver services through the appropriate mix that they deem suitable to ensuring universal access. Specific commitments on education services, unless otherwise specified, are also subject to national treatment rules (Article XVII). National treatment obligations require WTO Members to “accord to services and service suppliers of any other Member, in respect of all measures affecting the supply of services, treatment no less favourable than it accords to its own like services and service suppliers.” Where commitments have been taken without limitation in education services, this would prevent Members from treating domestic schools and educational institutions more favourably than foreign ones.

4.5 GENERAL IMPLICATIONS

4.5.1 The analysis of GATS leads to the assumptions that new providers are most likely to be customer focused, market driven, flexible, affordable and offering a range of different levels of courses thereby not taking care of social welfare - which has to be the prime concern of any state. Therefore, new providers are to be looked upon as a threat to national developmental issues, cultural identity or the advancement of knowledge rather than perceived as gap fillers in the capacity enhancement of the traditional system of education. GATS does not provide any international body to promote, control, harmonized trade in higher education between the member countries. Critical appraisal of the agreement by the research points lacking in following areas:
• The continuous updating and dissemination of information on systems of higher education, and characteristics of diplomas awarded by the members’ countries.

• Working towards the harmonization of the recognition of qualifications of higher education at the regional and international levels.

• Setting standards for the accreditation of higher education institutions and programmes at the international and regional levels.

• Building national capacities to undertake quality assurance and accreditation both at the institutional and programme levels; and

Foregoing debate in view, some of the main policy implications for new providers requiring critical rebuttal are as follow:

4.5.2 The Access vs. Equity issue:

The equity issue centres on the fact that the cost of education by new providers is quite high. For this reason, while all students, and in particular those from more modest backgrounds do not benefit from the education services provided by new providers, new providers benefit from all public national infrastructures (e.g. roads and piping for water), to assist them in delivering their service.

4.5.3 Quality:

Quality concerns centre around conflicts between standards for accreditation in the home country of the provider and the country of provision. Relevance concerns focus on the fact that some new providers expect their parent institutions to offer curriculum identical to that offered by their home institutions, even if this is not relevant to host country’s needs.

4.5.4 Legal Framework:

The foreign providers under GATS provisions are perceived as posing challenges to regulatory bodies besides yielding benefits of spreading education in the society. The dangers posed by foreign providers include operating without appropriate government supervision, and providing low quality educational
services while aiming to make the maximum of profit from the provision of the service. These and similar other issues at macro level may have to be resolved through developing legal framework at the national level such as:

4.5.4.1 Who will control higher education in the long-term - the nation or international tribunals such as WTO?

4.5.4.2 Lack of sufficient control of institutions by competent authorities (including institutions that do not fall into state quality assurance frameworks such as institutions using distance education modes of delivery).

4.5.4.3 What will happen to traditional academic values; how will nations or individual universities maintain their academic freedom in the new competitive environment; and will national universities become part of the international jurisdiction?

4.5.4.4 Establishing a national body for quality assurance and accreditation, besides having focus on licensing and recognition of programmes based on in-depth assessment, should also look on following aspects:

4.5.4.5 General guidance on curriculum standards for new providers;

4.5.4.6 Ethical principles for new providers;

4.5.4.7 General guidance on quality control and quality assurance mechanisms for new providers;

4.5.4.8 International obligations of states with regard to new providers; and

4.5.4.9 International responsibilities of states with regard to foreign students.

4.5.4.10 Accreditation / Validity of Education: The existing arrangements in GATS are silent on the ways and means to ensure protection of students e.g. problems with the recognition of diplomas. It lacks provision of any body that is empowered:
• To formulate policies on standards and criteria for quality assurance and accreditation for courses of study at certificate, diploma and degree levels.

• To make recommendations for course approval, minimum standards, confers accreditation status and set procedures for evaluation.

• Lay down parameters for quality assurance system for all registered private providers including the trans-national providers

• The evaluation process used to determine the accreditation status of the programme, however with regard to professional courses, evaluations for accreditation are carried out by and together with professional bodies by the concerned professional board

4.5.5 **Opportunity to Enhance Foreign Earning through Trade:**

The GATS also offers opportunity to promote or export through a conscious effort own education to abroad as a policy. The country, which has a huge higher education system with many institutions of international, standing, can benefit both economically and politically by exporting education irrespective of their developing or developed status. Consequently, universities are now permitted to open institutions and campuses abroad. The reciprocal trade in education will lead to signing of agreements on the recognition of academic qualifications and regulations for students going abroad to study. However, in recognition of the importance of this trade, the Universities Act need to be re-evaluated and duly amended (if deemed necessary) to make it easier for foreign providers and own institution to operate abroad.

4.5.6 **Market Competition:**

Competition between new and traditional providers may be characterized by differences in investments, with new providers making smaller investments; and finally that institutions which do not respect certain criteria may damage the image of other institutions that are trustworthy. The number of education providers are increasing day by day and foreign institutions are extending /
intensifying their influence in the Pakistan’s education market. The emerging market is becoming more vibrant and competition intensive, and making the survival possible only for those, which are able to attain and sustain competitive edge in their core or distinct competencies. Over the years, the ability to learn, to generate new knowledge and to market innovation have become critical drivers of the international economy. Therefore, some of the key changes in conditions affecting the Pakistan’s higher education under the GATS a potentially environment are:

- Globalisations
- Improvements in information technology and communication
- Increased competition in higher education.

4.5.7 **Globalisation:**

It is today said that globalisation is on march and increasing with every passing day. Since the expanding mobility of people, access to knowledge across borders, increased demands for higher education (including e-learning), growing worldwide investment, increased needs for adult and continuing education, therefore, the opportunities and capacities to expand the market for higher education have also increased tremendously. The tend analysis indicates that the growth will increase even more rapidly over the next few years. However, According to World Bank report on challenges for tertiary education, developing countries that cannot take advantage of these opportunities will likely see their knowledge gap increase. For developing countries like Pakistan, globalisation provides challenges for universities to survive against the onslaught of foreign education providers’ institutions, and expand their international activities, besides the risk of diminishing sovereignty over national standards and policy regulatory capacities.

4.5.8 **Information technology and communications:**

The rapid worldwide expansion of communications technology and the reduced cost of it have spawned a major expansion in its use in education thereby holding
promise for reaching populations that could not be served by traditional education institutions.

**4.5.9 Increasing competition:**

Competition in higher education has increased throughout the world in recent years as policymakers turn to market forces to reform higher education and cut costs. Competition from foreign institutions is of special concern to developing nations like Pakistan. There is a strong fear that competition from providers in developed countries will disadvantage their still-developing higher education systems. If outside providers succeed in recruiting the better-prepared and more affluent tuition-paying students away from public institutions, they will deprive government-supported higher education of revenue needed to support public education for poor and less prepared students. Countries like Pakistan with underdeveloped knowledge base are also concerned that it will open the door to foreign diploma mills and providers of questionable quality, which these countries do not yet have the capacity to monitor or police. Thus, the GATS is seen as hindering their commitments to the ‘public good’, to the development of a national higher education system essential to national development, as well as hindering their efforts to foster national cultural values, promote democracy, and provide educational opportunities for all citizens.7

Furthermore, increased competition brings a broader range of choice for students and a potential for increased access, a possible challenge relates to maintaining high quality standards and ensuring adequate financial support for the public higher education system.

**4.6 TRADE BARRIERS IN DIFFERENT MODES OF SUPPLY**

**4.6.1 Identification of the barriers to trade in higher education services is fundamental since the elimination of these barriers is the *raison d’être* of GATS. There are some barriers that are applicable to all sectors, while other impediments are specific to the education services sector.**
4.6.2 The principal barriers to trade in higher education services as regards cross-border supply (mode 1: e.g. distance delivery or e-education; virtual universities) are the following:

- Inappropriate restrictions on electronic transmission of course materials
- Economic needs test on suppliers of the services in question
- Lack of opportunity to qualify as degree granting institution
- Requirement to use local partners, with at the same time a barrier against entering into and exiting from joint ventures with local or non-local partners on a voluntary basis
- Excessive fees/taxes imposed on licensing or royalty payments
- Restrictions on use/import of educational materials

4.6.3 The principal barriers to consumption abroad (mode 2, e.g.: students studying in another country) are

- Measures that restrict the entry and temporary stay of students, such as visa requirements and costs, foreign currency and exchange controls
- Recognition of prior qualifications from other countries
- Quotas on numbers of international students in total and at a particular institution
- Restrictions on employment while studying
- Recognition of new qualification by other countries

4.6.4 For trade via commercial presence (mode 3: branch or satellite campus; franchises; twinning arrangements), common barriers include

- The inability to gain the required licences to grant a qualification
- Subsidies provided solely to local institutions
- Nationality requirements
- Restrictions on recruitment of foreign teachers
• Government monopolies
• Difficulty in obtaining authorization to establish facilities
• Prohibition of higher education, adult education and training services offered by foreign entities

4.6.5 Barriers to mode 4 *presences of natural persons* (e.g. teachers travelling to foreign country to teach) are

• Measures that restrict the entry and temporary stay and work for the service suppliers, such as immigration barriers, nationality or residence requirements, quotas on number of temporary staff, employment rules
• Economic needs test
• Recognition of credentials
• Minimum requirements for local hiring being disproportionately high
• Repatriation of earnings is subject to excessively costly fees or taxes for currency conversion

4.6.6 *Areas of Vulnerability:* The foregoing debate reveals that economic imperatives are the prime movers behind the idea of GATS. This brings into question the vulnerability of role of state in provision of public services and social development through free/affordable education in Pakistan. The commodification of higher education in Pakistan under GATS if fully implemented, is going to accelerate the privatisation of higher education in Pakistan which may contribute negatively in a society where more than 40% population is living under poverty line.

4.6.7 *Capacity Issue:* The lack of clarity and ambiguities in the GATS is likely to affect underdeveloped countries more adversely than others. The existing capacity of maximum countries in the world in higher education base to withstand the competition with the institutions of developed world is questionable. These countries need to enhance their capacity level, enrich their institution and equipped them with competitive competencies
before the GATS is implemented. Failing which, the institution and the higher education of these countries are likely to be collapsed and new era of new-colonization of higher education may emerge.

4.6.8 **Regulatory Regimes**: GATS seems to change the systems and processes of education for all those countries that want to remain integrated under the globalization. However, keeping in view the different systems, nation-to-nation legal variations, state-to-state socio-cultural variables, and national sovereignty, it is felt necessary to set up a regulatory system capable to address all issues without compromising the spirit of GATS. The system, which is able to accommodate and understand the prevailing regional approaches while regulating higher education under GATS.

4.6.9 **Temporary Migration**: Temporary movement of people’s may be beneficial in terms of remittances back home, but on a permanent basis it becomes a disadvantage in the shape of continued brain drain.

4.7 **FINDINGS**

4.7.1 It is obvious that the impact of GATS’ obligations differs from country to country and depends upon the particular national environment. Therefore, assessment to ascertain the impacts of GATS requires a very detailed understanding of the legal conditions as well as mechanisms incorporating GATS commitments into the national legislation.

4.7.2 The scope and definition of the Agreement (Article 1.3), the Most-Favored-Nation Treatment (Article II), Domestic Regulation (Article VI), Monopolies and Exclusive Service Suppliers (Article VIII), Market Access (Article XVI), National Treatment (Article XVII) and Part IV (Progressive Liberalization) were the GATS parts considered most relevant by the analysts.

4.7.3 A solid link is absent between GATS, its general rules and specific disciplines and a particular national environment. It does not carry
provision to empower government to steer higher education with respect to
private education, its ability to control the number and location of
universities, the number of students in private institutions, the range of
disciplines taught and the level of supply of graduates in the universities.

4.7.4 The potential dangers to the developing countries including Pakistan’s
higher education presented by GATS outweigh the benefits. Public and
non-profit colleges and universities are not experiencing problems in
international education that are worth the risks of GATS to solve.

4.7.5 GATS opens the door for greater federal intrusion into higher education,
which is constitutionally a subject of Provincial autonomy.

4.7.6 We must continue to affirm the importance of higher education as a social
good worldwide, and an investment in economic and cultural
development.

4.7.7 We need to impress on our higher education colleagues around the world
the importance of communication with their trade delegations to ensure
that the higher education community's voice is heard.

4.7.8 We need to continue to actively monitor the activity related to higher
education under the auspices of GATS, as well as other trade agreements
that have the potential to affect Pakistan’s higher education, such as the
North American Free Trade Agreement (NAFTA) and the Free Trade Area
of the Americas (FTAA).

4.7.9 The majority of generic barriers are from an exporter country’s point of
view and focus on the supply modes “cross border supply” and
“commercial presence”:
• There is a certain lack of transparency of government regulatory,
policy and funding frameworks
• Domestic laws and regulations are administered in an unfair manner
• Subsidies are not made known in a clear and transparent manner
• Tax treatment which discriminates against foreign suppliers
• Foreign partners are treated less favourably than other providers

4.8 CONCLUSION

There is little evidence available that WTO members have fully reviewed and assessed the impacts of the GATS on their public education systems, significant variables of stakeholders, values and interests, or on the regulatory authority of governments, at any level of jurisdiction. In view of the growing skepticism regarding the “governmental authority” exclusion and desirability of flexibility in structural setting the governments may consider detailed reviews not only warranted by the complexities of issues involved but long overdue. The assessments are especially called for because some existing GATS obligations extend beyond international trade, reaching out to the heart of governments’ domestic regulatory authority and civilizational sensitivities.

With the suspension of negotiations, members now have an important opportunity to fully assess the implications of GATS commitments on varied dimensions of education. Members that fail to carry out in-depth assessments run grave risk of extended networking of system education services than:

• Necessary and needed to promote national systematic interests in terms of access, quality, and appropriate mix service providers, priority determination and regulatory freedom.

• Evoking and enjoying the support of stake holders and civil society arousing suspicion of paradigm shift and trans-valuations that are inconsistent with cultural milieu and sovereignty imperatives.

• Venturing assorted risk of signing of obligation that are deemed valuationally divisive or harmful, and can not be subsequently fulfilled on account of civilizational conflict, psychological stresses and strain and dangers of domestic institutions being put out of gear due to competitive inabilities and inadequate capacity to offer comparatively standard services with efficiency and professional competency.
• The insightful evaluation of consequence of opening education at various levels to parameters of GATS is essential for the formulation of rational, prudential and internationally acceptable policy and response mechanism on the part of Pakistan. It would furnish helpful inputs to the authorities for the articulation of realistic proposals regarding required safeguards and desired affirmative actions.

• Without examining the purpose, motivations, content, thrust and tone of GATS and specific threats and promises it holds for the economy, society and cultural enfoldments of signatories, they would be grouping into dark. Instead of being positive impacted, negative fallout may be in store for them. Depending on the sagacity of policy and organizational intervention the intended expansion in trade and promotion of development can be realized and perils of disposed trade rise by foreign owned and controlled academic institutions avoided. With goodwill, understanding and exposure of WTO to the thoughtful claims the injurious existential effects of GATS can be prevented. It is possible to ensure the stakes and beneficial participation of the third world countries through offer of attractive terms and conditions in the forthcoming round of negotiations. The success of talks and bargaining is linked with the design of arrangement for the reduction of prospective risks feared by the developing economies like Pakistan’s one.

Endnotes

1 A large ministerial meeting was held in Punta del Este in September 1986 in order to launch a new trade round. A very ambitious agenda was included in the final Ministerial Declaration of 20 September 1986, covering services and intellectual property. The new round of negotiations was named after the country of the meeting – the Uruguay Round.

2 Article XIX, GATS. See Appendix L

3 All WTO Members, some 140 economies at present, are at the same time Members of the GATS and, to varying degrees, have assumed commitments in individual service sectors.

4 Sparrow,
5 Document MTN.GNS/W/120
6 Article XVI, ibid
7 Article XVII, ibid
8 Article XX, ibid
9 Article I (3) (b,c) of the GATS
10 Article III, GATS
11 ibid,
12 Article VI:2a, GATS
13 See GAT’s Article XXIV and Article V of GATS
14 Article III, GATS
15 Article IV:2, GATS
16 Article XXVIII(h), ibid
17 Article VIII:1, ibid
18 Article XXVIII(h), ibid
19 Article XV:2, ibid
20 Article XVI, ibid
21 Article XI, GATS
22 Article XII, ibid
23 Footnote 8 to Article XVI, ibid
24 Jane Knight, “GATS: The Way Forward After Hong Kong”. International Higher Education, Number 43, Spring 2006. Available at http://www.bc.edu/bc_org/avp/soe/cihe/newsletter/Number43/p12_Knight.htm
27 See, the proposals available at http://www.wto.org
28 Notably, there is no exclusion or exemption for the public sector comparable to those provided for the maintenance of public order (Article XIV) or for national security (Article XIVbis).

29 There is no differentiation between “public” and “private” services or providers. In fact, where a distinction, it is to ensure that they are treated in a similar manner. Thus a “monopoly supplier of a service” (Article XXVIII(h)) is defined as either a “public or private” sole supplier, and a “juridical person” (Article XXVIII(l); see (d)) means “any legal entity … whether privately-owned or governmentally-owned”.

30 Juridical person” is defined in GATS as “any legal entity duly constituted … whether for profit or otherwise…” (Article XXVIII(l)) In sectors where specific market-access commitments are made, Members are prohibited from taking “measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service” ( Article XVI:2(e)).

31 Article 1:3, GATS


34 Education Services, Background Note by the Secretariat, Council for Trade in Services, 29 September 1998, S/C/W/49, p. 4.


36 Aaditya Mattoo, “National Treatment in the GATS: Corner-stone or Pandora's box?” Available at: http://www.wto.org/English/res_e/reser_e/tisd9602_e.htm

37 Health and Social Services, Background Note by the WTO Secretariat, S/C/W/50, 18 September 1998, p. 11.


CHAPTER – 5

ANALYSIS OF HIGHER EDUCATION IN PAKISTAN

There is no denying the fact that socio-economic development of any society mainly depends upon the quality and extent of education accessible to its members. Therefore its development is to be taken like a challenge, because prosperity and development of any society is linked with the significant and sustained investment in higher education.\(^1\) This challenge demands efficient and judicial use of available resources that may come from the government, private sector, civil society groups and development partners. However, Pakistan's record on the education front has not been impressive due to number of factors so far and the future demands further dynamism and coherence in our policies at macro and micro levels. In order to gauge the efficacy of Pakistan’s higher education system and to gauge its ability to withstand the call of GATS environment, the chapter intends to focus on the following aspects.

- Situational Analysis of the Prevailing Higher education environment in Pakistan
- Regression analysis
- SWOT Analysis indicating strength, weaknesses, threats, opportunities of Pakistan’s Higher Education system
- Findings/ Conclusions

5.1 SITUATIONAL ANALYSIS OF THE PREVAILING HIGHER EDUCATION ENVIRONMENT IN PAKISTAN

The afore mentioned facts reveal that Pakistan clearly lacks on the education front and needs to implement policies and take steps to improve its system of education by setting new benchmarks comparable to the international level. Sustained socio-economic development is not possible by mere capital investment, unless it is reinforced by proper supply of an adequately trained scientific and technical work
A well-planned education system is therefore, essential for socio-economic development of Pakistan. Analysis of our past policies at national level including; Pakistan education conference 1947, Commission on national education 1959, New education policy 1970, 72, 79, 92, 98-2010, clearly indicate that all policies advocated for reform in education and all stressed to incorporate quality standards. Not withstanding to finance specific recommendations, several other recommendations calling for administrative and managerial reforms, quality improvement- independent of financial impact were also relegated to lower priority and yet to be implemented. Had, some of these recommendations implemented, the situation of higher education would have been improved manifold and evolved in to globally competitive position. In late 90s, when globalization in education was creeping across boundaries, our institutions and policy makers were ill prepared and lacking vision to encompass the emerging challenges. Dr. Virk rightly commented on the prevailing situation of higher education in the country at that point of time:

“The universities in their present form are not geared to create new knowledge, nor do their graduate-study programmes measure up to international standards…rapid expansion of the system, limited financial input and periodic student unrest have eroded the learning and teaching processes, despite modernization of curricula. The supply of funds to the universities is limited and coupled with inefficient use of public funds. The autonomy of the universities provided in their act is not only inadequate but also distorted. The research base in the universities is weak, and inadequately equipped libraries and laboratories and shortage of qualified teachers continue to hinder the progress of higher education towards excellence.”

The state of the affairs portrayed by Dr Virk is accentuated by the comparison of our literacy level, population level and allocation of funds for education out of the GDP given below, which reflects lower priority to education at our policy making podium. However, for improvement of the education sector, the government has emphasized not only to increase the literacy rate but also to improve the quality of
education at all levels. The efforts are being made to revise and update the curricula as well as provide necessary training to teachers to meet the challenges of the time. The National Education Policy has envisaged achieving 55 percent literacy rate by 2003 and 70 percent by 2010. It is hoped that through joint efforts of public, private and the NGO sectors, the set targets would be achieved.

Despite the priority given to higher education by the present government, higher education system is still lingering behind and stands far off to catch up to the international competitive standards set by the developed world. Some of the gray areas acting as the stumbling block in the improvement of the system to desired level are discussed in succeeding paragraphs.

5.1.1 Public Expenditure on Education:

Besides governance issues, one of the most important factors for slow improvement in the education indicators has been the budget allocation for education. The low level of public expenditure on education has been ranging around 2.2 to 2.4 percent of GDP from 1993 to 2007. This was significantly short of the minimum of 4 percent of GNP recommended by the UNESCO for developing countries. See Table: 1 below.

**Table 1: National Annual Allocation to Education**

(Rupees in Millions)

<table>
<thead>
<tr>
<th>Year</th>
<th>Allocation on Education</th>
<th>% Of GDP</th>
<th>Change in Share of GDP From last year</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993-94</td>
<td>34872</td>
<td>2.22</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>1994-95</td>
<td>44096</td>
<td>2.34</td>
<td>+0.12</td>
<td></td>
</tr>
<tr>
<td>1995-96</td>
<td>52643</td>
<td>2.43</td>
<td>+0.09</td>
<td></td>
</tr>
<tr>
<td>1996-97</td>
<td>64425</td>
<td>2.68</td>
<td>+0.25</td>
<td></td>
</tr>
<tr>
<td>1997-98</td>
<td>64084</td>
<td>2.32</td>
<td>-0.36</td>
<td></td>
</tr>
<tr>
<td>1998-99</td>
<td>69926</td>
<td>2.40</td>
<td>+0.08</td>
<td></td>
</tr>
<tr>
<td>1999-2000</td>
<td>69964</td>
<td>2.20</td>
<td>-0.20</td>
<td></td>
</tr>
</tbody>
</table>
There is no doubt that like many underdeveloped nations, Pakistan faces financial constraints for various reasons. Still, the government allocates less than 3% of the total annual budget for education. Our budget priority of last 58 years indicates that we are one of the highest spenders on defence, as a proportion of GDP (gross domestic product), while spending on education is among the lowest. Today in the year 2006, third World average spending on education is 4.5 percent of GDP, while ours is 2.8 percent.

**Table – 2: HEC Spending relation to GDP – GOP Budget and Total education spending 2001/02 2004/05.**

<table>
<thead>
<tr>
<th>Fiscal year</th>
<th>2001/02</th>
<th>02/03</th>
<th>03/04</th>
<th>04/05</th>
</tr>
</thead>
<tbody>
<tr>
<td>HE Spending/GDP (%)</td>
<td>0.1%</td>
<td>0.2%</td>
<td>0.2%</td>
<td>0.3%</td>
</tr>
<tr>
<td>HE Spending/GOP Budget</td>
<td>0.5%</td>
<td>0.9%</td>
<td>1.1%</td>
<td>1.6%</td>
</tr>
<tr>
<td>HE Spending/Total education spending</td>
<td>6.9%</td>
<td>10.7%</td>
<td>11.2%</td>
<td>14.4%</td>
</tr>
</tbody>
</table>

Source: World Bank Calculation
Figure – 1: Ratio of public spending in education to GDP in selected countries

0.3%  2.1%  1.4%  2.7%  1%  0.7%  0.9

Pakistan Norway USA Malaysia Thailand India Brazil


For defense, the Third World average is 2.5-3.0 percent, while, including pensions; we’re more than 5 percent. However, the research salutes the government which has decided to increase the higher education budget by 1 percent of the Gross National Product (GNP) in next seven years which means HEC will be spending Rs85-90 billion annually (if plans see reality). Seeing the Rs11.7 billion in 2005-06 allocations, which had been increased by 1,500 per cent from Rs800 million, one becomes hopeful, that things are moving in the right direction.

Table – 3: Higher Education Budget over years

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total HE spending(in millions)</td>
<td>3904</td>
<td>8385</td>
<td>10804</td>
<td>16771</td>
<td>21743</td>
</tr>
<tr>
<td>Annual % change Projects</td>
<td>NA</td>
<td>87%</td>
<td>11%</td>
<td>65%</td>
<td>18%</td>
</tr>
<tr>
<td>Projects</td>
<td>32</td>
<td>147</td>
<td>217</td>
<td>321</td>
<td>NA</td>
</tr>
</tbody>
</table>

Source: Higher education of Pakistan
### Table – 4: Per student spending, 2001/02-2005/06

<table>
<thead>
<tr>
<th></th>
<th>2001/02</th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05</th>
<th>2005/06</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Enrollment</strong></td>
<td>132226</td>
<td>1559959</td>
<td>180422</td>
<td>204054</td>
<td>226756</td>
</tr>
<tr>
<td><strong>HEC Spending</strong></td>
<td>3904</td>
<td>8385</td>
<td>10804</td>
<td>16771</td>
<td>21743</td>
</tr>
<tr>
<td><strong>Per student Spending</strong></td>
<td>29525</td>
<td>53751</td>
<td>59881</td>
<td>82189</td>
<td>95887</td>
</tr>
<tr>
<td><strong>Percentage change</strong></td>
<td>NA</td>
<td>82%</td>
<td>11.4%</td>
<td>37.25%</td>
<td>16.6%</td>
</tr>
</tbody>
</table>

Source: Higher education of Pakistan

### Figure – 2:

![Education Budget GDP%](chart)

Source: Higher education of Pakistan

#### 5.1.2 Foreign Assistance:

Although Pakistan has a number of excellent universities, the social and economic costs of attending higher education put them beyond the reach of most poor students, especially women. In partnership with the Government of Pakistan, there are number of donor countries and NGOs who are providing financial helps and technological support to build Pakistan’s education system and its capacity. However, USAID stands at top of it. Owing to the non-availability of the data of most of the foreign aids, and openness of the USAID, the research restricted its
discussion here only on the contribution of USAID. USAID currently provides scholarships based on both merit and need, expanding access to high quality education for deserving students countrywide. USAID is investing $87 million in higher education, helping develop a cadre of expertise and leadership in the areas of civil service, education, civil society, and business. USAID is supporting both basic and higher education, concentrating on underserved districts of Sindh and Balochistan provinces, Islamabad Capital Territory, and in the Federally Administered Tribal Areas (FATA). Currently, the program benefits 367,555 children and 18,000 teachers. Since 1950, more than 1,700 Pakistanis have studied in the U.S. under Fulbright programs. Since its start in 2002, USAID's Education Program is investing $256 million over five years (2002-2007) to reform and revitalize all levels of Pakistan's education system. In addition to this support through individual projects, of the $400 million the U.S. Government gave to Pakistan under the Emergency Economic Assistance Agreement in the years 2005 and 2006, $150 million was for education. Some of the USAID programmes aimed at helping to revive and strengthen Pakistani programs are briefly depicted in the table below:

<table>
<thead>
<tr>
<th>Name of the Program</th>
<th>For the Period</th>
<th>Findings in US$Millions</th>
<th>Local Partner</th>
<th>Beneficiaries</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>USAID- Fulbright Scholarship Program</td>
<td>Oct 2004 - Sep 2009</td>
<td>$93.0 million</td>
<td>U.S. Education Foundation Pakistan</td>
<td>750 graduate students</td>
<td>Since 1950, over 1,700 Pakistanis have studied in the U.S. under this program.</td>
</tr>
<tr>
<td>Merit and Need-Based Scholarship Program (in-country scholarships)</td>
<td>July 2004 June 2010</td>
<td>$6.9 million</td>
<td>Higher Education Commission (HEC)</td>
<td>1000 scholarships to be awarded for Agriculture and Business studies</td>
<td>Since 2004, 784 scholarships (480 for agriculture studies and 304 for business administration), including special 32 scholarship slots for students of earthquake-affected areas.</td>
</tr>
<tr>
<td>College Improvement Program</td>
<td>Sep 2004 - Sep 2009</td>
<td>$5 million</td>
<td>Forman Christian College</td>
<td>All enrolled students and employed teachers and staff</td>
<td>USAID has awarded 591 merit scholarships to deserving students from other provinces to attend FCC.</td>
</tr>
<tr>
<td>Science &amp; Technology Cooperation Program</td>
<td>June 2005 to Sept 2008</td>
<td>$6.9 million</td>
<td>National Academy of Sciences</td>
<td>National</td>
<td>To date 27 projects have been funded under it.</td>
</tr>
</tbody>
</table>

5.1.3 Capacity Building and Role of Private Sector:

A few years back Pakistan had no framework of higher education that can match up to the rest of the world. The universities were a quagmire of clerks and professors having no worth presenting standard of research or culture of critical thinking. Higher education has been a neglected field throughout the 20th century. No worthwhile addition to the number of universities in quantitative or qualitative term in the country could be cited for half of the century. Pakistan inherited just two universities in 1947 namely University of Punjab and University of Sindh, Jamshoro. After traversing fifty years journey Pakistan could field only 34 universities in the country, which include twenty-seven public, and seven private sector universities. See figure-2. Until 1991, there were only two recognized private universities in Pakistan: Aga Khan University established in 1983; and Lahore University of Management Sciences established in 1985. By 1997, however, there were 10 private universities and in 2001-2002, this number had doubled to 20. In 2003-2004 Pakistan had a total of 53 private degree granting institutions. The rapid expansion of private higher education is even more remarkable if we look at the number of institutions established on a year-by-year basis. In 1997, for instance, three private institutions were established; in 2001 eleven new private institutions were opened; and in 2002 a total of 29 private sector institutions came into existence. However, dawn of 21st century witnessed a rapid growth in higher education and brought the number of universities and DAIIs to the figure of 117 in 2005-2006. See figure-2. Though the quantitative growth of universities in Pakistan is heartening and well needed step in the right direction, but preparedness of our higher education on qualitative front seems ill equipped to meet the challenges that lie ahead under the GATS / globalization environment.
Figure-3: Growth Pattern of Universities /DAIs in Pakistan –1947-2005

![Growth Pattern of Universities /DAIs in Pakistan](image)

Source: HEC, List of Institution available at Web Site. WWW.hec.gov.pk

Table 6:

<table>
<thead>
<tr>
<th>Gender wise Enrollment</th>
<th>2001-02</th>
<th>2002-03</th>
<th>2003-04</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
</tr>
<tr>
<td>Public</td>
<td>141569</td>
<td>90832</td>
<td>162407</td>
</tr>
<tr>
<td>Private</td>
<td>32935</td>
<td>10938</td>
<td>41272</td>
</tr>
<tr>
<td>Total</td>
<td>174504</td>
<td>101770</td>
<td>203679</td>
</tr>
</tbody>
</table>

Source: HEC, Statistical Booklet on Higher Education Pakistan, 2001-2004

Figure-4:

![Gender wise Enrolment](image)

Source: HEC, Statistical Booklet on Higher Education Pakistan, 2001-2004
5.1.4 Enrollment to Higher Education:

At present, 2.6 percent of the relevant age group has access to higher education in Pakistan. The total enrollment in public sector universities is around 100,000 students. Given the present rate of population growth, Pakistan would have approximately 25 million populations by 2010 in the age group 17-23 years. Such a large number of student population would require a variety of institutions. In order to develop the country's human resources, what is required is the need to
enhance the access to higher education to at least 10 percent of this age group by 2010. For this purpose, the nation needs a greater differentiation and proliferation of institutions and a much larger role by the private sector, as the state cannot provide sufficient funding. It is, therefore, important that the private sector should be encouraged to set up institutions of higher education.

Table 7: % of Population Between Age Group 18 to 26 years, Enrolled for Higher Education.

<table>
<thead>
<tr>
<th>Year</th>
<th>Est. Pop Age Group 18 to 26 yrs. (Million) *</th>
<th>Enrollment Including Ph.D. (Million)</th>
<th>Enrollment at University Campus (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male</td>
<td>Female</td>
<td>Total</td>
</tr>
<tr>
<td>2001-02</td>
<td>11.98</td>
<td>11.74</td>
<td>23.72</td>
</tr>
<tr>
<td>2002-03</td>
<td>12.23</td>
<td>11.96</td>
<td>24.19</td>
</tr>
<tr>
<td>2003-04</td>
<td>12.26</td>
<td>12.63</td>
<td>24.90</td>
</tr>
</tbody>
</table>

* Source: Economic Survey of Pakistan 2004-05 and Pakistan Statistical Year Book 2002-03

In order to improve the quality of higher education, a system of entry tests has been introduced in all the professional institutions and the quota system has been abolished. Self-finance schemes have also been introduced in the public sector universities to lessen the burden on the Government. A number of schemes have been introduced to attract students for attaining higher education within the country and abroad which include many scholarship and financial aid packages. Owing to the measures taken at macro and micro levels including setting up new institutions at private as well as public sectors even in rural areas, have contributed in increasing the students enrolment during the last few years. The data obtained by the HEC from 101 universities/DAIs, in 2005 and published in HEC statistical booklet reveals a considerable increase in the students’ enrolment. There were 276274, 331745 and 423236 students enrolled at University campuses during year the 2001-02, 2002-03 and 2003-04 respectively.
Figure 7: Student Enrolment – Year Wise (2001-2004)

Source: HEC, Statistical Booklet on Higher Education Pakistan, 2001-2004

Figure 8: Gender Based Enrolment

Source: HEC, Statistical Booklet on Higher Education Pakistan, 2001-2004
Table – 8:
SUMMARY

<table>
<thead>
<tr>
<th>Sector</th>
<th>Year</th>
<th>Bachelor</th>
<th>Master</th>
<th>M. Phil.</th>
<th>Ph.D.</th>
<th>PGD</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public</td>
<td>2001-02</td>
<td>156141</td>
<td>66675</td>
<td>3683</td>
<td>3061</td>
<td>2841</td>
<td>232401</td>
</tr>
<tr>
<td></td>
<td>2002-03</td>
<td>186602</td>
<td>78709</td>
<td>4462</td>
<td>4045</td>
<td>2666</td>
<td>276484</td>
</tr>
<tr>
<td></td>
<td>2003-04</td>
<td>252841</td>
<td>92613</td>
<td>6802</td>
<td>6277</td>
<td>3595</td>
<td>362128</td>
</tr>
<tr>
<td>Private</td>
<td>2001-02</td>
<td>30340</td>
<td>11854</td>
<td>188</td>
<td>63</td>
<td>1428</td>
<td>43873</td>
</tr>
<tr>
<td></td>
<td>2002-03</td>
<td>37688</td>
<td>15815</td>
<td>380</td>
<td>93</td>
<td>1285</td>
<td>55261</td>
</tr>
<tr>
<td></td>
<td>2003-04</td>
<td>42871</td>
<td>16054</td>
<td>652</td>
<td>195</td>
<td>1336</td>
<td>61108</td>
</tr>
<tr>
<td>Overall</td>
<td>2001-02</td>
<td>186481</td>
<td>78529</td>
<td>3871</td>
<td>3124</td>
<td>4269</td>
<td>276274</td>
</tr>
<tr>
<td></td>
<td>2002-03</td>
<td>224290</td>
<td>94524</td>
<td>4842</td>
<td>4138</td>
<td>3951</td>
<td>331745</td>
</tr>
<tr>
<td></td>
<td>2003-04</td>
<td>295712</td>
<td>108667</td>
<td>7454</td>
<td>6472</td>
<td>4931</td>
<td>423236</td>
</tr>
</tbody>
</table>

Source: HEC, Statistical Booklet on Higher Education Pakistan, 2001-2004

Figure – 9:

Source: HEC, Statistical Booklet on Higher Education Pakistan, 2001-2004
5.1.5 Faculty Development:

Any institute of higher learning is distinguished by the quality of its faculty and members are the key determinants of the quality of education, and regrettably, an area where Pakistani universities are particularly weak. Presently against the requirement of 7000 faculty members in Pakistani public sector universities, only 1700 have Ph.D. degrees. Each of the 60 public sector universities needs to have at least 300 – 400 Ph.D. level faculty members (at least 15 – 20 per department) and similarly Private Sector University has to meet the deficiency before it can be regarded as a genuine “university”. It is estimated that only about 25% (average) of the current faculty members hold Ph.D. degrees, whereas the holding of PhD degrees is universally considered to be an essential pre-requisite to imparting quality education. It is understood here that while the holding of a Ph.D. degree by a faculty member does not necessarily guarantee quality, the lack of a Ph.D. does, beyond large, present a high barrier to sustained provision of quality education. However, it is also recorded that the quality of educational programmes cannot be achieved without the adequate provision of faculty members who are able to demonstrate scholarship in their discipline and a professional approach to its application. Meeting the faculty requirements of institutions through addressing staff deficiencies, as well as assisting in the professional development of current faculty members, and the esteem in which they are held as teachers within the academic community, are all of great importance in securing our strategic aim.
5.1.6 Infrastructure:

Decades of under-investment in the Higher Education system have left the physical infrastructure of universities unable to meet the demands of an ever increasing demographic. Strategies for increasing enrollment in higher education, improving research capacity, and improving quality of education programs require that the necessary infrastructure exist to ensure the success of intervention strategies. Though research observes an improved state of infrastructure of higher education institutions in 2006 from the dismal picture, which was reviewed at the start of this research in 2004. Almost each university (barring very few numbers), irrespective of its public or private sector status needs up gradation / improvement of its departments in terms of availability of books, journals, scientific equipment, learning aids necessary to create requisite environment for quality education. The research appreciates a marked improvement in provision of high-speed Internet connectivity in university labs, mostly sponsored by the HEC. However, most of the department libraries are still without connectivity to digital labs or PERN. Following steps recently initiated by the HEC were overdue since long and need to be continued with added zeal and zest:

- International linkages, access to research grants and post-doctoral training programmes will also help to improve quality.
- Transition from a 2-year bachelor’s degree programme to a 4-year degree programme is also important to improve the quality of the end product.
- The Pakistan Educational Research Network (PERN) has been expanded and its performance has further improved and further material is available on the internet which can be readily accessed, and faculty resources can be shared through video-conferencing.

5.1.7 Relevance to National Needs:

Though the old trend of delivering education just for the sake of it is slightly changing with every passing year but still forms the main stay of our higher education system/ institutions. Today is the age of knowledge economy and
Pakistan’s higher education system has yet to be transformed accordingly. Thanks to HEC curriculum revision team that has brought syllabuses of various programmes in line with today market demands/ trends. Otherwise few years back our curriculum were so outdated that most of the departments were teaching 15 to 30 years old course contents. However, there is still dire need that our 100 % curriculum shall be developed in line with national needs and comprehensive to promote and protect our ideological orientations and socio-cultural norms. Universities are deficit of research culture and our research programmes are filled with repetitively the same old research questions. Our researches are poorly supervised and element of genuineness is mostly missing. Our society is rid of host of socio-cultural, and socio-political problems, our national integration is at risk, our international standing is said to be amongst the failed states, our economy has most of its time remained at the brink of default, but our researchers are silent to find solutions of such problems. During the process of this research, it was shocking that number of our eminent educationists, and economists and members of national policy making strategic management were found blank/ ignorant from the GATS and Pakistan’s role in it. Our universities lack orientation of their research base in line with national needs. The human resource is shifted to handle new programmes without getting properly developed or tailored to meet the human resource requirements of these programmes. These include transition of agriculture sector to high value-added agricultural produce, information technology, biotechnology, engineering sciences, pharmaceuticals, material sciences, basic sciences, social sciences, economics, finance and other disciplines. There are still number of programmes whose curricula is to be modified in consultation with subject experts and the private sector to make them relevant to market demands and the needs of the society as well as emerging international opportunities. The culture of technology parks, business incubators and funding of joint projects with industry is mostly missing from the scene. Our universities, with just few patents registered by them, in no sense can be called creative or vibrant institutions and it is high time that Pakistan starts investing massively into its higher education system with more energy and zeal. The
research appreciates the visionary decision of Chancellor’s Committee to increase allocations in higher education sector by 50% each year (till they reach 1% of GNP for the higher education sector).

5.1.8 **Quality of Higher Education:**

Quality refers to the attainment of standards of resourcing and provision in the higher education sector, and the achievements or outputs of an institution or system. Quality is a multidimensional concept, and it is not possible to arrive at one set of global quality standards against which local institutions can be assessed. Quality embraces all the major functions of higher education: teaching and academic programs, research and scholarship, staffing, students, infrastructure and the academic environment. The concept of accountability is closely allied with quality- no system of higher education can fulfill its mission unless it demands the highest quality of itself. Continuous and permanent assessment is necessary to reach this objective. Simultaneously, it is to be ensured that great care is exercised when making quality assessments, as it involves matters of judgment, academic values and cultural understanding. Today, whether we look at the primary or elementary level or even at the higher education level, it’s the quality of education that is still a challenge to meet in Pakistan. Quality is the means through which an institution can guarantee with confidence and certainty, that the standards of its educational provision are being maintained and enhanced. The issue of quality cannot be dissociated from the quest for excellence and the need to establish evaluation criteria. In order to assess local institutions with a global perspective, reviewing institutions against international quality benchmarks has gained precedence.

Foregoing debate in view the quality of Pakistan’s higher education is regarded as the running blood for the sustenance and competitiveness of the system that is the reason this element has been discussed in each of the area debated above. To prepare our higher education system for international competitive environment element of quality in our each support as well as core functions has to be brought in with full maturity and reliability. Quality in governance, quality in financial
management systems, curricula, examination system, and quality assurance systems will all need to be constantly improved in order to bring the universities to international standards. Dr Atta ul Rehman chairman HEC rightly pointed out that present quality of higher education is very low.\textsuperscript{14} Not a single university of Pakistan is ranked among the top 500 of the world. Our current deficiency of quality faculty reaches to around 15,000 – 20,000 Ph.D.\textsuperscript{15} Our universities infrastructure needs complete overhaul, libraries and labs need to be stocked afresh with quality books and stores. Recently launched Pakistan Educational Research Network (PERN) needs to be expanded and its performance in further improved so that the materials available on the Internet can be readily accessable, and faculty resources can be shared through video-conferencing.

5.1.9 Accreditation:

Keeping in view the dictates of globalization and likely impacts of GATS, Government of Pakistan has to make concerted efforts to keep pace with the global scientific and technological advancement with a view to enhance dependence on knowledge based economy by increasing enrolment particularly in higher education. In order to facilitate provision of quality education at higher quantitative scale at universities/educational institutions call for capacity building of in-service faculty, acquiring services of expatriate Pakistanis & foreign experts and re-hiring of retired faculty members etc. To achieve the above objective, encouragement of the private sector to invest in higher education sector and establish universities/degree-awarding institutions is needed at priority. However, the critical aspect of the accreditation is the matter of controlling mushroom growth of illegal institutions in different parts of the countries. There are number of universities, their campuses, DAI\textquotesingle s, which operate operation illegally, claiming to be the affiliates or subsidies of foreign institutions that are not accredited by the HEC. Number of “parent alert” notices issued in preceding years is evident that HEC is teeth less to close such institutions and simply parents are being cautioned to restrain from such institutions. Why legal action against such defaulters is not taken, is the clear indicative of Government impotency. The other aspect of such
campaign for parent alerts leaves a negative impact about all of the higher education institutions, and students/parents become too slow due to conscious approach to take admissions in even chartered universities of private sectors. Resultantly it has an adverse effect on the growth of private sector, which has yet to prepare itself to compete under GATS environments. Furthermore, as per the national treatment clause of the GATS, HEC/Pakistan can’t be discriminative to selective universities for accepting their degrees or rejecting any one. Allowing one institutions of any country will lead us to allow all others of member states irrespective of their ranking or quality standards. However, Pakistan has to lay conditions of own standards for allowing entry to others. HEC has to determine the equivalence and recognition of degrees, diplomas and certificates awarded by institutions within the country and abroad before the GATS is implemented in true sense or Pakistan signs the schedule of commitments for higher education. To find similar and identical systems of education in various countries is very difficult but after having developed a mechanism of equivalence, the term implies that there is reasonable measure of similarity and commonality between the two courses of studies and recognition entitles its holder to rights enjoyed by those who have completed their degrees successfully at local institutions.

Accreditation system should also cater to the institutions carrying out collaborative degree programmes with foreign universities which are offering foreign degrees through arrangements wherein the curricula of foreign universities are taught, assessed and evaluated locally and final results are send to foreign affiliating university for issue of degree.

5.1.10 Research & Development:

A dynamic world-class research culture is vital for the acquisition of new knowledge and health of universities. It is also crucial to the economic growth and social cohesion. The basic aim of any university/institution of higher education is to carry out cutting edge research in all the areas of Science and Engineering as well as Social Sciences and Humanities, which is unfortunately very scant in Pakistan. There is dire need to promote and facilitate high quality indigenous
research for fast industrialization, production of high value added goods, import substitutions, export enhancement and to promote a research culture in institutions of higher learning in Pakistan irrespective of private and public status. Priority is given to areas having direct relevance to economic development and matching to the social expertise, skills, and needs. A few years back there was no culture of sponsoring or patting the researchers in the universities and no incentives was attached to the handwork, but thanks to HEC that culture is changing somehow despite few dysfunctions attached to new approach.

**Figure – 11:**

![PhD Fellowships for 5000 Scholars](image)

Source: HEC, annual report 2004-2005

The funding policy supports and rewards world-class research, encourages effective collaborations and provides capacity for developing and extending research capability in frontier technologies. It is responsive to changes in the research environment and the requirement of researchers. The programs provide funding to enhance skill levels and working conditions for researchers and research students.

5.1.11 **Foreign Students Admission:**

Higher Education Commission has mandate to promote higher education with in the country and to encourage Pakistani nationals as well as foreign nationals to seek admission in Universities and higher educational institutions of Pakistan.
Currently, foreign students from different countries are studying in various educational institutions all around Pakistan mostly on culture scholarships, expenses of which are mainly born by government of Pakistan itself. Resultantly the net inflow that could have come in with the foreign students is almost non-existing. GATS provide full opportunities to be exploited through attracting and retaining foreign students. Especially students from Middle East, Central Asia, North Africa and SAARC countries could be the source of future cash inflow for us as the Muslims student from these areas are facing difficulty in seeking admission in USA / EU due to 9/11 repercussions. Presently Pakistan has no plans / taken no worth mentioning benefits from the membership of OIC, ECO, and even SAARC to attract students. Pakistan has negative balance of trade with regards to student expenditure. We are paying huge foreign reserve for higher education abroad and getting very less.

Despite, finding no position in world top 500 universities, the professional institutions of Pakistan are rated amongst the best institutions of this region. Foreign students from South Asia, Central Asia, and Arab Gulf region and from the various developing and under developed countries of Africa and South East Asia are highly attracted towards the educational institutions of Pakistan. However, most of our foreign students studying in different institutions have complained about administrative/ bureaucratic procedures they frequently encountered while seeking admission and visa etc. There is no proper coordinating agency to expedite their matters and provide link/ facilitates amongst various agencies, which includes, HEC, Ministry of Education, Ministry of Foreign Affairs, Ministry of Interior, and Economic Affairs Division. The existing admission procedure of foreign students being cumbersome needs to be streamlined as student friendly without compromising the security aspects. Another factor acting as an obstacle in foreign students inflow is the ongoing war against terror in Afghanistan, crude image of Pakistan and negatively propagated Talibaization. Besides, failing in attracting foreign students to study in Pakistan, the irony of fate is that we have even failed in attracting the children of Pakistani
community working abroad. There is dire need felt at all level that admission procedures may be revised to facilitate and encourage foreign national to obtain admission in Pakistan.

Note: Few months back HEC has planned to create a cell to promote, encourage and facilitate Pakistani nationals settled abroad to seek admission in universities of Pakistan. HEC has also revised the admission procedures, which seems to facilitate the foreign students seeking admission in Pakistani Universities and to curtail their difficulties in getting NOC, Visas and its extension etc.

5.2 ANALYSIS OF THE STUDY

As mentioned in chapter 3, the research study was conducted using a sample of 40 respondents of high profile status from higher education in Pakistan, details of which is mentioned in chapter 3. This portion of the research study was purposely designed to gather the quantitative information regarding degree of consent in favor of commercialization of higher education under GATS agreement and identification of key factors that will play the decisive role in managing and developing the higher education in Pakistan at par with global standards. Suggestions/Recommendations are made in detail in the later part of the research considering in view the SWOT analysis and findings of the study for the improvement and development of higher education in Pakistan. The Analysis is given below:

Commercialization of Higher Education under GATS agreement

The responses to the investigations designed for knowing the general awareness of respondents about the commercialization of higher education under GATS agreement was conducted with the help of closed end questionnaire (annexure D) and analyzed with SPSS i.e., regression analysis.
Table 9: Responses Regarding Consents In Favour Of Making Higher Education Commercialized Under Gats Agreement

<table>
<thead>
<tr>
<th></th>
<th>S.A</th>
<th>A</th>
<th>U</th>
<th>D</th>
<th>S.D</th>
</tr>
</thead>
<tbody>
<tr>
<td>Should Higher Education be commercialized</td>
<td>05%</td>
<td>25%</td>
<td>40%</td>
<td>30%</td>
<td>0%</td>
</tr>
<tr>
<td>GATS will ensure economic gains through commoditization of Higher Education</td>
<td>77%</td>
<td>11%</td>
<td>10%</td>
<td>2%</td>
<td>0%</td>
</tr>
<tr>
<td>Development of Higher Education will be rapid with commercialization</td>
<td>19%</td>
<td>69%</td>
<td>5%</td>
<td>6%</td>
<td>1%</td>
</tr>
<tr>
<td>Education Industry requires competitiveness across the globe</td>
<td>78%</td>
<td>18%</td>
<td>3%</td>
<td>1%</td>
<td>0%</td>
</tr>
</tbody>
</table>

*SA=Strongly Agree, A=Agree, U=Undecided, D=disagree, SD=Strongly Disagree

The responses indicate that majority (40%) could not decide whether the higher education should be commercialized or not. The major reason predicted is the lack of awareness about the existing education system and its industry. Also responses against the commercialization of higher education (30%) shows the lack of need assessment for the transition in the industry. The (30%) consent in favour of commercialization of higher education indicates that having associations with industries, policy making authorities and regularities, people are realizing the need for change in the education industry. The change through restructuring the industry is considered more effective by the respondents as they (77%) are expecting tremendous economic gains through commoditization of Higher Education under GATS agreement. Also the (88%) positive responses strongly indicate the respondents’ expectations of rapid development of Higher Education with commercialization because in the present age of competition and global competitiveness, every country want (96% responses indicate the consents in favour) to have edge over international industry. The restructuring of higher
education and making it commercialized under GATS agreement seems more effective to make, a developing country like Pakistan globally competitive in education sector.

**Fig. 12 Graphical representation of the responses in table 9**

Consequences of Higher Education been commercialized under GATS agreement

The investigations intended to know the degree of expected consequences of commercialization of higher education under GATS agreement.
Table 10: Responses regarding the consequences of higher education been commercialized under GATS agreement

<table>
<thead>
<tr>
<th></th>
<th>S.A</th>
<th>A</th>
<th>U</th>
<th>D</th>
<th>S.D</th>
</tr>
</thead>
<tbody>
<tr>
<td>GATS will be a threat to universal access to education</td>
<td>25%</td>
<td>65%</td>
<td>5%</td>
<td>3%</td>
<td>2%</td>
</tr>
<tr>
<td>GATS will encourage the invasion of western culture</td>
<td>88%</td>
<td>5%</td>
<td>5%</td>
<td>2%</td>
<td>0%</td>
</tr>
<tr>
<td>Implication of GATS can bring “Macdonaldization” in Higher Education</td>
<td>78%</td>
<td>10%</td>
<td>10%</td>
<td>2%</td>
<td>0%</td>
</tr>
<tr>
<td>Commercialization of education will lead to distress of stakeholders</td>
<td>20%</td>
<td>58%</td>
<td>12%</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>Commercialization of Education has Negative Consequences</td>
<td>77%</td>
<td>11%</td>
<td>10%</td>
<td>2%</td>
<td>0%</td>
</tr>
<tr>
<td>Orientation of education will shift from Welfare to Profit maximization</td>
<td>10%</td>
<td>66%</td>
<td>15%</td>
<td>5%</td>
<td>4%</td>
</tr>
<tr>
<td>Focus will shift from teaching &amp; research to commercial &amp; Marketing activities</td>
<td>19%</td>
<td>69%</td>
<td>5%</td>
<td>6%</td>
<td>1%</td>
</tr>
<tr>
<td>GATS will entitle private &amp; Foreign providers to the same Subsidies as domestic Public Institutions</td>
<td>61%</td>
<td>15%</td>
<td>7%</td>
<td>15%</td>
<td>2%</td>
</tr>
</tbody>
</table>

* SA=Strongly Agree, A=Agree, U=Undecided, D=disagree, SD=Strongly Disagree

The responses clearly indicate that the respondents are more concerned about the expected consequences of GATS involvement in the education industry. The (88%) respondents say that Commercialization of Education has Negative Consequences as GATS will be a threat to universal access to education (90% responses). Also there is an apprehension (93%) that GATS will encourage the
invasion of western culture in the country and society hence there is hesitation for the Implication of GATS that may bring “Macdonaldization” in Higher Education.

Another adverse consequence is highlighted in the investigation as (78%) responses maintained that Commercialization of education may result into distress of stakeholders. The study emphasizes on the shift of education system as investigation indicates that (76%) responses are positive that with the introduction of GATS, the main orientation of educational institution will shift from Welfare to Profit maximization. If this happens in Pakistan, Public as well as private sector universities will be marginalized in the race due to existing qualitative and administrative gaps against their foreign counterparts. As a result of this shift, the main focus of Higher education institutions may shift from teaching & research efforts to commercial & marketing activities. The probability of this shift is more expected (above 85%). One more important consequence is highlighted in the study that GATS will entitle private & Foreign providers to the same Subsidies as domestic Public Institutions (76% responses).
Key players for the development of higher education

The study indicates that how key factors play vital role in the development of higher education under GATS agreement.
Table 11: Responses regarding identification of key factors required for the higher education development which will be commercialized under GATS agreement

<table>
<thead>
<tr>
<th></th>
<th>Highly motivated &amp; trained faculty</th>
<th>Good Governance &amp; Effective Leadership</th>
<th>Systematic Examination system</th>
<th>Upgradation of universities accreditation</th>
<th>Globally generous curriculum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree / favorable responses</td>
<td>78%</td>
<td>89%</td>
<td>87%</td>
<td>93%</td>
<td>86%</td>
</tr>
<tr>
<td>Disagree / unfavorable responses</td>
<td>12%</td>
<td>03%</td>
<td>04%</td>
<td>2%</td>
<td>7%</td>
</tr>
<tr>
<td>Undecided Responses</td>
<td>10%</td>
<td>08%</td>
<td>09%</td>
<td>5%</td>
<td>7%</td>
</tr>
<tr>
<td>Total percentage</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

The study shows that highly trained and motivated faculty plays pivotal role in the development of higher education specially commercialized under GATS agreement. The favorable responses (78%) are more, representing the importance of faculty role in education and their continuous training to keep them updated. Along with improving teaching standards, higher education also requires good governance and effective leadership to be globally competitive. The 89% responses are in favor of good governance and effective leadership as extremely important factors for the development of higher education.
REGRESSION ANALYSIS

Table 12: ANOVA

<table>
<thead>
<tr>
<th></th>
<th>Sum of Squares</th>
<th>df</th>
<th>F-statistics</th>
<th>Sig; level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regression</td>
<td>12</td>
<td>1</td>
<td>65</td>
<td>0.000</td>
</tr>
</tbody>
</table>

R = 0.860        \( R^2 = 0.739 \)

a. Predictors (constant): Highly motivated & trained faculty, Good Governance & Effective Leadership, Systematic
Examination system, Up-gradation of universities accreditation, globally generous curriculum

b. Dependent Variable: Development of Higher Education

Table 13: Regression Coefficient

<table>
<thead>
<tr>
<th></th>
<th>β Coefficient</th>
<th>t</th>
<th>Sig; level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constant</td>
<td>2.14</td>
<td>14.42</td>
<td>0.000</td>
</tr>
<tr>
<td>Highly motivated &amp; trained faculty</td>
<td>0.168</td>
<td>8.075</td>
<td>0.000</td>
</tr>
<tr>
<td>Good Governance &amp; Effective Leadership</td>
<td>0.123</td>
<td>7.05</td>
<td>0.000</td>
</tr>
<tr>
<td>Systematic Examination system</td>
<td>1.58</td>
<td>5.26</td>
<td>0.000</td>
</tr>
<tr>
<td>Up-gradation of universities accreditation</td>
<td>0.865</td>
<td>6.05</td>
<td>0.000</td>
</tr>
<tr>
<td>Globally generous curriculum</td>
<td>1.65</td>
<td>7.68</td>
<td>0.000</td>
</tr>
</tbody>
</table>

α = Management and Development of Higher education
(at confidence interval= .05 )

The regression analysis of the study is given in the tables 12 & 13 using the econometric model as follow:

HE = f (A, B, C, D, E)

Where,

HE = Management and Development of Higher education under GATS Environment

A = Highly motivated & trained faculty
B = Good Governance & Effective Leadership
C = Systematic Examination system
D = Up-gradation of universities accreditation
E = Globally generous curriculum

In the analysis of the Variance (ANOVA), the coefficient of determination ($R^2$) is equal to 0.739 (or 73.9%) indicates that the variation or change in the development of higher education is 73.9% explained by the predictors given in the function at sig. level 0.000 and degree of freedom=1. the result indicates the good enough correlation among the predictors and also the correlation between predictors and dependant variable.

The empirical results of the regression equation using econometric model will be:

\[ \text{HE} = \beta_0 + \beta_1 \text{A} + \beta_2 \text{B} + \beta_3 \text{C} + \beta_4 \text{D} + \beta_5 \text{E} \]

\[ \text{HE} = 2.14 + 0.168 \text{A} + 0.123 \text{B} + 1.58 \text{C} + 0.865 \text{D} + 1.65 \text{E} \]

This can be interpreted as the $\beta$ Coefficient of highly motivated and trained faculty is 0.168 with t-statistic 14.42 at sig. level 0.000 shows the highly significant results. The role of highly motivated and trained faculty is vital in the development of higher education. A well qualified and highly motivated faculty is critical to the quality of higher education institutions. The passive approaches observed in developing countries to teaching have little value in a world where creativity and flexibility are at a premium. A more enlightened view of learning is urgently needed, emphasizing active intellectual engagement, participation, and discovery, rather than the passive absorption of facts.\(^{17}\)

The $\beta$ Coefficient of good governance and effective leadership is 0.123 with t-statistic 8.075 at sig. level 0.000 shows the significant results. The good governance and effective leadership of the higher education institutions are very important to be globally competitive under GATS environment. This area was very weak as, even appointments of Vice Chancellors were made on political grounds instead of merit. Accountability was found very inadequate and resources were not utilized properly.\(^{18}\) Since better management will lead to more effective deployment of limited resources\(^{19}\). Hence a strong tendency was found towards improvement of all these administrative practices details of which are discussed in the later part of research.
The β Coefficient of proper and systematic examination system is 1.58 with t-statistic 5.26 at sig. level 0.000 shows the significance of results again. The systematic examination is key to improve the education system.

The β Coefficient of up gradation of Universities accreditation is 0.867 with t-statistic 6.07 at sig. level 0.000 shows the highly significant results. The upgradation of the Universities both Private and Public is highly required and that is how the process of development could be rapid.

The β Coefficient of globally generous curriculum is 1.65 with t-statistic 7.68 at sig. level 0.000 indicate highly significant results. The up gradation and restructuring of the higher education curriculum according to the emerging needs and demand of market is actually required to speed up the process of development and to meet the obligations of global market.

### 5.3 SWOT ANALYSIS

This SWOT analysis presented below is the result of the contributions of number of educationists, eminent scholars and senior management of different institutions of higher learning; I owe a lot of thanks to them and to all others who offered their comments on previous discussion, documents and drafts.

This SWOT is not developed for external purposes, such as marketing or public relations, rather to draw conclusions to be used to ascertain operational efficacy of our higher education system for GATS.

**Internal University Strengths and Weakness**

#### 5.3.1 Strengths:

Though most of the strengths mentioned below are in transformation stage. However, seeing the HEC determination the research is confident that very soon these strengths would be reckoned with all the forces of competitive environment.

**5.3.1.1** Some serious weakness of Pakistan’s higher education system is now being converted into strength for which whole credit goes to HEC curriculum revision cell. Last four years witnessed a well-organized effort
of continued updating of our curriculums of various bachelor/master level programs of diversified disciplines through innovative and experimental projects, including assessment.

5.3.1.2 Pakistan has a number of academic programs specialty of various universities, especially professional courses that are nationally and internationally ranked and highly competitive. In addition, owing to the HEC Accreditation branch community awareness campaign with regards to illegally operating campuses/non-accredited universities has enabled the students to select the genuinely accredited institutions for their future.

5.3.1.3 Present HEC policy of granting accreditation only on meeting the new laid down criteria and quality parameters reaffirms the quality of our academic programs. Seeing the result of constant pursuit/follow-up actions by HEC, Pakistan’s higher education system has made impressive strides toward developing institutions of higher learning where learning is preeminent.

5.3.1.4 Location and size: Pakistan is the world's seventh most populous country and is therefore in a better position than smaller countries that are limited in terms of their scope of growth and expansion.

5.3.1.5 Pakistan's size also means that the country has a large domestic market for education that it has access to.

5.3.1.6 Another advantage is its vicinity that offers connectivity to West Asia, Central Asia, South Asia and China that lends itself to export higher education from Pakistan and vice versa.

5.3.1.7 Foreign Aid: Pakistan has in the past depended tremendously on foreign aid to further its educational infrastructure. Notwithstanding to the post 9/11 US aid for education, and various other loans, the foreign aid is evidenced in the existence of:

- International Islamic University Islamabad,

- Number of Sheikh Zaid, Research Centers and Area study centers across country.
• The worth quoting recent achievement is the establishment of five international standard engineering universities in different parts of the country with the help of friendly countries.

• Positive reputation and respect of the profession in the Pakistani traditional society.

• Medium size campus with small class size help to maintain better student–teachers ration and quick flow of information as well as individual interaction.

5.3.2 Weaknesses

5.3.2.1 Unskilled Labor: It has been proven over and over again that for the development of successful industrial base and invention in technological advancement, a well laid out infrastructure of skilled workforce is an absolute necessity. Although Pakistan has a large workforce, most of it is concentrated in the agricultural sector. However, with the social mobility which is on increase from rural to Urban areas necessitates immediate steps in enhancement of our skilled work force in qualitative as well as in quantitative terms. For this purpose our higher education system needs to reorient itself.

5.3.2.2 Poor education system: Education is the key to a knowledge economy, which Pakistan wants to be. Pakistan must improve education on all levels i.e. primary, secondary and higher. From an IT stand point the most critical level is higher-level education, which will in turn produce industry-leading professionals. A strong education system will also overcome the root cause of a skill deficient workforce.

5.3.2.3 English Language: Though prevailing emphasis on English language as one of the official and academic language can be regarded strength of Pakistan’s higher education system as a common tool for imparting knowledge to foreign students. However, It has not done enough to promote the language to the common man. The curricula should involve as
much English as possible from the lowest level like Urdu or other compulsory subjects.

5.3.2.4 Political Instability: Pakistan has seen a great share of political instability in its life span that equally effected the development of its higher education system like many other areas. The regimes have remained more concerned in yielding power, strengthening and manipulating their terms thereby relegating education as lower priority, which is evident from its share of GDP in last 60 years. These sudden shift in political clout and shifting national priorities effected the direction in which our education & particularly higher education headed and left the legacy of poor infrastructure.

5.3.2.5 Poor Infrastructure: The current higher education infrastructure is out-dated, poorly developed, lacking element of quality & research culture. Hence unable to withstand the competitive environment likely to prevail in GATS environment.

5.3.2.6 War Against Terror and Wave of Fundamentalism: The ongoing war against terror and rising wave of Islamic fundamentalism in response to Western invasion of Iraq, Afghanistan and undermining Islamic belief and values has severely effected Pakistan’s learning friendly environment. Students from foreign countries are found reluctant to come to Pakistan. The situation is further aggravated by the Pakistan’s government moves against the foreign students studying in Muddersas. The recent crack down in Red Mosque, and Western propaganda (coupled with our government low profile agreement) against our religious education institutions has made the situation further critical, retarding inflow of students to Pakistan.

5.3.2.7 Weak legal System: A weak legal system coupled with weak enforcement has created an environment conducive to piracy. The legal system is lacking especially in dealing with technology related disputes. The legal system is backlogged to such an extent that for any decision the plaintiff has to wait for years, which acts as a deterrent to litigation. This weakness
has acted negatively in encouraging new research, writing of books, registration of new patents etc. Therefore, culture of promoting original work and discouraging plagiarism could not be nurtured in our higher education.

5.3.2.8 Inappropriate funding limiting scope of future growth on competitive pattern and productivity to private sector universities.

5.3.2.9 Proliferation of providers of university level education has dispersed already low level of qualified faculties.

5.3.2.10 Absence of an effective national regulatory framework for accreditation of degrees for foreign institutions.

5.3.2.11 Experienced staff leaving for greener pastures. Low recruitment and retention levels of staff due to unattractive terms and conditions of employment.

5.3.2.12 Heavy dependence on part-time lecturers in some faculties especially in private universities of lesser age.

5.3.2.13 Inadequate research culture emanating from the initial "developmental" focus and low proportion of PhD holders among academic staff.

5.3.2.14 Inadequate institutional capacity to meet the rising demand for higher education with increase in literacy level and growth enrolment.

5.3.2.15 Absence of a systemic approach to quality assurance constraining the development of management and administrative structures with regard to capacity building.

5.3.2.16 Little emphasis given to the recruitment of international students in most of our institutions. The bulk of the foreign students studying in Pakistan are from cultural programs, therefore giving zero financial inflow.

5.3.2.17 Inadequate library facilities thus limiting academic development and lack of land for future expansion of the campus.

5.3.2.18 Lack of facilities for student welfare/counselling/career guidance.
5.3.2.19 Limited sports facilities and other campus activities.

5.3.2.20 Inadequate provision for an all round development of student personality and Insufficient sense of belonging to the University.

5.4 EXTERNAL UNIVERSITY OPPORTUNITIES AND THREATS

5.4.1 Threats

5.4.1.1 Invasion of Western Culture and Values: With the intensive internationalization of Pakistan’s higher education system and import of education through any mode is likely to bring their socio-culture value along with their curriculum. Instead of developing our Socio-economic national environment, there is a most likely chance to loose our national identity and own socio-cultural values.

5.4.1.2 Culture of Multi-National companies: Along with deregulation come the institutions of developed world like their multi national corporations that can beat out the local Pakistani institutions because of their size and infrastructure. Economies of scale will be harder to achieve for Pakistani institutions as compared to these multi nationals type foreign institutions that can harness the full power of economies of scale on qualitative and quantitative parameters.

5.4.1.3 Intellectual Property Rights and Protection: The laws in Pakistan generally provide for protection of intellectual property rights. Pakistan is party to the WTO’s Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and is still in the process of revising its laws to become TRIPS compliant. Pakistan is a member of the Berne Convention for the Protection of Literary and Artistic works, the Universal Copyright Convention, and the World Intellectual Property Organization, but is not a member of the Paris Convention for the Protection of Industrial Property. Pakistan has been on the Watch List since 1989 due to widespread piracy, especially of copyrighted materials, and failure to implement its patent mailbox obligations under the TRIPS Agreement. Upper level government
officials are aware of the negative impact of intellectual property rights violations on Pakistan’s investment climate.

5.4.1.4 Patents: Recently, Pakistani law protected only process patents for duration of 16 years, although the government is committed to eventually offering product patents in accordance with its WTO obligations. Foreign industries have complained that law, permitting infringers to continue freely manufacturing illegal products, does not adequately protect the right of the patentee. Such situation suffices to discourage the researchers to invent new things and get their intellectual benefits. Respect of parent right if ensured is likely to improve local culture of research and creativity in our institutions and enhance academia-industry linkage.

5.4.1.5 Copyrights: Violations of intellectual property rights in Pakistan are most common in the area of copyrights, where the piracy levels are exceptionally high. The market for imported computer software has remained nearly 95% pirated (multinational firms and other international agencies are the only users of genuine software), and piracy of books, films, training movies etc is rampant. Though Pakistan’s every government, however, has recognized the need for better protection of copyrights, but its true implementation has never been exercised. Before, we operate under the GATS, there is dire need to protect intellectual property, promote industry standards, and encourage electronic commerce.

5.4.1.6 Stakeholder Resistance: Of the many reforms proposed by the task force, a central one was to change the governance and management of universities, to make them more autonomous and introduce transparency and accountability into their administrative functioning. Here the main battles emerged with the chancellors, vice chancellors, and some senior members of the education bureaucracy. The chancellors foresaw an erosion of their unchecked powers. Most of the vice chancellors were concerned because the proposed reforms envisaged a transparent process of selection, a system of accountability of their performance, and checks
on the blanket emergency powers they enjoyed. The systematization of university governance would similarly erode the power of the education bureaucracy. Outwardly, all of them lamented the dire state of affairs in higher education and supported reform, as the pressure for that was coming from the highest authorities. However, behind the scenes their resistance to change was dogged and, unfortunately, effective. They clouded issues by quoting precedence, and raising legalistic and/or procedural constraints. Their opposition was informed by the mindset that the state and its various organs must have hegemony and control, despite evidence that in Pakistan the outmoded functioning of the state is the problem that stifles the establishment of good governance and credible and efficient institutions. Their position was that a better implementation, by “good” people, of prevailing procedures and systems would solve the problems.

5.4.1.7 Leadership Deficit: The most critical positions of higher education management presently occupied are politically motivated and lack the necessary qualities to provide credible leadership. The rather whimsical methods of their appointment, and the conditions of service; their lack of vision, confidence in themselves; and low institutional or professional commitment-all combine to make a pessimistic mix for reform.

5.4.1.8 Poor awareness about the GATS and its likely impacts, even amongst the academia, eminent scholars and strategic management of higher education system.

5.4.1.9 No, policy preparations or studies conducted so far at Government level to ward off negative impacts of the GATS.

5.4.1.10 Operational structure/bureaucracy seen in almost all campuses retards the routine procedural works and lead to generate mistrust.

5.4.1.11 Heavy and mostly politically represented academic/ decision making bodies in universities which are proving counter productive in quick
decision making and to meet the dynamism of globalization of higher education. Sluggish responsiveness to student and community needs.

5.4.1.12 Fiscal uncertainty, mismanagement and corruption through misuse of power is talk of the town.

5.4.1.13 Lack of pride of internal community i.e. Student life or professorship, or teacher community.

5.4.1.14 Underdeveloped research culture and the one that exists are mostly irrelevant to local needs and blamed for plagiarism.

5.4.1.15 Mismatch between research expectation & support

5.4.1.16 High and unequal workloads faculty and staff resulting into shifting of priorities and responsibilities at different levels.

5.4.1.17 Inability of senior management in the universities to hire and retain the quality faculty rather such decisions are mostly influenced by the socio-political pressures or undermined by the sluggish bureaucratic procedures.

5.4.1.18 Limited resources for faculty and staff development so far.

5.4.1.19 Growth of private sector and availability of limited resource persons in different disciplines has made the market highly competitive to retain and maintain the qualified faculty and staff.

5.4.2 Opportunities

5.4.2.1 Software Export: The most lucrative direction that Pakistan should focus on is the software export market in my view. It can use its relationships with developed countries to build the needed relationships.

5.4.2.2 Export of Education: Pakistan should focus on creating higher education a service-oriented industry capable to be exported abroad. Post 9/11 environments lend very lucrative opportunities to set up Pakistani institutions of higher learning in the Middle East. Besides, our historic and socio-cultural roots in Central Asia are likely to facilitate our any such
move of exporting higher education towards that area. Pakistan also stands a fare chance to exploit the memberships of forums like OIC, ECO, and SAARC etc.

5.4.2.3 Capitalize on Local Market Size: Pakistan's local market is very large and is capable of supporting local industries up to some extent. Local universities are also in a better position to cater to the needs of the local market.

5.4.2.4 Increased chances of collaboration and partnerships in support of university initiatives, and programs.

5.4.2.5 Ever increasing need and realization of academia and industry linkage is helping to refine curriculum, introduce new programs, and easy/timely placement of students.

5.4.2.6 Diversity of student from with in and abroad is likely to improve civilizational understanding, cultural exchange and respect, and improved prospects for international/regional peace and harmony.

5.4.2.7 Prospects for Foreign Aids: Based on the current regional instability, Pakistan can apply for additional aid and with that investment it gains access to expertise from sources like the World Bank and the IMF. Pakistan can also avail this aid from the developed countries like the US, which would allow Pakistan access to foreign markets and can ensure foreign direct investment growth.

5.4.2.8 Meaningful and market needs oriented programs have more chances to increase value of higher education completion.

5.4.2.9 Strategic alliances and partnerships with institutions of international repute for offering university courses.

5.4.2.10 Strategic alliances with national institutions to make judicial use of resources and raise barrier for new entrants from abroad.
5.4.2.11 Exploitation of multi-lingual assets to become a regional multi-lingual centre.

5.4.2.12 Use of distance education, flexible learning and adoption of new information and communications technologies to increase access.

5.4.2.13 Strategic positioning for the organisation of international seminars/executive development programmes within the context of globalisation.

5.4.2.14 Developing and enhancing of capacity to accommodate more students and research.

5.4.2.15 Improvement in quality education and reduced in student fee due to fair and free competitions amongst the universities.

5.4.2.16 The competitive environment may lead eliminate to newly setup / low standard universities of local profile.

5.5 FINDINGS

The unprecedented speed of globalization during the last few decades has transformed the world into a society where knowledge as the engine for socio-economic development has overshadowed the importance of natural resources. There can be no two opinions that knowledge, which this research is talking about, is the product of higher education system. The preceding debate over Pakistan’s system of higher education reveals that our system have been missing the necessary foundations needed for Pakistan to gain the benefits associated with the globalization of education and embark upon the road to knowledge economy. Notwithstanding to the minor irritants, the major challenges faced by the Higher Education Sector in Pakistan and key impediments identified in its successful pursuit for positioning itself in future GATS or like pattern environment are:

5.5.1 Poor standard of capacity building, ill equipped faculty and lack of training.

5.5.2 Low enrollment in higher education
5.5.3 Minimal relevance of higher education to national needs

5.5.4 Lack of compatibility to International Standards

5.5.5 Low quality of research and lack of relevance to national requirements

5.5.6 Poor Governance of Universities

5.5.7 Lack of attraction, motivation and encouragement of the outstanding faculty.

5.5.8 Lack of proper transparent policy of reward and punishment both for the teachers and students.

5.5.9 Sustained socio-economic development is not possible by mere capital investment, unless it is reinforced by proper supply of an adequately trained scientific and technical work force.

5.5.10 Improvement of the education sector does not require the emphasized only on increase in literacy rate but also needs appropriate measure to enhance the quality of education at all levels as well.

5.5.11 The HEC is taking concrete efforts to revise and update the curricula as well as provide necessary training to teachers to meet the challenges of the time.

5.5.12 Besides governance issues, one of the most important factors for slow improvement in the education indicators has been the budget allocation for education. Till 2003, the education has GDP share less than 2%. However, the yearly jump being witnessed since 2003 is positive sign, which needs to be maintained. However, role of donor countries and NGOs in providing financial helps and technological support to build Pakistan’s education system and its capacity is to be lauded. The role of USAID is leading in this regard.

5.5.13 The social and economic costs of attending higher education though is comparatively less as compare to developed countries, yet beyond the
reach of most of poor students – part of 40% of population living below poverty line.

5.5.14 Though late, but the recent growth in private sector universities and quantum jump in public sector institutions is a step well taken to meet the rising demand of higher education in the country.

Figure-15:  Growth Pattern of Universities /DAIs in Pakistan –1947-2007

![Growth Pattern of Universities /DAIs in Pakistan –1947-2007](source)

Source: HEC, List of Institution available at Web Site. [WWW.hec.gov.pk](http://WWW.hec.gov.pk)

5.5.15 Literacy rate at present is estimated as 49 percent (male 61.3 and female 36.8 percent). The literacy rate has increased slowly from 1951 onwards. The comparison of literacy, population growth & education %of GDP made in the table-2 below leads to conclusion that our literacy rate and education expenditure in % of GDP has throughout been lower to our population growth and increase in GDP. Thus the gap between the other public expenditure and education and population rise and literacy increase has been on increase throughout.

5.5.16 Given the present rate of population growth, Pakistan would have approximately 25 million populations by 2010 in the age group 17-23 years. Such a large number of student population would require a variety of institutions. In order to develop the country's human resources, what is required is the need to enhance the access to higher education to at least 10 percent of this age group by 2010. For this purpose, the nation needs a greater differentiation and proliferation of institutions and a much larger role by the private sector, as the state cannot provide sufficient funding.
5.5.17 In order to improve the quality of higher education, with the recommendation of HEC, a system of entry tests has been introduced in all the professional institutions and the quota system has been abolished. Self-finance schemes have also been introduced in the public sector universities to lessen the burden on the Government. A number of schemes have been introduced to attract students for attaining higher education within the country and abroad which include many scholarship and financial aid packages.

5.5.18 Faculty Development: Any institute of higher learning is distinguished by the quality of its faculty and members are the key determinants of the quality of education, and regrettably, an area where Pakistani universities are particularly weak. Presently against the requirement of 7000 faculty members in Pakistani public sector universities, only 1700 have Ph.D. degrees. Each of the 60 public sector universities need to have at least 300 – 400 Ph.D. level faculty members (at least 15 – 20 per department)\(^{20}\) and similarly Private Sector University has to meet the deficiency before it can be regarded as a genuine “university”. It is estimated that only about 25% (average) of the current faculty members hold Ph.D. degrees\(^ {21}\), whereas the holding of PhD degrees is universally considered to be an essential pre-requisite for imparting quality education.

5.5.19 Infrastructure Though research observes an improved state of infrastructure of higher education institutions in 2006 from the dismal picture, which was reviewed at the start of this research in 2004. Almost each university (barring very few numbers), irrespective of its public or private sector status needs up gradation / improvement of its departments in terms of availability of books, journals, scientific equipment, learning aids necessary to create requisite environment for quality education. The research appreciates a marked improvement in provision of high-speed Internet connectivity in university labs, mostly sponsored by the HEC. However, most of the department libraries are still without connectivity to digital labs or PERN.
5.5.20 **Relevance to national needs** Today is the age of knowledge economy and Pakistan’s higher education system has yet to be transformed accordingly. Thanks to HEC curriculum revision team that has brought syllabuses of various programmes in line with today market demands/trends. Otherwise few years back our curriculum were so outdated that most of the departments were teaching 15 to 30 years old course contents. However, there is still dire need that our 100% curriculum shall be developed in line with national needs and comprehensive to promote and protect our ideological orientations and socio-cultural norms. The culture of technology parks, business incubators and funding of joint projects with industry is mostly missing from the scene. Our universities, with just few patents registered by them, in no sense can be called creative or vibrant institutions and it is high time that Pakistan starts investing massively into its higher education system with more energy. The research appreciates the visionary decision of Chancellor’s Committee to increase allocations in higher education sector by 50% each year (till they reach 1% of GNP for the higher education sector.

5.5.21 **Quality:** Foregoing debate in view the quality of Pakistan’s higher education is regarded as the life blood for the sustenance and competitiveness the system and that is the reason this element has been discussed in each of the area debated above. To prepare our higher education system for international competitive environment, element of quality in our each support as well as core functions has to be brought in with full maturity and reliability. Quality in governance, quality in financial management systems, curricula, examination system, and quality assurance systems will all need to be constantly improved in order to bring the universities to international standards. Dr Atta ur Rehman chairman HEC rightly pointed out that present quality of higher education is very low. Not a single university of Pakistan is ranked among the top 500 of the world. Our current deficiency of quality faculty reaches to around 15,000 – 20,000 Ph.D. Our universities infra structure needs complete overhaul, libraries and labs need to be stocked afresh with quality books
and stores. Recently launched Pakistan Educational Research Network (PERN) needs to be expanded and its performance further improved so that the materials available on the Internet can be readily accessed, and faculty resources can be shared through video-conferencing.

5.6 CONCLUSION

The reform effort in Pakistan was derailed because of two crucial weaknesses. First, the overall mode of state functioning, policymaking, and governance is top-down, nontransparent, and rigidly hierarchical. That mindset bedevils reform in higher education, in general, and the manner in which universities function, in particular. For example, the TF had recommended that to drive and facilitate the reform effort, an apex Higher Education Commission should be established, which was done in late 2002. However, the commission is functioning like any other Pakistani bureaucracy. Second, at the micro level, the leadership of institutions of higher learning is extremely weak. As indicated above, the leaders remained largely opposed to reform, and concern for improvements in institutional functioning remains a low priority. Initially the majority of vice chancellors felt obliged to go along with the flow, they kept making the right noises at the right times and places but bided their time and tried to do as little as absolutely necessary. As the fervor for change started waning, the beginning of which was around late 2002, the old attitudes were reasserted. Those for the status quo but adept at the game of position, reascended; and, in an ironic twist, those who championed reform were marginalized or ended up on the defensive: proving once again that in Pakistan the winning approach is doing the least, mouthing the right things, and staying the course of the status quo. The unfortunate upshot is that the reform process that was initiated with fanfare has largely come to naught and, some argue, has made the situation worse. The broader lesson that our case illustrates is that the determinants of the outcomes of such efforts are the commitment, honesty of purpose, and know-how of key actors; and the wider psychosocial and political context that shape and inform their decisions and actions.
Endnotes


7 ibid

8 ibid

9 Ibid

10 HEC, Number of Universities over the years, Available at: www.hec.gov.pk

11 See table: 1, “Number of public and private sector universities & DAIs in Pakistan”, Statistical Booklet on Higher Education Pakistan: 2001-2002 to 2003-2004, Higher Education Islamabad, Pakistan, 2005, p.3-4. Also see HEC, Number of Universities over the years, Available at: www.hec.gov.pk see Appendix Q

12 Prof. Dr. Atta-ur-Rahman, Medium Term Development Framework 2005-10, Higher education commission, Islamabad, p. iii-vi

13 ibid

14 ibid

15 ibid
16 Equivalence means that the studies undertaken in foreign educational institutions or degrees/diplomas obtained are regarded as equal to corresponding degrees/diplomas obtained in local educational institutions.

17 Task force report, “Higher Education In Developing Countries, Peril And Promise”. Available at: http://www.tfhe.net/


19 Task force report, “Higher Education in Developing Countries, Peril and Promise”. Available at: http://www.tfhe.net/

20 Prof. Dr. Atta-ur-Rahman, Medium Term Development Framework 2005-10, Higher education commission, Islamabad, p. iii-vi

21 ibid

22 ibid

23 ibid
CHAPTER – 6

CONCLUSIONS & RECOMMENDATIONS

(PART-I: CONCLUSIONS)

6.1 CONCLUSIONS:
Conclusions derived from the findings of previous chapters are grouped under two categories as under:

- GATS Specific having more relevance at national level, i.e. government bodies authorized to sign and negotiate at WTO forum to effect necessary changes and modifications wherever felt necessary.

- HEC, Provinces and Institutions of higher learning / DAIs Specific

6.1.1 GATS Specific Conclusions
It is obvious that the impact of GATS’ and obligations derived from the agreement differ from country to country and depends upon the particular national environment. Therefore, understanding of the findings derived from the implications of the GATS requires a very detailed understanding of the legal conditions as well as mechanisms incorporating GATS commitments into the national legislation. The main findings are:

6.1.1.1 The scope and definition of the Agreement (Article 1.3), the Most-Favored-Nation Treatment (Article II), Domestic Regulation (Article VI), Monopolies and Exclusive Service Suppliers (Article VIII), Market Access (Article XVI), National Treatment (Article XVII) and Part IV (Progressive Liberalization) are GATS components having ambiguity and double standards thereby need to be re-negotiated.

6.1.1.2 GATS, does not carry provision to empower government to steer higher education with respect to private education, its ability to control the number and location of universities, the number of students in private institutions, the range of disciplines taught and the level of supply of
graduates in the universities of a particular country, thereby undermining the state sovereignty.

6.1.1.3 MFN provision once applied to one country/institution opens the back door to other countries/institutions irrespective of national will or trade rules.

6.1.1.4 GATS, if accepted as such then open the door for greater federal intrusion into higher education, which is constitutionally a subject of Provincial autonomy.

6.1.1.5 Commodification/commercialization of higher education under GATS has undermined the significance/role of higher education as a social good worldwide, and an investment in economic and cultural development.

6.1.1.6 The majority of generic barriers are from an exporter country’s point of view and focus on the supply modes “cross border supply” and “commercial presence”:

6.1.1.7 There is a certain lack of transparency of government regulatory, policy and funding frameworks

6.1.1.8 Domestic laws and regulations are administered in an unfair manner

6.1.1.9 Subsidies are not made known in a clear and transparent manner

6.1.1.10 Tax treatment which discriminates against foreign suppliers

6.1.1.11 Foreign partners are treated less favourably than other providers

6.1.2 HEC & Institutions Specific Conclusions

6.1.2.1 Sustained socio-economic development of Pakistan is not possible by mere capital investment, unless it is reinforced by a consistent supply of adequately trained scientific and technical work force.

6.1.1.2 Present government’s two-prong approach towards improvement of the education sector, to increase literacy rate and improving the quality of education at all levels is lauded by the research. However, ongoing efforts
of improving the quality of teachers in public sector universities should be broadened by including private universities as well.

6.1.1.3 Besides governance issues, one of the most important factors for slow improvement in the education indicators has been the low-level budget allocation for education. The range of 2.1 to 2.3 % of GNP from 1991 to 2001 remained significantly short of the minimum of 4 percent of GNP recommended by the UNESCO for developing countries. However, the rise seen in the last three years budget is acknowledged as a positive step towards improvement in education in Pakistan.

6.1.1.4 Seeing the poverty level and per capita income in Pakistan, the prevailing socio-economic cost of higher education in Pakistan is beyond the reach of most of the poor students, especially women. Free trade in higher education and foreign campuses under GATS is likely to increase the cost of acquiring education, thereby depriving a big chunk of our community from its basic fundamental rights enshrined in Constitution of Pakistan and set in UN millennium goals.

6.1.1.5 Last decade has seen an unprecedented growth in the universities especially more pronounced in private sector. The 10 private universities/DAIs of 1997 have arisen to 53 in 2007. Similarly the figure of public sector has also gone high in manifold, thereby enhancing the role and operation of HEC. This increase coupled with HEC ongoing drive of improving the standard of higher education demands lot of increase in funding and allocations.

6.1.1.6 The comparison of growth in literacy rate, population growth & allocated % age of GDP education leads to conclusion that our literacy rate and education expenditure in % age of GDP has throughout been lower to our population growth and increase in GDP. Thus the gap between the other public expenditure and education and population rise and literacy increase has been on increase throughout.

6.1.1.7 The government ongoing effort to increase in literacy through enhancing enrolment in primary and secondary level education is likely to increase
the burden on the existing structure of higher education thereby calling for more resources at this level.

6.1.1.8 Seeing the goals of vision 2010, Pakistan would have approximately 25 million populations by 2010 in the age group 17-23 years. Such a large population of student age would also result in tremendous increase in the access to higher education. Handling of this enhanced dimensions needs a greater differentiation and proliferation of institutions and a much larger role by the private sector, as the state cannot provide sufficient funding through its public exchequer.

6.1.1.9 Prevailing Quality Standards in Higher Education: The research believes that quality is a multidimensional concept, and it is not possible for Pakistan’s system of higher education to match the global quality standards that are likely to be decisive in the GATS dominated environment. The key factors, determined by the research, having direct impact upon the quality of higher education are, the quality of faculty, curriculum standards, technological infrastructure available, research environment, accreditation regime and the administrative police and procedures implemented in institutions of higher learning.

6.1.1.10 Research finds missing, a comprehensive multi-level mechanism of accreditation capable to ensure provision of quality education at the department or program level, as well as the Institutional level.

6.1.1.11 Quality of Faculty: Research discovers a critical deficiency of faculty in quantitative as well as quality term even in public sector universities at alarming level. The criticality of the issue calls for immediate response at all levels, i.e. institution, government concern, and the HEC. The gravity of issue needs central focus, and immediate attention not even for preparation to GATS but for the survival of our own quality education.

6.1.1.12 There is discriminatory approach found in HEC practices towards the development of public sector universities and ignoring or neglecting the private sector universities in this regard. The approach has to be reframed and private sector’s faculties should also be invested to develop so as to
withstand the foreign onslaught of institutions of higher learning operating unrestricted under GATS

6.1.1.13 Faculty training in pedagogical, and communication skills is required at all levels to enhance the efficiency of teaching in higher education.

6.1.1.14 Brain Drain is found to be a daunting cause for the poor standard of our faculty level, and under capacity of higher education system. Though pursuing higher education abroad is an essential source of intellectual enrichment, but there is also a dire need to introduce measure appropriate to encourage Pakistanis to return their home back and contribute in its economic, social and cultural development.

6.1.1.15 **Quality of Infrastructure:** The existing deficiency of supporting infrastructure like libraries, labs, hostels, transportations, training aids, new technology etc are passing through in critical stage. Though with the funding from HEC, considerable improvement in public sector universities is seen during the last few years, but the state is still under the level of satisfaction.

6.1.1.16 The research finds lot of irrelevance between the educational and research programs to economic imperatives of the country, missing the industry-university linkages, allowing both sectors to interact and collaborate on joint projects/priorities according to socio-economic needs.

6.1.1.17 Since, knowledge creation and diffusion are important drivers of innovation, sustainable economic growth and social well being of the society, therefore, Pakistan’s system of higher education must confirm the research a fundamental activity of its institutions. Research opines that a dedicated culture of research with sustainable and dynamic research centers in the universities, that engages stakeholders in its activities to achieve economic competitiveness, is non-existent.

6.1.1.18 **Quality of Curriculum:** The curriculum is, another important aspect of the quality education capable to equip student with the knowledge and skills to contribute to the changing demands of the society they belong.
Updating and incorporating the latest knowledge in the curriculum is hallmark of any good institution. Because, institutions of higher learning are knowledge repositories whose faculty and students accrue knowledge and apply it to understand and address “local” issues. Therefore, the curriculum should be constantly updated, matching to the social dynamics and has to be derived from national socio-cultural and socio-moral aspirations.

6.1.1.19 Quality Evaluation & System of Assessment: The existing system of evaluation and assessment in higher education has been centered on student’s evaluation/assessment through examinations only. Assessment and evaluation of student through different directions/ and at different tier was totally missing. Furthermore the assessment was mainly based on memorization of subject. The main aspects of quality assessment/evaluation which are pre-requisite for any competitive system and found missing in our system are:

- Evaluation of students was deficient even through 360-degree appraisal system.
- Comparison between observed and intended outcomes of (programs and institutions) at HEC or provincial level.1
- Standardization of programs and their criteria for admission and qualification.
- Setting up of national quality benchmarks for all chartered universities irrespective of their public or private status.
- Improving system of quality intake through introducing common standard of entry test.
- Introducing schemes to attract students for attaining higher education within the country and abroad, which include many scholarship and financial aid packages.

6.1.1.20 Despite HEC efforts in ongoing curriculum renewal programs, the research finds that still most of our curriculums are lacking their
orientation/relevance to national needs and lacking abilities to promote and protect our ideological orientations and socio-cultural norms. The culture of technology parks, business incubators and funding of joint projects with industry is mostly missing from the scene. Our universities, with just few patents registered by them, in no sense can be called creative or vibrant institutions and it is high time that Pakistan starts investing massively into its higher education system with more energy.

6.1.1.21 The research appreciates the visionary decision of Chancellor’s Committee to increase allocations in higher education sector by 50% each year (till they reach 1% of GNP for the higher education sector).

6.1.1.22 The past regimes have remained more concerned in yielding power, strengthening and manipulating their terms thereby relegating education as lower priority, and sudden shift in political clout and shifting national priorities effected the direction of our higher education and left it a legacy of lower priority.

6.1.1.23 Invasion of Western Culture and Values: With the intensive internationalization of Pakistan’s higher education system and import of education through any mode is likely to bring their socio-culture value along with their curriculum. Instead of developing our Socio-economic national environment, there is a most likely chance to loose our national identity and own socio-cultural values.

6.1.1.24 Culture of Multi-National companies: Along with deregulation come the institutions of developed world like their multi national corporations that can beat out the local Pakistani institutions because of their size and infrastructure. Economies of scale will be harder to achieve for Pakistani institutions as compared to these multi nationals type foreign institutions that can harness the full power of economies of scale on qualitative and quantitative parameters.

6.1.1.25 The ongoing war against terror and rising wave of Islamic fundamentalism in response to Western invasion of Iraq, Afghanistan and undermining Islamic belief and values has severely effected Pakistan’s
learning friendly environment. Students from foreign countries are found reluctant to come to Pakistan. The situation is further aggravated by the Pakistan’s government moves against the foreign students studying in Muddersas. The recent crack down in Red Mosque, and Western propaganda (coupled with our government low profile agreement) against our religious education institutions has made the situation further critical, retarding inflow of students to Pakistan.

6.1.1.26 A weak legal system coupled with weak enforcement has created an environment conducive to piracy. The legal system is lacking especially in dealing with technology related disputes. The legal system is backlogged to such an extent that for any decision the plaintiff has to wait for years, which acts as a deterrent to litigation. This weakness has active negatively in encouraging new research, writing of books, registration of new patents etc. Therefore, culture of promoting original work and discouraging plagiarism could not be nurtured in our higher education.

6.1.1.27 Violations of intellectual property rights in Pakistan are most common in the area of copyrights, where the piracy levels are exceptionally high. The market for imported computer software has remained nearly 95% pirated (multinational firms and other international agencies are the only users of genuine software), and piracy of books, films, training movies etc is rampant. Though Pakistan’s every government, however, has recognized the need for better protection of copyrights, but its true implementation has never been exercised. Before, we operate under the GATS, there is dire need to protect intellectual property, promote industry standards, and encourage electronic commerce.

6.1.1.28 Inappropriate funding limiting scope of future growth on competitive pattern and productivity to private sector universities.

6.1.1.29 Proliferation of providers of university level education has dispersed already low level of qualified faculties.
6.1.1.30 Absence of an effective national regulatory framework for accreditation of degrees for foreign institutions.

6.1.1.31 **Experienced staff leaving for greener pastures:** Low recruitment and retention levels of staff due to unattractive terms and conditions of employment.

6.1.1.32 Heavy dependence on part-time lecturers in some faculties especially in private universities of lesser age has overcommitted the qualified teachers. This culture has provided an excuse / escape rout for the faculty not to deliberate for their preparation of lectures.

6.1.1.33 Inadequate institutional capacity to meet the rising demand for higher education with increase in literacy level and growth in enrolment.

6.1.1.34 Little emphasis given to the recruitment of international students in most of our institutions. The bulk of the foreign students studying in Pakistan are from cultural programs, therefore giving zero financial inflow.

6.1.1.35 Inadequate library facilities thus limiting academic development and lack of land for future expansion of the campus.

6.1.1.36 Lack of facilities for student welfare/counselling/career guidance and limited sports facilities and other campus activities.

6.1.1.37 Most of the existing higher education management in the institutions is politically motivated and lack the necessary qualities to provide credible leadership. The rather whimsical methods of their appointment, and the conditions of service; their lack of vision, confidence in themselves; and low institutional or professional commitment—all combine to make a pessimistic mix for reform.

6.1.1.38 Poor awareness about the GATS and its likely impacts, even amongst the academia, eminent scholars and strategic management of higher education system.

6.1.1.39 No, policy preparations or studies conducted so far at Government level to ward off negative impacts of the GATS.
6.1.1.40 Rigid, structure heavy and mostly politically represented academic/decision making bodies in universities are proving counter productive in quick decision making and meeting the dynamism of globalization of higher education.

6.1.1.41 Fiscal uncertainty, mismanagement and corruption through misuse of power is talk of the town.

6.1.1.42 Inability of senior management in the universities to hire and retain the quality faculty rather such decisions are mostly influenced by the socio-political pressures or undermined by the sluggish bureaucratic procedures.

6.1.1.43 Growth of private sector and availability of limited resource persons in different disciplines has made the market highly competitive to retain and maintain the qualified faculty and staff.

6.1.1.44 Diversity of student from within and abroad is likely to improve civilizational understanding, cultural exchange and respect, and improved prospects for international / regional peace and harmony.

6.1.1.45 Prospects for Foreign Aids: Based on the current regional instability, Pakistan can apply for additional aid and with that investment it gains access to expertise from sources like the World Bank and the IMF. Pakistan can also avail this aid from the developed countries like the US, which would allow Pakistan access to foreign markets and can ensure foreign direct investment growth.

6.1.1.46 Meaningful and market needs oriented programs have more chances to increase value of higher education completion.

6.1.1.47 Strategic alliances and partnerships with institutions of international repute for offering university courses should be the immediate strategy to be adopted for preparation of GATS and giving own institutions a foreign exposure.

6.1.1.48 The competitive environment may lead eliminate to newly setup / low standard universities of local profile.
(PART-II: RECOMMENDATIONS)

6.2 RECOMMENDATIONS:

There is no denying the fact that last four years effort of HEC, to improve and reform our higher education sector have brought a ray of hope and light in the long dark tunnel. The discussion generated in Chapter 4 and chapter 5 helped us to derive a long list of the findings and conclusions to move further in a desired direction. Basing on the findings, efforts are made to make suitable recommendations, having element of applicability and relevance to our ground situation in higher education system. Efforts are made to keep them confined to its scope and relevant to the objectives of research so as to maintain element of objectivity, reliability and practicability. However, for the purpose of better understanding, ease in presentation and systematic explanation, these recommendations are grouped into two categories as follows:

- Macro Level i.e is at Government level

- Micro Level with special emphasis on following:
  - HEC Specific
  - Provincial governments
  - Institutions of Higher Learning
  - Students, Parents and other stakeholders

6.2.1 Government of Pakistan

6.2.1.1 Adopt Wait and See Policy: Owing to the ambiguity in various provisions of the GATS, perceived threats to national’s socio-cultural values and associated challenges to national sovereignty, the research does not recommend to offer schedule of commitment in higher education in present situation. Furthermore, our present infrastructure of higher education system irrespective of private or public sector doesn’t possess
requisite strength to exploit the opportunities in free and fair competitive environment under GATS. The research believes that globalisation has come to stay and Pakistan has no way out to play beyond it for a long, therefore, we must chalk out strategies to firstly equip our self on competitive terms and then plan to enter into GATS. Meanwhile, we must expedite the process of overhauling, fixing orientations, devising new directions so as to enable ourselves to join competing nations under GATS as soon as possible.

6.2.1.2 Legal Framework of the GATS: Some of the articles of the GATS have apparently created ambiguity in their meanings and application when interpreted and impacted at Pakistan’s national settings. Therefore, before Pakistan commits for its willingness to put higher education to operate under GATS environment, there is need for fresh negotiations to remove ambiguities and make it matching to our national settings. Components of the GATS requiring re-look and modifications, making it operational worthy in Pakistan are; article 1.3, the public service and its exemption, MFN status, national treatment, domestic regulation and trade liberalization etc. Ministry of Commerce and Trade, Ministry of Finance, Ministry of foreign Affairs and ministry of Education along with HEC should jointly take on the challenge and work to negotiate safeguarding national and constitutional interests of Pakistan on following points.

6.2.1.3 Removal of the Discrimination: Article 1.3 of the GATS discriminatory applies on private sector institutions and exempts public sector on the basis of their ‘public service’ nature, which provides uneven playing field in fair and free competitive environment. Therefore, Government of Pakistan should initiate negotiations to end its provisions based on dichotomy and double standards before making higher education part of GATS.

6.2.1.4 MFN Application: The application of MFN provision granted under the provision of Article II in Pakistan’s higher education environment also seems questionable in its applicability. Since education is a provincial
subject in Pakistan, therefore, any foreign university allowed to operate within the jurisdiction of one province of Pakistan (NWFP) cannot automatically operate in other provinces of Pakistan as the educational institution according to the Constitution of Pakistan 1973. The Government of Pakistan should make it clear about its constitutional limitations on the application of the MFN clause or convince the Province to allow for the provision to honor once committed by government of Pakistan. However, it is not recommended that without the consent of provincial government of Pakistan commit on its own, If this happens, it would damage the spirit of autonomy of the provinces. Similar questions can also be raised regarding on-line providers accredited etc.

6.2.1.5 The above provision of granting MFN status without the consent of province would also mean limiting sovereignty of provinces, thus adding other irritant in the existing fragile environment of national integration. Therefore, research strongly opposes the maneuverability of the clause upon all provinces, and simply recommend initiation of negotiations seeking for its amendments accordingly before any commitments be made.

6.2.1.6 National Treatment: Pakistan is a poor and developing country, which is in the process of developing its various sectors of economy. And in the process it is bound to support its various sectors/ businesses of economy through subsidies and other protective measures. Even its private sector, especially the private institutions of higher learning badly needs government support to develop their infrastructure. Whereas, the domestic regulation clause compels government to grant similar support / grant/ subsidies tax relief or any financial or other support to the foreign providers as well. Such restrictions don’t suit developing society like Pakistan, where more than 40% people are living under poverty line, whose 85% private institutions are just half decade old, whose literacy rate is nearly 50%, and whose balance of payment is always negative, cant
afford to give such national treatment to the foreign competitors. Therefore, this clause is to be waved off for Pakistan at all cost.

6.2.1.7 Domestic Regulation Provisions: This clause bar the local government to put any limitation or restriction on the size, design, or ingredient of the service and the right rests with the producing institution. Thus Pakistan can’t restrict or direct the curriculum of any foreign university when teaching in Pakistan. Such provisions are tantamount to undermining the sovereignty of Pakistan therefore, research calls for its repletion / elimination.

6.2.1.8 Regulatory Regimes: GATS does not provide any regulatory body to cater for the nation-to-nation legal variations, state-to-state socio-cultural variables, and national sovereignty. Therefore, this research recommends setting up of regulatory regime at GATS Secretariat and one each at respective state level capable to address all issues without compromising the spirit of GATS. For Pakistan HEC should be reformed / enhanced to handle the issues.

6.2.1.9 Statutory Issues: The foreign providers under GATS provisions are perceived as posing challenges to regulatory bodies besides yielding benefits of spreading education in the society. The dangers posed by foreign providers include operating without appropriate government supervision, and providing low quality educational services while aiming to make the maximum of profit from the provision of the service. HEC as the national level regulatory regime under GATS should be empowered to take on such statutory issues.

6.2.1.10 Protecting and Preserving Socio-Cultural Rights: The GATS through increased reliance on the private sector for the provision of higher education will keep it subject to the dictates of the market that is solely driven by profit. This has serious social implications for the majority of population of developing countries like Pakistan who cannot afford to acquire education on market price. This issue is further aggravated when
linked with national treatment clause. Owing to the market driven & customer focused foreign providers having no care for social welfare, the research recommends that the Government of Pakistan along with provincial government should chalk out strategy to meet the challenge in following:

- Arrange to avert the likely threat to Socio - Cultural identity from the foreign providers or the advancement of knowledge, as they would have no concern for these.
- Place some check on their civilizational / national agenda and interests.

6.2.1.11 Since the foreign providers will benefit from all public national infrastructures (e.g. roads and piping for water), therefore they should be asked that in return of this benefit they should provide through financial relief/ scholarships and rebate in fee structure to the Pakistani students.

6.2.1.12 Allowing Cross Border Education: For centuries students and teachers have moved across borders for higher education. The globalization of the education market has resulted in opening up of higher education to foreign providers. There is considerable growth in cross-border education. This growth is happening regardless of trade agreements. This has largely been introduced because of the desire to retain students in their own country rather than students leaving for education in another country. Pakistan when decides to commit, should allow entry of cross-border education providers to enhance our capacity building, and improve existing facilities on competitive terms, and meet the critical deficiency existing in various disciplines, and technologies. Acceptance of this mode may also prove to be the right answer to control or check the ongoing brain drain process in Pakistan. Pakistan should reassess this issue in length and if decides to allow the opening up of foreign universities in Pakistan than it needs to initiate special legislation allowing foreign universities to establish campuses in Pakistan provided they accept some restrictions and conditions (most of these need amendments in GATS) as follows:
• Their curriculum and operating procedure must conform to the socio-cultural and religious norms of Pakistani society, and ideology of Pakistan so that higher education contributes to the total social, political, cultural and economic development of the Pakistani nation as desired.

• Necessary measures/ checks to be introduced to ensure that Pakistani students studying in their own country are not subjected to the Western styled secular education / curriculum.

• In order to avoid mushrooming of universities in urban centers, and achieve education spread across the rural/ underdeveloped areas of Pakistan, all foreign universities interested to operate in Pakistan should be asked to open equal number of campuses in rural/ economically backward areas besides the capital cities or urban centers.

• Universities shall absorb local talent by employing 50 % of their slots in all academic, administrative, and technical cadres.

• Universities duly accredited, recognized and having good ranking positions in the home countries are allowed to set up their campuses in Pakistan and fulfilling the quality criteria made by HEC.

• These universities should accept credit transfer and their home countries should recognize our university’s degrees and accreditation.

• However, temporary movement of people may be beneficial in terms of remittances back home, but on a permanent basis it becomes a disadvantage in the shape of continued brain drain, which has drained out Pakistan’s academia and intellectuals during the last 60 years or so.

6.2.1.13 Establishing Common Standards for Quality Higher Education Provision across Borders: National quality assurance systems and accreditation arrangements often focus exclusively on assuring the quality of programmes delivered in their country by their domestic institutions and foreign institutions are often not covered. There is an urgent need for
establishing common standards or international guidelines on the quality of cross border education:

- To enhance the protection of students or learners against the risks of misinformation, low quality provisions and qualifications of limited validity;
- To increase transparency and coherence of recognition procedures and to encourage international cooperation among agencies at national levels.
- There is a close link between recognition of qualifications and quality assurance and accreditation. In the field of recognition of qualifications it is becoming more and more difficult to determine the exact value of a foreign qualification. This is because of the diversifications of programs, qualifications, and the delivery modes. Assessing the value of a qualification has become much more complicated and yet at the same time evaluators, employers, professional bodies and others are becoming more and more interested in determining the quality of an institution program or qualification. Recognition and credential evaluation has increasingly appealed to quality assurance agencies to inform them of the quality status of an institution or program. There is a need for cross-border cooperation and information sharing in this regard.
- So with capacity building, the task is to develop regional and national frameworks for quality assurance so as to help stakeholders in higher education to make informed decisions.

6.2.1.14 National Level Quality Assurance System: Foregoing point dealing with international quality standard in view, there is also an urgent need for comprehensive, quality assurance and accreditation system at the national level as well. We need to strengthen international cooperation and networking of quality assurance and accreditation agency, recognition and evaluation agencies, and professional bodies. Especially, while developing a Quality Assurance System at National Level for ascertaining the
equivalence of foreign degrees or developing own institutions at international standards, a collective quality assurance system of following areas should be considered:

- Objectives, contents of courses and programs;
- Course design and development;
- Learner support and tutorials;
- Use of technology and media;
- Assessment; training and professional development;
- Evaluation of performance;
- Internal quality assurance in course development;
- Internal quality assurance in learning assessment;
- The use of external reviewers.

- Quality Assurance for e learning is also required because of the growth of e-learning providers – mostly based on Internet and advanced technology. This includes both conventional and virtual higher education institutions in Pakistan as well as global and regional e-learning providers both private and for profit.

6.2.2 HEC, Provincial Governments & Institutions Specific

6.2.2.1 Opportunity to Enhance Foreign Earning through Trade: In order to exploit opportunity of exporting education abroad through setting up campuses abroad or giving franchises Pakistani universities may be allowed to operate beyond their national boundaries through incorporating necessary provision in their charters/ acts. HEC in coordination with Ministry of Foreign Affairs (our foreign missions abroad) and Ministry of Commerce and Trade should act as anchor body to promote our higher education abroad and attract to enrol foreign students in our Pakistani campuses. Forum of OIC, SAARC, ECO, and Shanghai Cooperation should be made use of for enhancing our trade in higher education. Middle
East, North Africa, and Central Asia could become a ripe destiny in this regard.

6.2.2.2 Capacity Issue: The existing capacity of Pakistan in higher education to withstand the competition with the institutions of developed world is questionable. Provinces, HEC and the public and private institutions should join hands in facilitating each other’s quest for improvement through collaborative efforts. Sharing of resources, like labs, libraries, part-time faculties on visiting basis, seminars and workshops. This collaborative approach if materialized can be further refined through use of Video Conferencing, E. Learning, and distance coaching as well.

6.2.2.3 Accepting Liberalization: The Islamic Republic of Pakistan cannot be averse to open to globalization, but it needs to adapt. However, before opening up our borders to across border education, we must facilitate own institutions (especially private sector) to survive in competitive environment under GATS despite their financial, faculty and facilities constraints, limited research base and underdeveloped infrastructure. Therefore, our preliminary plans must incorporate three conditions that are needed to be met:

- Plans and preparations to survive in a global sphere in free competitive environment.
- Acceptance and adherence to the global standards of quality of the educational services
- Development of global competitiveness of Pakistani education services and products.
- Managing to compete through involving networking, clustering and closer co-operation of Pakistani universities.
- Whether a country decides to make GATS commitment on education or not, it will still need to deal with many of the issues and challenges that arise from the growth of cross border education. Student visa
requirements and policy regarding quality assurance, accreditation and recognitions of qualifications are much more important than GATS.

6.2.2.4 Improving the Research Facilities and Research Culture: Research facilities in universities need to have a new focus and meaning, and impact on the functions and structure of universities. The allegations that higher education institutions in Pakistan are not delivering what the industry or society needs, has to be addressed by establishing academic-industrial linkage on one hand and inculcating the culture of research in our institutions on the other. Meeting global standards should become the criteria in defining research in Pakistan. This means that universities with less research at global standards need to improve their quality. HEC has done a lot in very short period of time to improve quality in higher education but still we need to do more. Few of the recommendations in this regard are:

- To strengthen the research infrastructure, and enhance the existing research base in private sector institutions, HEC needs to include Private sector institutes as well in capacity building programs.
- To increase capability research in universities, we should establish funds in private sectors similar to centers of excellence already established.
- Provision of government financial support to assist universities to develop their education programme for global talents and at par with foreign-based education providers.

6.2.2.5 Market Competition: The education market under GATS may emerge more vibrant and competition intensive, thereby making the survival possible only for those, which are able to attain and sustain competitive edge in their core or distinct competencies. Thereby, Pakistani institutions irrespective of public or private must have to grasp the dictates of globalisation, improve their information technology and communication infrastructure, learn market dictates and update their course accordingly,
build their capacity with inbuilt quality traits, and learn rules of intensive
competition in higher education.

6.2.2.6 Relevance to National Needs: The old trend of delivering education just
for the sake of it needs to have a nosedive change. Today is the age of
knowledge economy and Pakistan’s higher education system has also to be
transformed accordingly. The curriculum and the fields of educations to be
taught and introduced in the universities must be brought in line to our
national needs—may that be socio-culture sector or socio-politico
demands, or fulfilling the needs of developing economy. Our universities
should develop and reorient their research base in the direction needed by
the national environment. Our research experts/scientist must identify
specific projects and programs as priority national programs, after careful
consideration of sectoral opportunities strengths and weaknesses. The
human resource development effort shall be tailored to meet the human
resource requirements of these programs. These include transition of
agriculture sector to high value-added agricultural produce, information
technology, biotechnology, engineering sciences, pharmaceuticals,
material sciences, basic sciences, social sciences, economics, finance and
other disciplines. The curricula have already been modified in consultation
with subject experts and the private sector to make them relevant to market
demands and the needs of the society as well as emerging international
opportunities. The establishment of technology parks, business incubators
and funding of joint projects with industry should transform the
universities to creative and vibrant institutions where new ideas are born
and transformed into commercial products and processes. It is high time
that Pakistan starts investing massively into its real wealth i.e., its youth.
The visionary decisions reached by the Chancellor’s Committee to
increase allocations in respect of development and recurring budgets for
the higher education sector by 50% each year (till they reach 1% of GNP
for the higher education sector) must be strictly adhered to, if Pakistan is to
follow the path of Japan and Korea and develop into a knowledge
economy. This is truly a historic opportunity to rid this country of poverty
and hunger and transform it into a dynamic, self-reliant and prosperous nation which can be propelled forward on the strength of the creative talents of about 100 million young men and women below the age of 30.

6.2.2.7 Quality of Higher Education: Quality is the means through which an institution can guarantee with confidence and certainty, that the standards of its educational provision are being maintained and enhanced. Quality is a multidimensional concept, and it is not possible to arrive at one set of global quality standards against which local institutions can be assessed. The key factors influencing the quality of higher education are the quality of faculty, curriculum standards, technological infrastructure available, research environment, accreditation regime and the administrative police and procedures implemented in institutions of higher learning. It is absolutely critical to monitor and regulate growth of sub-standard institutions of higher learning. A comprehensive multi-level mechanism of accreditation is to be developed to ensure provision of quality education. Accreditation needs to occur at the department or program level, as well as the Institutional level. Different components of quality of higher education are dealt separately in succeeding subparagraphs.

6.2.2.8 Quality of Faculty: Since faculties are the heart and soul of the university, and without an active and well-qualified faculty it will not be possible to have meaningful competitive stay against the foreign education providers in GATS influenced environment. Therefore, there is urgency of the need to develop this sector. Faculty development programs must also address factors pertaining to retention of qualified faculty higher education institutions. Recent criteria developed by the HEC for hiring/promotion of faculty, if followed honestly, would go a long way in yielding a quality faculty in higher education system of Pakistan. However, following points should be given due importance at HEC levels:

- It must be ensured that while developing and strengthening the faculties of public sector universities, equal importance is given to private sectors varsities on similar lines as well. This has to be the foremost step which is to be jointly taken by HEC, University
managements and academia as mandatory prerequisite to realign Pakistan’s position in the globally arranged competitive environment.

- Faculty training in pedagogical, and communication skills is required at all levels to enhance the efficiency of teaching in higher education.

- Brain Drain is a daunting cause for the poor standard of our faculty level, and under capacity of higher education system. Though pursuing higher education abroad is an essential source of intellectual enrichment, but there is also a dire need to introduce measure appropriate to encourage Pakistanis to return their home back and contribute in its economic, social and cultural development.

- Faculty development cannot be viewed in isolation and must be considered together with the development of an environment conducive to academics, as well as research and development in the universities.

- Quality of Infrastructure: The Higher Education sector is a major force for innovation. Universities and colleges through local, regional, national and international partnerships must share their expertise and facilities to support socioeconomic regeneration and growth. In Pakistan the existing deficiency of supporting infrastructure like libraries, labs, and even faculty may be couple up by sharing of resources of one institution by others located with in the geographical proximity. The optimum and judicious use of infrastructure would facilitate to improve the quality of environment in the higher education of the area, thereby helping to the system in total. Internal quality assurance processes of higher education institutions must be strengthened to conform to international standards of quality assurance.

- Ensuring the relevance of educational and research programs to economic imperatives.

- Emphasis on the need for strong industry-university linkages, allowing both sectors to interact and collaborate on joint projects/priorities.
Quality of Research Environment: Knowledge creation and diffusion are important drivers of innovation, sustainable economic growth and social well being of the society. Research is to be reconfirmed, as a fundamental activity of institutions. The establishment of sustainable and dynamic research sector in universities, that engages stakeholders in its activities, is key to achieve economic competitiveness.

Quality of Curriculum: Besides faculty, curriculum is the second most important aspect of the quality education at all levels. It is the standard of curriculum that equips the student to contribute to the society as per its changing demands. Updating and incorporating of latest knowledge in the curriculum is hallmark of any good institution. Because, institutions of higher learning are knowledge repositories whose faculty and students accrue knowledge and apply it to understand and address “local” issues. Therefore, the curriculum should be constantly updated, matching to the social dynamics and has to be derived from national socio-cultural and socio-moral aspirations.

Quality Evaluation & System of Assessment: The concept of accountability is closely allied with quality- no system of higher education can fulfill its mission unless it attains the highest quality of itself. Continuous and permanent assessment is necessary to reach this objective. Simultaneously, it is to be ensured that great care is exercised when making quality assessments, as it involves matters of judgment, academic values and cultural understanding. The issue of quality cannot be dissociated from the quest for excellence and the need to establish evaluation criteria. In order to assess local institutions with a global perspective, reviewing institutions against international quality benchmarks has gained precedence. Such criteria must however be adapted to take into account the diversity of situations, and the academic culture in Pakistan. There is need to develop a culture of evaluation coloured from the concept of quality, and involves all stakeholders on 360 degrees. Standard quality assessment practice involves the comparison between observed and intended outcomes of
(programs and institutions) and continuous analysis of the sources of dysfunction. Both internal self-evaluation and external review are vital components of any well-developed quality assurance system.

6.3 RESULTS:

There is a little evidence available that WTO members have fully reviewed and assessed the impacts of the GATS on their public education systems, significant variables of stakeholders, values and interests, or on the regulatory authority of governments, at any level of jurisdiction. In view of the growing skepticism regarding the “governmental authority” exclusion and desirability of flexibility in structural setting the governments may consider detailed reviews not only warranted by the complexities of issues involved but long overdue. The assessments are especially called for because some existing GATS obligations extend beyond international trade, reaching out to the heart of governments’ domestic regulatory authority and civilizational sensitivities.

With the suspension of negotiations, members now have an important opportunity to more fully assess the implications of GATS commitments on varied dimensions of education. Members that fail to carryout in-depth assessments run grave risk of extended networking of system education services than:

- Necessary and needed to promote national systematic interests in terms of access, quality, and appropriate mix service providers, priority determination and regulatory freedom.

- Evoking and enjoying the support of stake holders and civil society arousing suspicion of paradigm shift and trans-valuations that are inconsistent with cultural milieu and sovereignty imperatives.

- Venturing assorted risk of signing up obligation that are deemed valuationally divisive or harmful, and can not be subsequently fulfilled on account of civilizational conflict, psychological stresses and strain and dangers of domestic institutions being put out of gear due to competitive
inabilities and inadequate capacity to offer comparatively standard services with efficiency and professional competency.

- The insightful evaluation of consequence of opening education at various levels to parameters of GATS is essential for the formulation of rational, prudential and internationally acceptable policy and response mechanism on the part of Pakistan. It would furnish helpful inputs to the authorities for the articulation of realistic proposals regarding required safeguards and desired affirmative actions.

Without examining the purpose, motivations, content, thrust and tone of GATS and specific threats and promises it holds for the economy, society and cultural enfoldments of signatories, they would be grouping into dark. Instead of being positive impacted, negative fallout may be in store for them. Depending on the sagacity of policy and organizational intervention the intended expansion in trade and promotion of development can be realized and perils of disposed trade rise by foreign owned and controlled academic institutions can be avoided. With goodwill, understanding and exposure of WTO to the thoughtful claims the injurious existential effects of GATS can be prevented. It is possible to ensure the stakes and beneficial participation of the third world countries through offer of attractive terms and conditions in the forthcoming round of negotiations. The success of talks and bargaining is linked with the design of arrangement for the reduction of prospective risks feared by the developing economies like Pakistan’s one.

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**Endnotes**

1 Thanks to HEC that it has resolved this deficiency somehow by incorporating system of ranking the universities at Pakistan level. The system adopted though have certain inbuilt flaws, but can be regarded a step in right direction.
EXECUTIVE SUMMARY

The General Agreement on Trade in Services (GATS), which is administered by the World Trade Organization (WTO) and came into effect in 1995, is a set of multilateral, legally enforceable rules governing international trade in services. These rules are aimed at enhancing international trade in services through promotion of progressive liberalization, free competition among service providers, and open access to national markets without any prejudice or any preconditionality. The GATS cover twelve service sectors, of which education is one. Under education, there are 5 levels: primary, secondary, higher, adult and others for which there are 4 modes of supply for delivery. These modes of supply are: cross-border supply (distance education & virtual universities); consumption abroad; commercial presence and presence of natural persons. Thus it is necessary to allow free flow of knowledge cutting across its geographical boundaries through use of any or all four type of modes. Hence, if Pakistan commits higher education in its schedule of commitment, the export of higher education to Pakistan by universities of several countries is likely through modes of consumption abroad, cross border supply, franchise, twinning programs and virtual universities. People favoring WTO and GATS believe that the inclusion of education under the GATS will provide new opportunities and benefits, especially in terms of diversifying educational suppliers and enhancing access, introducing innovative ways of program delivery, building capacity through cooperative linkages and partnerships, and enhancing economic growth through increased trade. They point out that the GATS have been made flexible in its application to developing countries, taking note of their limited capacities.

At present, 149 nations have agreed to participate in GATS; and Pakistan being an active member of WTO is out of those 49 countries that have agreed to include at least one sector of education under GATS. There is a strong belief that the country outside GATS may not be in a position to enjoy those markets and hence may lose unrestricted access to markets in critical export areas. The pressure on member countries to join GATS is therefore tremendous. Once a country accedes to GATS, it has to abide by the general obligations of GATS and is expected to make specific commitments regarding market access and national treatment in any of
the service sectors (including education). For a GATS member, every round of negotiations means increasing liberalization, committing more sectors and removing major restrictions. From a development perspective the General Agreement on Trade in Services (GATS) is one of the most important agreements in the World Trade Organization (WTO). The agreement regulates the cross-border flow of trade and investment in services and provides important opportunities for developing countries. But it is not without problems. The human development impact of the agreement will depend on its implications for WTO members’ ability to formulate development policies (policy space) and on whether the potential of several of its articles is realized. While services currently account for over 60 percent of global production and employment, they represent no more than 20 per cent of total trade. However the trend in services mobility across national boundaries is on increase day by day and many services, which have long been considered genuine domestic activities, have increasingly become internationally mobile. The entire structure of the GATS is based on the following principles the details of which are made in succeeding paragraphs.

- All services are covered by GATS
- Most-favoured-nation treatment applies to all services, except the one-off temporary exemptions
- National treatment applies in the areas where commitments are made
- Transparency in regulations, inquiry points regulations have to be objective and reasonable
- International payments: normally unrestricted
- Individual countries’ commitments: negotiated and bound
- Progressive liberalization: through further negotiations

Though academic mobility involving professors, researchers, students, institutions and projects moving across borders started long before GATS through exchanges, linkages and partnerships, and through commercial initiatives. But, the introduction of the GATS has intensified the volume of trade in services manifolds including an unprecedented increase in cross-border provision of
higher education regardless trade agreements. However, the potential impact of GATS is still unknown as it is a new agreement yet to be implemented fully. Therefore, it is imperative to reaffirm the role and importance of higher education for sustainable social, political and economic development in Pakistan in the context of ongoing globalization process.

It was with these considerations, the research endeavored to ascertain potential “Implications of GATS on Higher Education in Pakistan” so as to manage own institutions in highly qualitative environments filled with foreign entities lead by highly qualified human resource, equipped with TQM techniques and belts. The research explores the viability of options for our own institutions to avail the opportunities being offered by foreign market like Middle East, Central Asia, and South Asia etc for performing an efficient role as educational providers across border. This likely role of educational providers, if executed in desirable way, will contribute two folds in Pakistan economy, firstly it will prevent out flow of foreign reserve by controlling own education market and secondly, tapping foreign education market and acting as foreign reserve earner. However, despite such a prospective future role, the views of the experts and analysts point out a dismal picture about these institutions. They are adamant that over time, these institutions have witnessed marked deterioration and none of our universities find any place in the ranking of the top 50 institutions of higher learning in Asia even. To yield the desired results, higher education in Pakistan has to respond emerging challenges in GATS dominated global environment characterized by increasing differences in wealth, social well being, educational opportunities and resources between rich and poor countries. The socio-economic development of Pakistan mainly depends upon the quality and extent of education accessible to its members. Therefore its development is to be taken like a challenge, which demands efficient and judicial use of available resources that may come from the government, private sector, civil society groups and development partners. However, Pakistan's record on the education front has not been impressive due to number of factors so far and the future demands further dynamism and coherence in our policies at macro and micro levels.
It is obvious that the impact of GATS’ and obligations derived from the agreement differ from country to country and depends upon the particular national environment. Therefore, understanding of the findings derived from the implications of the GATS requires a very detailed understanding of the legal conditions as well as mechanisms incorporating GATS commitments into the national legislation. The main findings drawn by the research are:

*Implications of the GATS:*

- The scope and definition of the Agreement (Article 1.3), the Most-Favored-Nation Treatment (Article II), Domestic Regulation (Article VI), Monopolies and Exclusive Service Suppliers (Article VIII), Market Access (Article XVI), National Treatment (Article XVII) and Part IV (Progressive Liberalization) are GATS components having ambiguity and double standards thereby need to be re-negotiated.

- GATS, does not carry provision to empower government to steer higher education with respect to private education, its ability to control the number and location of universities, the number of students in private institutions, the range of disciplines taught and the level of supply of graduates in the universities of a particular country, thereby undermining the state sovereignty.

- MFN provision once applied to one country/ institution opens the back door to other countries/ institutions irrespective of national will or trade rules.

- GATS, if accepted as such then open the door for greater federal intrusion into higher education, which is constitutionally a subject of Provincial autonomy.

- Commodification / commercialization of higher education under GATS has undermined the significance/ role of higher education as a social good worldwide, and an investment in economic and cultural development.
• The majority of generic barriers are from an exporter country’s point of view and focus on the supply modes “cross border supply” and “commercial presence”:

• There is a certain lack of transparency of government regulatory, policy and funding frameworks

• Domestic laws and regulations are administered in an unfair manner

• Subsidies are not made known in a clear and transparent manner

• Tax treatment, discriminates against foreign suppliers

• Foreign partners are treated less favourably than other providers

**HEC & Pakistan Institutions Specific Conclusions**

• Sustained socio-economic development of Pakistan is not possible by mere capital investment, unless it is reinforced by a consistent supply of adequately trained scientific and technical work force.

• Present government’s two-prong approach towards improvement of the education sector, to increase literacy rate and improving the quality of education at all levels is lauded by the research. However, ongoing efforts of improving the quality of teachers in public sector universities should be broadened by including private universities as well.

• Besides governance issues, one of the most important factors for slow improvement in the education indicators has been the low-level budget allocation for education. The range of 2.1 to 2.3 % of GNP from 1991 to 2001 remained significantly short of the minimum of 4 percent of GNP recommended by the UNESCO for developing countries. However, the rise seen in the last three years budget is acknowledged as a positive step towards improvement in education in Pakistan.

• Seeing the poverty level and per capita income in Pakistan, the prevailing socio-economic cost of higher education in Pakistan is beyond the reach of most of the poor students, especially women. Free trade in higher education and foreign campuses under GATS is likely to increase the cost
of acquiring education, thereby depriving a big chunk of our community from its basic fundamental rights enshrined in Constitution of Pakistan and set in UN millennium goals.

- Last decade has seen an unprecedented growth in the universities especially more pronounced in private sector. The 10 private universities/DAIs of 1997 have arisen to 53 in 2007. Similarly the figure of public sector has also gone high in manifold, thereby enhancing the role and operation of HEC. This increase coupled with HEC ongoing drive of improving the standard of higher education demands lot of increase in funding and allocations.

- The comparison of growth in literacy rate, population growth & allocated % age of GDP education leads to conclusion that our literacy rate and education expenditure in % age of GDP has throughout been lower to our population growth and increase in GDP. Thus the gap between the other public expenditure and education and population rise and literacy increase has been on increase throughout.

- The government ongoing effort to increase in literacy through enhancing enrolment in primary and secondary level education is likely to increase the burden on the existing structure of higher education thereby calling for more resources at this level.

- Seeing the goals of vision 2010, Pakistan would have approximately 25 million populations by 2010 in the age group 17-23 years. Such a large population of student age would also result in tremendous increase in the access to higher education. Handling of these enhanced dimensions needs a greater differentiation and proliferation of institutions and a much larger role by the private sector, as the state cannot provide sufficient funding through its public exchequer.

- Prevailing Quality Standards in Higher Education: The research believes that quality is a multidimensional concept, and it is not possible for Pakistan’s system of higher education to match the global quality standards that are likely to be decisive in the GATS dominated
environment. The key factors, determined by the research, having direct impact upon the quality of higher education are, the quality of faculty, curriculum standards, availability of technological infrastructure available, research environment, accreditation regime and the administrative police and procedures implemented in institutions of higher learning.

- Research finds missing, a comprehensive multi-level mechanism of accreditation capable to ensure provision of quality education at the department or program level, as well as the Institutional level.

- Quality of Faculty: Research discovers a critical deficiency of faculty in quantitative as well as qualitative term even in public sector universities at alarming level. The criticality of the issue calls for immediate response at all levels, i.e. institution, government concern, and the HEC. The gravity of issue needs central focus, and immediate attention not even for preparation to GATS but for the survival of our own quality education.

- There is discriminatory approach found in HEC practices towards the development of public sector universities and ignoring or neglecting the private sector universities in this regard. The approach has to be reframed and private sector’s faculties should also be invested to develop so as to withstand the foreign onslaught of institutions of higher learning operating unrestricted under GATS

- Faculty training in pedagogical, and communication skills is required at all levels to enhance the efficiency of teaching in higher education.

- Brain Drain is found to be a daunting cause for the poor standard of our faculty level, and under capacity of higher education system. Though pursuing higher education abroad is an essential source of intellectual enrichment, but there is also a dire need to introduce measure appropriate to encourage Pakistanis to return their home back and contribute in its economic, social and cultural development.

- Quality of Infrastructure: The existing deficiency of supporting infrastructure like libraries, labs, hostels, transportations, training aids,
new technology etc are passing through in critical stage. Though with the funding from HEC, considerable improvement in public sector universities is seen during the last few years, but the state is still under the level of satisfaction.

- The research finds lot of irrelevance between the educational and research programs to economic imperatives of the country, missing the industry-university linkages, allowing both sectors to interact and collaborate on joint projects/priorities according to socio-economic needs.

- Since, knowledge creation and diffusion are important drivers of innovation, sustainable economic growth and social well-being of the society, therefore, Pakistan’s system of higher education must confirm the research a fundamental activity of its institutions. Research opines that a dedicated culture of research with sustainable and dynamic research centers in the universities, that engages stakeholders in its activities to achieve economic competitiveness, is non-existent.

- The curriculum is, another important aspect of the quality education capable to equip student with the knowledge and skills to contribute to the changing demands of the society they belong. Updating and incorporating the latest knowledge in the curriculum is hallmark of any good institution. Because, institutions of higher learning are knowledge repositories whose faculty and students accrue knowledge and apply it to understand and address “local” issues. Therefore, the curriculum should be constantly updated, matching to the social dynamics and has to be derived from national socio-cultural and socio-moral aspirations.

- The existing system of evaluation and assessment in higher education has been centered on student’s evaluation/assessment through examinations only. Assessment and evaluation of student through different directions/ and at different tier was totally missing. Furthermore the assessment was mainly based on memorization of subject, 360-degree evaluation of students was found deficient, and uniformity of standardization of programs and their criteria for admission and qualification is missing.
There is lack of will and political/managerial resolve to introduce innovative schemes to attract students of higher education within the country and abroad, which may include many scholarship and financial aid packages.

- Despite HEC efforts in ongoing curriculum renewal programs, the research finds that still most of our curriculums are lacking their orientation/relevance to national needs and lacking abilities to promote and protect our ideological orientations and socio-cultural norms. The culture of technology parks, business incubators and funding of joint projects with industry is mostly missing from the scene. Our universities, with just few patents registered by them, in no sense can be called creative or vibrant institutions and it is high time that Pakistan starts investing massively into its higher education system with more energy.

- The research appreciates the visionary decision of Chancellor’s Committee to increase allocations in higher education sector by 50% each year (till they reach 1% of GNP for the higher education sector).

- The past regimes have remained more concerned in yielding power, strengthening and manipulating their terms thereby relegating education as lower priority, and sudden shift in political clout and shifting national priorities effected the direction of our higher education and left it a legacy of lower priority.

- Invasion of Western Culture and Values: With the intensive internationalization of Pakistan’s higher education system and import of education through any mode is likely to bring their socio-culture value along with their curriculum. Instead of developing our Socio-economic national environment, there is a most likely chance to loose our national identity and own socio-cultural values.

- Culture of Multi-National companies: Along with deregulation come the institutions of developed world like their multi national corporations that can beat out the local Pakistani institutions because of their size and infrastructure. Economies of scale will be harder to achieve for Pakistani
institutions as compared to these multi nationals type foreign institutions that can harness the full power of economies of scale on qualitative and quantitative parameters.

- The ongoing war against terror and rising wave of Islamic fundamentalism in response to Western invasion of Iraq, Afghanistan and undermining Islamic belief and values has severely effected Pakistan’s learning friendly environment. Students from foreign countries are found reluctant to come to Pakistan. The situation is further aggravated by the Pakistan’s government moves against the foreign students studying in Muddersas. The recent crack down in Red Mosque, and Western propaganda (coupled with our government low profile agreement) against our religious education institutions has made the situation further critical, retarding inflow of students to Pakistan.

- A weak legal system coupled with weak enforcement has created an environment conducive to piracy. The legal system is lacking especially in dealing with technology related disputes. The legal system is backlogged to such an extent that for any decision the plaintiff has to wait for years, which acts as a deterrent to litigation. This weakness has active negatively in encouraging new research, writing of books, registration of new patents etc. Therefore, culture of promoting original work and discouraging plagiarism could not be nurtured in our higher education.

- Violations of intellectual property rights in Pakistan are most common in the area of copyrights, where the piracy levels are exceptionally high. The market for imported computer software has remained nearly 95% pirated (multinational firms and other international agencies are the only users of genuine software), and piracy of books, films, training movies etc is rampant. Though Pakistan’s every government, however, has recognized the need for better protection of copyrights, but its true implementation has never been exercised. Before, we operate under the GATS, there is dire need to protect intellectual property, promote industry standards, and encourage electronic commerce.
- Inappropriate funding limiting scope of future growth on competitive pattern and productivity to private sector universities.
- Proliferation of providers of university level education has dispersed already low level of qualified faculties.
- Absence of an effective national regulatory framework for accreditation of degrees for foreign institutions.
- Experienced staff leaving for greener pastures. Low recruitment and retention levels of staff due to unattractive terms and conditions of employment.
- Heavy dependence on part-time lecturers in some faculties especially in private universities of lesser age has overcommitted the qualified teachers. This culture has provided an excuse / escape rout for the faculty not to deliberate for their preparation of lectures.
- Inadequate institutional capacity to meet the rising demand for higher education with increase in literacy level and growth in enrolment.
- Little emphasis given to the recruitment of international students in most of our institutions. The bulk of the foreign students studying in Pakistan are from cultural programs, therefore giving zero financial inflow.
- Inadequate library facilities thus limiting academic development and lack of land for future expansion of the campus.
- Lack of facilities for student welfare/counseling/career guidance and limited sports facilities and other campus activities.
- Most of the existing higher education management in the institutions is politically motivated and lack the necessary qualities to provide credible leadership. The rather whimsical methods of their appointment, and the conditions of service; their lack of vision, confidence in themselves; and low institutional or professional commitment-all combine to make a pessimistic mix for reform.
• Poor awareness about the GATS and its likely impacts, even amongst the academia, eminent scholars and strategic management of higher education system.

• No, policy preparations or studies conducted so far at Government level to ward off negative impacts of the GATS.

• Rigid, structure heavy and mostly politically represented academic/decision making bodies in universities are proving counter productive in quick decision making and meeting the dynamism of globalization of higher education.

• Fiscal uncertainty, mismanagement and corruption through misuse of power is talk of the town.

• Inability of senior management in the universities to hire and retain the quality faculty rather such decisions are mostly influenced by the socio-political pressures or undermined by the sluggish bureaucratic procedures.

• Growth of private sector and availability of limited resource persons in different disciplines has made the market highly competitive to retain and maintain the qualified faculty and staff.

• Diversity of student from within and abroad is likely to improve civilizational understanding, cultural exchange and respect, and improved prospects for international / regional peace and harmony.

• Prospects for Foreign Aids: Based on the current regional instability, Pakistan can apply for additional aid and with that investment it gains access to expertise from sources like the World Bank and the IMF. Pakistan can also avail this aid from the developed countries like the US, which would allow Pakistan access to foreign markets and can ensure foreign direct investment growth.

• Meaningful and market needs oriented programs have more chances to increase value of higher education completion.

• Strategic alliances and partnerships with institutions of international repute for offering university courses should be the immediate strategy to be
adopted for preparation of GATS and giving own institutions a foreign exposure.

• The competitive environment may lead to eliminate the newly setup / low standard universities of local profile,

The insightful evaluation of consequence of opening education at various levels to parameters of GATS is essential for the formulation of rational, prudential and internationally acceptable policy and response mechanism on the part of Pakistan. It would furnish helpful inputs to the authorities for the articulation of realistic proposals regarding required safeguards and desired affirmative actions. Without examining the purpose, motivations, content, thrust and tone of GATS and specific threats and promises it holds for the economy, society and cultural enfoldments of signatories, they would be grouping into dark. Instead of being positive impacted, negative fallout may be in store for them. Depending on the sagacity of policy and organizational intervention the intended expansion in trade and promotion of development can be realized and perils of disposed trade rise by foreign owned and controlled academic institutions can be avoided. With goodwill, understanding and exposure of WTO to the thoughtful claims the injurious existential effects of GATS can be prevented. It is possible to ensure the stakes and beneficial participation of the third world countries through offer of attractive terms and conditions in the forthcoming round of negotiations. The success of talks and bargaining is linked with the design of arrangement for the reduction of prospective risks feared by the developing economies like Pakistan’s one.
Annexure – A

Questionnaire-A

For the Official of Ministry of Commerce & Trade
(WTO Section)

Bio-data of the respondent:

Name: ___________________________________________________________

Official position & grade: _____________________________________________

Service experience: ________________________________________________

Education: ________________________________________________________

Serving at the present post since: ________________________________

Note: Please attach extra paper, when even required for detailed comments.

Q.1. What are the status/obligations of Pakistan with regards to GATS?

_________________________________________________________________
_________________________________________________________________
_________________________________________________________________
_________________________________________________________________
_________________________________________________________________

Q.2. What is the Schedule of Commitments made by Pakistan for Education Sector (Primary/Secondary/Higher)?

_________________________________________________________________
_________________________________________________________________
_________________________________________________________________
_________________________________________________________________
_________________________________________________________________
Q.3. Identify the mode(s), for which Pakistan has committed to GATs, with reference to higher education.

Q.4. When GATS is going to be totally effective for Pakistan’s higher education?

Q.5. Do you consider Pakistan’s higher education base (local institutions) strong enough to withstand the foreign competitors?
Q.6. List/reason for your answer of Q.5
_________________________________________________________________
_________________________________________________________________
_________________________________________________________________
_________________________________________________________________
_________________________________________________________________
_________________________________________________________________

Q.7. Which sector of higher education in Pakistan is more competitive to withstand GATS environments?

<table>
<thead>
<tr>
<th></th>
<th>No Knowledge</th>
<th>Not Prepared</th>
<th>Little Prepared</th>
<th>Well Prepared</th>
<th>Fully advantageous position</th>
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<td>Private Sector:</td>
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Q.8. What effects/impacts are likely to be on Pakistan’s foreign trade in Education due to GATS?
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Q.9. Do you think that government has taken appropriate measures to prepare Pakistan’s higher education institutions to operate under GATS environment?

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Q.10. What are the existing shortcomings in our institutions with refer to their operation under GATS?

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Q.11. Are we prepared at all levels to coup up the existing deficiencies? (Q.10 referred) If yes then spell out the planed strategies briefly in order of preference.

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Q.12. In your view, what is the prevailing level of awareness/preparedness amongst the authorities concerned in Pakistan about GATS.

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<th>Good</th>
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Q.13. Do you feel that current level of coordination between HEC (former UGC) and Ministry of Commerce on issues related to GATS is satisfactory?

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Q.14. Is there any Coordination (with reference to GATS) between Ministry of Foreign Affairs commercial attachee, Ministry of Commerce and local research organizations/ institutions? If yes! Then identify channels/arrangements made for coordination.

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Q.15. What research Pakistan has conducted to ascertain the feasibility of her commitment to GATS in higher education?

Q.16. What incentives GOP offers to enhance/increase foreign students arrivals.

a. Measures/ incentive offered:
   1. ______________________________________________________
   2. ______________________________________________________
   3. ______________________________________________________
   4. ______________________________________________________
   5. ______________________________________________________

b. Other measures suggested:
   1. ______________________________________________________
   2. ______________________________________________________
   3. ______________________________________________________
   4. ______________________________________________________
   5. ______________________________________________________
Q.17. What incentives attractions go GOP should offer to encourage foreign universities to launch their operation in Pakistan through opening up their campuses.

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Q.18. What financial benefits/ tax and other relief/concessions shall be offered to the local Pakistani universities so as to help them to enhance their foreign students in take.

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Q.19. What measures GOP is taking to provide alternatives/ matching educational facilities to the Pakistani students so as to reduce the trend of going abroad in out bound students.

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Q.20. Identify the countries, with which Pakistan has the MFN status with references to commercialization/trade in higher education?

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Q.21. Do you think that Pakistan is an attractive destination/suitable choice for foreign institutions to trade with or foreign students to study?

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<th>Not Suited</th>
<th>Poorly suited</th>
<th>Well suited</th>
<th>Ideal</th>
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<tr>
<td>For Foreign Universities</td>
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<tr>
<td>For Foreign Students</td>
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Q.22. List reason for you above answer to Q.21.

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Q.23. What limitations GATS does impose on Pakistan?

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Q.24. What Advantages/opportunities GATS does offer to Pakistan?

Q.25. What threats do you perceive for Pakistan’s higher education institutions from their foreign-based counter parts, if the GATS is fully implemented.
Dear respondent,

This research is conducted with the sole aim of recommending improvements to Pakistan’s higher education system so as to enable it to withstand General Agreement in Trade in Services (GATS) environment. There is no denying the fact that, HEC is putting hard to reform the existing system of higher education to bring it at par with international standards still, need was felt to conduct a research from international perspective by evaluating the possible impact of GATS on higher education of Pakistan.

The research is mainly focusing on different problem and possible opportunities likely to arise from commitments under GATS for developing countries like Pakistan under 4 modes as **cross-border supply, consumption abroad, trade via commercial presence, and presence of natural persons.**

You are kindly requested, to share your point of view with the researcher according to the questionnaire attached along with the request. Please feel free to comment as per your own perception. I assure you that the element of privacy will be accorded high priority.

**NASIR KARIM**  
PhD Research Scholar,  
Department of Management Sciences,  
Qurtaba University, Peshawar campus  
Cell#0321-9044882  
Email: nasirbss@hotmail.com
1. Whether General Agreement on Trade in Services (GATS) could be used as an opportunity by Pakistan to attract investment in higher education and also explore export markets or otherwise?

2. Do you recommend, Pakistan to offer its schedule of commitments in Higher education under GATS?

3. Which mode of supply (1. presence of natural persons, 2. trade via commercial presence, 3. consumption abroad, and 4. cross-border supply) do you suggest for Pakistan to allow while offering its commitment in higher education under GATS?

4. Since comodification of higher education in Pakistan under GATS is going to accelerate the privatization of higher education in Pakistan, (where considerable portion of our population lives under poverty), therefore, do you consider it tonic for our socio-economic development or otherwise?
5. Do you consider Pakistan’s system of higher education is well prepared to take on the Foreign Service providers in competitive environment or is there any need to reform our institutions and bring them at foreign standards first?

6. Whether Pakistan should allow Foreign Education Providers in a phased manner after domestic reforms are in place or not at all?

7. If Pakistan includes higher education in its schedule of commitments under GATS, than how quality standards for accreditation in Pakistan shall be ensured upon the foreign education providers.

8. How could Pakistan ensure that foreign providers are offering curriculum not identical to that offered by their home institutions, rather relevant to Pakistan’s national objectives and socio-cultural milieu

9. What should be the way in which foreign educational institutions can deliver services in Pakistan: through a joint venture or a wholly owned subsidiary?
10. What would be the role of the HEC and that of the Provincial Higher Education Regulatory Authorities in the country of the foreign education providers?

11. How would the issues of liability and student welfare/ scholarships be handled in cases involving foreign educational institutions?

12. Whether efforts should be made to harmonize our licensing and qualification requirements and procedures to world standards so as to create linkages of higher education to export of professional services?

13. How much flexibility can be given to foreign education providers in the areas of setting fees, admission, hiring of teachers, course and syllabi?

14. Whether it would be desirable to have an international accreditation mechanism to ensure quality? If yes than what could be the proposed mechanism?
15. How can the accreditation mechanism be strengthened? Is there a role for private accreditation agencies?

16. The GATS, solely driven by profit motive increases its reliance on the private sector for the provision of higher education, which will most likely have serious social implications for the majority of population of developing countries like Pakistan who cannot afford to acquire education on market price. Your comments:

17. Is there a market for Pakistani education services abroad?

18. If yes, what is the potential for expansion to get market access in other countries?

19. In future, which countries will be important export destinations for Pakistani education services? What type of education services can be anticipated for exporting in the future?

20. What are the barriers being faced by the Pakistan educational institutions, in opening campuses abroad? Your answer should focus on the supply modes “cross border supply” and “commercial presence”.
21. Do you perceive the likely paradigm shift and trans-valuations under GATS consistent with our cultural milieu and sovereignty imperatives?

22. What associated risks do you visualize in signing up obligations under GATS that might be harmful to our society, and carry psychological stresses and strains for our domestic institutions presently operating with competitive inabilities and inadequate capacity vis-à-vis foreign education providers.

23. Is there any need or necessity felt to promote national systematic interests in terms of access, quality, and appropriate mix service providers, priority determination and regulatory freedom? If yes, then suggest measures in this regard.

24. Since the education is considered to be a provincial subject, should federal government allow any foreign university to operate within the jurisdiction of any province without prior consultation?
25. The Opening door to one foreign for-profit provider under the MFN clause is to be communicated automatically to all other members- disregards to your national choice or socio-cultural demands seems to promote liberalization through the back door. Will it be suitable to our changing public ideals and national sovereign rights?
STRUCTURED INTERVIEW

STRATEGIC POLICY MANAGEMENT IN HIGHER EDUCATION COMMISSIONS ISLAMABAD & SELECTED ACADEMIA

1. What are the areas of potential for expanding education services in Pakistan? Are we in a position to meet these demands internally?

2. Whether Pakistan should allow Foreign Education Providers in a phased manner, after domestic reforms are in place or not at all?

3. What should be the way in which foreign educational institutions can deliver services in Pakistan: through a joint venture or a wholly owned subsidiary?
4. What would be the role of the HEC and that of the Provincial Higher Education Regulatory Authorities in the country of the foreign education providers?

5. How would the issues of liability and student welfare be handled in cases involving foreign educational institutions?

6. Whether negotiations under General Agreement on Trade in Services (GATS) could be used as an opportunity by Pakistan to attract investment in higher education and also explore export markets?

7. Whether efforts should be made to harmonize our licensing and qualification requirements and procedures to world standards so as to create linkages of higher education to export of professional services?
8. How much flexibility can be given to foreign education providers in the areas of setting fees, admission, hiring of teachers, course and syllabi?

9. Whether it would be desirable to have an accreditation mechanism to ensure quality?

10. Whether compulsory self-disclosure by private education providers (both Pakistani and foreign) could be introduced to address the problems of misrepresentation? (For example, in USA, students’ ‘Right to Know’ requirement under the provisions of the Higher Education Act of 1965 and Freedom of Information Act requires the disclosure of financial assistance and institutional information to students.)

11. How can the accreditation mechanism be strengthened? Is there a role for private accreditation agencies?
12. Is there a market for Pakistani education services abroad?

13. If yes, what is the potential for expansion to get market access in other countries?

14. In future, which countries will be important export destinations for education services? What type of education services can be anticipated for exporting in the future?

15. What are the barriers being faced by the Pakistan educational institutions, in opening campuses abroad?
QUESTIONNAIRE FOR GENERAL RESPONSE

Q.1 Highly trained & motivated faculty plays a pivotal role in higher education development especially when higher education is commercialized under GATS agreement?

Q.2 Financial increment & job security encourages & results in to high level of productivity among teachers.

Q.3 To bring our teaching standard at par with developed countries research oriented activities need to be enhanced.

Q.4 High quality not only depends on good human resource but also requires good governance & sustained leadership.

Q.5 To what extent do you agree that good quality systematic & disciplined examination system adds towards the overlap improvement of higher education system of Pakistan.

Q.6 Universities acceleration system requires upgradation with country and across border to protect student against any legal implication & discrimination.

Q.7 World class research culture is the need of the day to accommodate higher education system of Pakistan in global market?

Q.8 Political instability is also a significant contributor towards the status of prevailing education policies.
Q.9 As compared to last century, infrastructure of higher education is improving & involving & is able to grab the attention of both private sector & foreign sector.

Q.10 Since curricular plays a vital role in higher education development, it needs strategic upgradation with reference to national needs and changing global scenario?

Q.11 With the changing global requirement, should higher education also be commercialized?

Q.12 With a reference to previous statement, to what extent do you agree to the fact that GATS will encourage the invasion of western culture & values into the higher education system of Pakistan.

Q.13 With the implication of GATS, higher education will also be “McDonaldized” bringing in the interest & culture of multinational providers in higher education.

Q.14 Commercialization of higher education will further aggravate access VS equity issues leading to distress among stakeholders.

Q.15 The agreement of GATS provides protection against domestic rules, regulations of most of the countries. Resultantly they protect the interest of developed countries who are mainly exporters as compared to developing countries who are potential markets.

Q.16 GATS encourages co modification of higher
education across borders. This may effect the intellect & model aspect of higher education as it will start prodding statements with role aimed at assuring economic gains.

Q.17 The agreement of GATS under WTO may reduce the role & interference of government bodies as it is very much market driven.

Q.18 There is a dire need for coordination between HEC, ministry of trade, ministry of education & private sector investor to develop a multipronge strategy for the development of higher education with in & across borders.

Q.19 With the introduction of GATS the main orientation of educational institution will shift from welfare to profit maximization. If this happens Pakistan public as well private sector universities will be marginalized in the race due to existing qualitative & administrative gap’s against their foreign counter parts.

Q.20 The application of GATS rules will encourage and will also provide the opportunities to the higher education institutions to shift their focus from research and teaching to mainly commercial and marketing activities.

Q.21 GATS claim of universal access to education is under threat.

Q.22 Commercialization of education has negative consequences.
Q.23 Under the GATS rules the private & foreign providers will be entitled to the same subsidies as domestic public institutions.

Q.24 GATS is also seen as potential threat for domestic education system as weak infrastructure, poor quality standards, lack of objectivity, political interference & inefficient financial support is not able to withstand the potential opportunities provided by the developed countries.
<table>
<thead>
<tr>
<th>Public Sector Universities / Degree Awarding Institutes</th>
<th>Private Sector Universities / Degree Awarding Institutes</th>
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<tbody>
<tr>
<td>1 Air University, Islamabad</td>
<td>1 Agha Khan University, Karachi</td>
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<tr>
<td>2 Allama Iqbal Open University, Islamabad</td>
<td>2 Al-Khair University, AJK</td>
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<tr>
<td>3 Bahauddin Zakariya University, Multan</td>
<td>3 Baqai Medical University, Karachi</td>
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<tr>
<td>4 Bahria University, Islamabad</td>
<td>4 Beaconhouse National University, Lahore</td>
</tr>
<tr>
<td>5 Balochistan University of Engineering and Technology, Khuzdar</td>
<td>5 CECOS University of Information Technology and Emerging Sciences, Peshawar</td>
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<tr>
<td>6 Balochistan University of Information Technology and Management Sciences, Quetta</td>
<td>6 City University of Science &amp; Information Technology, Peshawar</td>
</tr>
<tr>
<td>7 COMSATS Institute of Information Technology, Islamabad (having campuses; Islamabad, Abbottabad, Wah, Lahore and Attock).</td>
<td>7 Dadabhoy Institute of Higher Education, Karachi</td>
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<tr>
<td>8 Dow University of Health Sciences, Karachi</td>
<td>8 Foundation University, Islamabad</td>
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<td>9 Fatima Jinnah Women University, Rawalpindi</td>
<td>9 Gandhara University, Peshawar</td>
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<td>10 Federal Urdu University of Arts, Sciences and Technology, Islamabad</td>
<td>10 Ghulam Ishaq Khan Institute of Engineering Sciences &amp; Technology, Swabi</td>
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<td>11 Gomal University, D.I. Khan</td>
<td>11 Greenwich University, Karachi</td>
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<tr>
<td>12 Government College University, Faisalabad</td>
<td>12 Hajvery University, Lahore</td>
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<td>13 Government College University, Lahore</td>
<td>13 Hamdard University, Karachi</td>
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<td>14 Hazara University, Dodhial, Mansehra</td>
<td>14 Imperial College of Business Studies, Lahore</td>
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<tr>
<td>15 Institute of Business Administration, Karachi</td>
<td>15 Indus Valley School of Art and Architecture, Karachi</td>
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<tr>
<td>16 Institute of Management Sciences (IMSciences), Peshawar</td>
<td>16 Institute of Business Management, Karachi</td>
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<tr>
<td>17 Institute of Space Technology (IST), Islamabad</td>
<td>17 Institute of Business &amp; Technology BIZTEK, Karachi</td>
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<td>18 International Islamic University, Islamabad</td>
<td>18 Institute of Management Sciences, Lahore</td>
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<td>19 Islamia University, Bahawalpur</td>
<td>19 University of South Asia, Lahore</td>
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<td>20 Iqra University, Quetta</td>
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<tr>
<td>21 Kohat University of Science &amp; Technology, Kohat</td>
<td>21 Iqra University, Karachi</td>
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<td>22 Lahore College for Women University, Lahore</td>
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<tr>
<td>23</td>
<td>Liaquat University of Medical and Health Sciences, Jamshoro Sindh</td>
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<td>Sindh Agriculture University, Tandojam</td>
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<td>University of Agriculture, Faisalabad</td>
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<td>University of Arid Agriculture, Murree Road, Rawalpindi</td>
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<td>University of Azad Jammu &amp; Kashmir, Muzaffarabad, Azad Kashmir</td>
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<td>University of Health Sciences, Lahore</td>
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<td>University of Peshawar, Peshawar</td>
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<td>Virtual University of Pakistan, Lahore</td>
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<td>University of Gujrat, Gujrat</td>
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<td>47 (Universities) + 9 (Degree Awarding Institutes) = 56</td>
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Source: Higher Education Commission of Pakistan
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Source: Center for Higher Education Transformation
ANNEXURE -H

GENERAL AGREEMENT ON TRADE IN SERVICES

PART I SCOPE AND DEFINITION

Article I Scope and Definition

PART II GENERAL OBLIGATIONS AND DISCIPLINES

Article II Most-Favoured-Nation Treatment

Article III Transparency

Article III bis Disclosure of Confidential Information

Article IV Increasing Participation of Developing Countries

Article V Economic Integration

Article V bis Labour Markets Integration Agreements

Article VI Domestic Regulation

Article VII Recognition

Article VIII Monopolies and Exclusive Service Suppliers

Article IX Business Practices

Article X Emergency Safeguard Measures

Article XI Payments and Transfers

Article XII Restrictions to Safeguard the Balance of Payments

Article XIII Government Procurement

Article XIV General Exceptions

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PART III SPECIFIC COMMITMENTS

Article XVI Market Access

Article XVII National Treatment
Article XVIII Additional Commitments

PART IV PROGRESSIVE LIBERALIZATION
Article XIX Negotiation of Specific Commitments
Article XX Schedules of Specific Commitments
Article XXI Modification of Schedules

PART V INSTITUTIONAL PROVISIONS
Article XXII Consultation
Article XXIII Dispute Settlement and Enforcement
Article XXIV Council for Trade in Services
Article XXV Technical Cooperation
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PART VI FINAL PROVISIONS
Article XXVII Denial of Benefits
Article XXVIII Definitions
Article XXIX Annexes
Annex on Article II Exemptions
Annex on Movement of Natural Persons Supplying Services under the Agreement
Annex on Air Transport Services
Annex on Financial Services
Second Annex on Financial Services
Annex on Negotiations on Maritime Transport Services
Annex on Telecommunications
Annex on Negotiations on Basic Telecommunications
GENERAL AGREEMENT ON TRADE IN SERVICES

Members,

Recognizing the growing importance of trade in services for the growth and development of the world economy;

Wishing to establish a multilateral framework of principles and rules for trade in services with a view to the expansion of such trade under conditions of transparency and progressive liberalization and as a means of promoting the economic growth of all trading partners and the development of developing countries;

Desiring the early achievement of progressively higher levels of liberalization of trade in services through successive rounds of multilateral negotiations aimed at promoting the interests of all participants on a mutually advantageous basis and at securing an overall balance of rights and obligations, while giving due respect to national policy objectives;

Recognizing the right of Members to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives and, given asymmetries existing with respect to the degree of development of services regulations in different countries, the particular need of developing countries to exercise this right;

Desiring to facilitate the increasing participation of developing countries in trade in services and the expansion of their service exports including, inter alia, through the strengthening of their domestic services capacity and its efficiency and competitiveness;

Taking particular account of the serious difficulty of the least-developed countries in view of their special economic situation and their development, trade and financial needs;

Hereby agree as follows:
PART I

SCOPE AND DEFINITION

Article I

Scope and Definition

1. This Agreement applies to measures by Members affecting trade in services.

2. For the purposes of this Agreement, trade in services is defined as the supply of a service:

   (a) From the territory of one Member into the territory of any other Member;

   (b) In the territory of one Member to the service consumer of any other Member;

   (c) By a service supplier of one Member, through commercial presence in the territory of any other Member;

   (d) By a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member.

3. For the purposes of this Agreement:

   (a) "Measures by Members," means measures taken by:

      (i) Central, regional or local governments and authorities; and

      (ii) Non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;

      In fulfilling its obligations and commitments under the Agreement, each Member shall take such reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities and non-governmental bodies within its territory;

   (b) "Services" includes any service in any sector except services supplied in the exercise of governmental authority;
(c) "A service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers.

PART II

GENERAL OBLIGATIONS AND DISCIPLINES

Article II

Most-Favoured-Nation Treatment

1. With respect to any measure covered by this Agreement, each Member shall accord immediately and unconditionally to services and service suppliers of any other Member treatment no less favourable than that it accords to like services and service suppliers of any other country.

2. A Member may maintain a measure inconsistent with paragraph 1 provided that such a measure is listed in, and meets the conditions of, the Annex on Article II Exemptions.

3. The provisions of this Agreement shall not be so construed as to prevent any Member from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are both locally produced and consumed.

Article III

Transparency

1. Each Member shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to or affect the operation of this Agreement. International agreements pertaining to or affecting trade in services to which a Member is a signatory shall also be published.

2. Where publication as referred to in paragraph 1 is not practicable, such information shall be made otherwise publicly available.
3. Each Member shall promptly and at least annually inform the Council for Trade in Services of the introduction of any new, or any changes to existing, laws, regulations or administrative guidelines which significantly affect trade in services covered by its specific commitments under this Agreement.

4. Each Member shall respond promptly to all requests by any other Member for specific information on any of its measures of general application or international agreements within the meaning of paragraph 1. Each Member shall also establish one or more enquiry points to provide specific information to other Members, upon request, on all such matters as well as those subject to the notification requirement in paragraph 3. Such enquiry points shall be established within two years from the date of entry into force of the Agreement Establishing the WTO (referred to in this Agreement as the "WTO Agreement"). Appropriate flexibility with respect to the time-limit within which such enquiry points are to be established may be agreed upon for individual developing country Members. Enquiry points need not be depositories of laws and regulations.

5. Any Member may notify to the Council for Trade in Services any measure, taken by any other Member, which it considers affects the operation of this Agreement.

**Article III is**

**Disclosure of Confidential Information**

Nothing in this Agreement shall require any Member to provide confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.
**Article IV**

**Increasing Participation of Developing Countries**

1. The increasing participation of developing country Members in world trade shall be facilitated through negotiated specific commitments, by different Members pursuant to Parts III and IV of this Agreement, relating to:

   (a) The strengthening of their domestic services capacity and its efficiency and competitiveness, *inter alia* through access to technology on a commercial basis;

   (b) The improvement of their access to distribution channels and information networks; and

   (c) the liberalization of market access in sectors and modes of supply of export interest to them.

2. Developed country Members, and to the extent possible other Members, shall establish contact points within two years from the date of entry into force of the WTO Agreement to facilitate the access of developing country Members' service suppliers to information, related to their respective markets, concerning:

   (a) Commercial and technical aspects of the supply of services;

   (b) Registration, recognition and obtaining of professional qualifications; and

   (c) The availability of services technology.

3. Special priority shall be given to the least-developed country Members in the implementation of paragraphs 1 and 2. Particular account shall be taken of the serious difficulty of the least-developed countries in accepting negotiated specific commitments in view of their special economic situation and their development, trade and financial needs.
Article V

Economic Integration

1. This Agreement shall not prevent any of its Members from being a party to or entering into an agreement liberalizing trade in services between or among the parties to such an agreement, provided that such an agreement:

   (a) Has substantial sectoral coverage1, and

   (b) Provides for the absence or elimination of substantially all discrimination, in the sense of Article XVII, between or among the parties, in the sectors covered under subparagraph (a), through:

      (i) Elimination of existing discriminatory measures, and/or

      (ii) Prohibition of new or more discriminatory measures, either at the entry into force of that agreement or on the basis of a reasonable time-frame, except for measures permitted under Articles XI, XII, XIV and XIV bis.

2. In evaluating whether the conditions under paragraph 1(b) are met, consideration may be given to the relationship of the agreement to a wider process of economic integration or trade liberalization among the countries concerned.

3. (a) Where developing countries are parties to an agreement of the type referred to in paragraph 1, flexibility shall be provided for regarding the conditions set out in paragraph 1, particularly with reference to subparagraph (b) thereof, in accordance with the level of development of the countries concerned, both overall and in individual sectors and subsectors.

   (b) Notwithstanding paragraph 6, in the case of an agreement of the type referred to in paragraph 1 involving only developing countries, more favourable treatment may be granted to juridical persons owned or controlled by natural persons of the parties to such an agreement.

4. Any agreement referred to in paragraph 1 shall be designed to facilitate trade between the parties to the agreement and shall not in respect of any Member outside the agreement raise the overall level of barriers to trade in
services within the respective sectors or subsectors compared to the level applicable prior to such an agreement.

This condition is understood in terms of number of sectors, volume of trade affected and modes of supply. In order to meet this condition, agreements should not provide for the \textit{a priori} exclusion of any mode of supply.

5. If, in the conclusion, enlargement or any significant modification of any agreement under paragraph 1, a Member intends to withdraw or modify a specific commitment inconsistently with the terms and conditions set out in its Schedule, it shall provide at least 90 days advance notice of such modification or withdrawal and the procedure set forth in paragraphs 2, 3 and 4 of Article XXI shall apply.

6. A service supplier of any other Member that is a juridical person constituted under the laws of a party to an agreement referred to in paragraph 1 shall be entitled to treatment granted under such agreement, provided that it engages in substantive business operations in the territory of the parties to such agreement.

7. (a) Members which are parties to any agreement referred to in paragraph 1 shall promptly notify any such agreement and any enlargement or any significant modification of that agreement to the Council for Trade in Services. They shall also make available to the Council such relevant information as may be requested by it. The Council may establish a working party to examine such an agreement or enlargement or modification of that agreement and to report to the Council on its consistency with this Article.

(b) Members which are parties to any agreement referred to in paragraph 1 which is implemented on the basis of a time-frame shall report periodically to the Council for Trade in Services on its implementation. The Council may establish a working party to examine such reports if it deems such a working party necessary.
(c) Based on the reports of the working parties referred to in subparagraphs (a) and (b), the Council may make recommendations to the parties as it deems appropriate.

8. A Member which is a party to any agreement referred to in paragraph 1 may not seek compensation for trade benefits that may accrue to any other Member from such agreement.

Article V bis

Labour Markets Integration Agreements

This Agreement shall not prevent any of its Members from being a party to an agreement establishing full integration of the labour markets between or among the parties to such an agreement, provided that such an agreement:

(a) Exempts citizens of parties to the agreement from requirements concerning residency and work permits;

(b) Is notified to the Council for Trade in Services.

Article VI

Domestic Regulation

1. In sectors where specific commitments are undertaken, each Member shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

2. Typically, such integration provides citizens of the parties concerned with a right of free entry to the employment markets of the parties and includes measures concerning conditions of pay, other conditions of employment and social benefits.

2. (a) Each Member shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the
Member shall ensure that the procedures in fact provide for an objective and impartial review.

(b) The provisions of subparagraph (a) shall not be construed to require a Member to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

3. Where authorization is required for the supply of a service on which a specific commitment has been made, the competent authorities of a Member shall, within a reasonable period of time after the submission of an application considered complete under domestic laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the competent authorities of the Member shall provide, without undue delay, information concerning the status of the application.

4. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, the Council for Trade in Services shall, through appropriate bodies it may establish, develop any necessary disciplines. Such disciplines shall aim to ensure that such requirements are, *inter alia:*

(a) based on objective and transparent criteria, such as competence and the ability to supply the service;

(b) not more burdensome than necessary to ensure the quality of the service;

(c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

5. (a) In sectors in which a Member has undertaken specific commitments, pending the entry into force of disciplines developed in these sectors pursuant to paragraph 4, the Member shall not apply licensing and qualification requirements and technical standards that nullify or impair such specific commitments in a manner which:
(i) does not comply with the criteria outlined in subparagraphs 4(a), (b) or (c); and

(ii) could not reasonably have been expected of that Member at the time the specific commitments in those sectors were made.

(b) In determining whether a Member is in conformity with the obligation under paragraph 5(a), account shall be taken of international standards of relevant international organizations3 applied by that Member.

6. In sectors where specific commitments regarding professional services are undertaken, each Member shall provide for adequate procedures to verify the competence of professionals of any other Member.

3The term "relevant international organizations" refers to international bodies whose membership is open to the relevant bodies of at least all Members of the WTO.

Article VII

Recognition

1. For the purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorization, licensing or certification of services suppliers, and subject to the requirements of paragraph 3, a Member may recognize the education or experience obtained, requirements met, or licenses or certifications granted in a particular country. Such recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the country concerned or may be accorded autonomously.

2. A Member that is a party to an agreement or arrangement of the type referred to in paragraph 1, whether existing or future, shall afford adequate opportunity for other interested Members to negotiate their accession to such an agreement or arrangement or to negotiate comparable ones with it. Where a Member accords recognition autonomously, it shall afford adequate opportunity for any other Member to demonstrate that education,
experience, licenses, or certifications obtained or requirements met in that other Member's territory should be recognized.

3. A Member shall not accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the authorization, licensing or certification of services suppliers, or a disguised restriction on trade in services. 4. Each Member shall:

(a) within 12 months from the date on which the WTO Agreement takes effect for it, inform the Council for Trade in Services of its existing recognition measures and state whether such measures are based on agreements or arrangements of the type referred to in paragraph 1;

(b) promptly inform the Council for Trade in Services as far in advance as possible of the opening of negotiations on an agreement or arrangement of the type referred to in paragraph 1 in order to provide adequate opportunity to any other Member to indicate their interest in participating in the negotiations before they enter a substantive phase;

(c) promptly inform the Council for Trade in Services when it adopts new recognition measures or significantly modifies existing ones and state whether the measures are based on an agreement or arrangement of the type referred to in paragraph 1.

5. Wherever appropriate, recognition should be based on multilaterally agreed criteria. In appropriate cases, Members shall work in cooperation with relevant intergovernmental and non-governmental organizations towards the establishment and adoption of common international standards and criteria for recognition and common international standards for the practice of relevant services trades and professions.

Article VIII

Monopolies and Exclusive Service Suppliers

1. Each Member shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant
market, act in a manner inconsistent with that Member's obligations under Article II and specific commitments.

2. Where a Member's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is subject to that Member's specific commitments, the Member shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such commitments.

3. The Council for Trade in Services may, at the request of a Member which has a reason to believe that a monopoly supplier of a service of any other Member is acting in a manner inconsistent with paragraph 1 or 2, request the Member establishing, maintaining or authorizing such supplier to provide specific information concerning the relevant operations.

4. If, after the date of entry into force of the WTO Agreement, a Member grants monopoly rights regarding the supply of a service covered by its specific commitments, that Member shall notify the Council for Trade in Services no later than three months before the intended implementation of the grant of monopoly rights and the provisions of paragraphs 2, 3 and 4 of Article XXI shall apply.

5. The provisions of this Article shall also apply to cases of exclusive service suppliers, where a Member, formally or in effect, (a) authorizes or establishes a small number of service suppliers and (b) substantially prevents competition among those suppliers in its territory.

**Article IX**

**Business Practices**

1. Members recognize that certain business practices of service suppliers, other than those falling under Article VIII, may restrain competition and thereby restrict trade in services.

2. Each Member shall, at the request of any other Member, enter into consultations with a view to eliminating practices referred to in paragraph
1. The Member addressed shall accord full and sympathetic consideration to such a request and shall cooperate through the supply of publicly available non-confidential information of relevance to the matter in question. The Member addressed shall also provide other information available to the requesting Member, subject to its domestic law and to the conclusion of satisfactory agreement concerning the safeguarding of its confidentiality by the requesting Member.

Article X

Emergency Safeguard Measures

1. There shall be multilateral negotiations on the question of emergency safeguard measures based on the principle of non-discrimination. The results of such negotiations shall enter into effect on a date not later than three years from the date of entry into force of the WTO Agreement.

2. In the period before the entry into effect of the results of the negotiations referred to in paragraph 1, any Member may, notwithstanding the provisions of paragraph 1 of Article XXI, notify the Council on Trade in Services of its intention to modify or withdraw a specific commitment after a period of one year from the date on which the commitment enters into force; provided that the Member shows cause to the Council that the modification or withdrawal cannot await the lapse of the three-year period provided for in paragraph 1 of Article XXI.

3. The provisions of paragraph 2 shall cease to apply three years after the date of entry into force of the WTO Agreement.

Article XI

Payments and Transfers

1. Except under the circumstances envisaged in Article XII, a Member shall not apply restrictions on international transfers and payments for current transactions relating to its specific commitments.

2. Nothing in this Agreement shall affect the rights and obligations of the members of the International Monetary Fund under the Articles of
Agreement of the Fund, including the use of exchange actions which are in conformity with the Articles of Agreement, provided that a Member shall not impose restrictions on any capital transactions inconsistently with its specific commitments regarding such transactions, except under Article XII or at the request of the Fund.

Article XII

Restrictions to Safeguard the Balance of Payments

1. In the event of serious balance-of-payments and external financial difficulties or threat thereof, a Member may adopt or maintain restrictions on trade in services on which it has undertaken specific commitments, including on payments or transfers for transactions related to such commitments. It is recognized that particular pressures on the balance of payments of a Member in the process of economic development or economic transition may necessitate the use of restrictions to ensure, *inter alia*, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development or economic transition.

2. The restrictions referred to in paragraph 1:

(a) Shall not discriminate among Members;

(b) Shall be consistent with the Articles of Agreement of the International Monetary Fund;

(c) Shall avoid unnecessary damage to the commercial, economic and financial interests of any other Member;

(d) Shall not exceed those necessary to deal with the circumstances described in paragraph 1;

(e) Shall be temporary and be phased out progressively as the situation specified in paragraph 1 improves.

3. In determining the incidence of such restrictions, Members may give priority to the supply of services which are more essential to their economic or development programmes. However, such restrictions shall
not be adopted or maintained for the purpose of protecting a particular service sector.

4. Any restrictions adopted or maintained under paragraph 1, or any changes therein, shall be promptly notified to the General Council.

5. (a) Members applying the provisions of this Article shall consult promptly with the Committee on Balance-of-Payments Restrictions on restrictions adopted under this Article.

(b) The Ministerial Conference shall establish procedures for periodic consultations with the objective of enabling such recommendations to be made to the Member concerned as it may deem appropriate.

(c) Such consultations shall assess the balance-of-payment situation of the Member concerned and the restrictions adopted or maintained under this Article, taking into account, *inter alia*, such factors as:

(i) the nature and extent of the balance-of-payments and the external financial difficulties;

(ii) the external economic and trading environment of the consulting Member;

(iii) alternative corrective measures which may be available.

(d) The consultations shall address the compliance of any restrictions with paragraph 2, in particular the progressive phaseout of restrictions in accordance with paragraph 2(e).

(e) In such consultations, all findings of statistical and other facts presented by the International Monetary Fund relating to foreign exchange, monetary reserves and balance of payments, shall be accepted and conclusions shall be based on the assessment by the Fund of the balance-of payments and the external financial situation of the consulting Member.

6. If a Member which is not a member of the International Monetary Fund wishes to apply the provisions of this Article, the Ministerial Conference shall establish a review procedure and any other procedures necessary.
Article XIII

Government Procurement

1. Articles II, XVI and XVII shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of services purchased for governmental purposes and not with a view to commercial resale or with a view to use in the supply of services for commercial sale.

2. There shall be multilateral negotiations on government procurement in services under this Agreement within two years from the date of entry into force of the WTO Agreement.

Article XIV

General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade in services, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any Member of measures: (a) necessary to protect public morals or to maintain public order;

It is understood that the procedures under paragraph 5 shall be the same as the GATT 1994 procedures.

The public order exception may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

(b) Necessary to protect human, animal or plant life or health;

(c) Necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:

(i) The prevention of deceptive and fraudulent practices or to deal with the effects of a default on services contracts;
(ii) The protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

(iii) Safety;

(d) Inconsistent with Article XVII, provided that the difference in treatment is aimed at ensuring the equitable or effective imposition or collection of direct taxes in respect of services or service suppliers of other Members;

(e) inconsistent with Article II, provided that the difference in treatment is the result of an agreement on the avoidance of double taxation or provisions on the avoidance of double taxation in any other international agreement or arrangement by which the Member is bound.

Article XIV bis

Security Exceptions

1. Nothing in this Agreement shall be construed:

(a) To require any Member to furnish any information, the disclosure of which it considers contrary to its essential security interests; or Measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by a Member under its taxation system which:

(i) Apply to non-resident service suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the Member's territory; or

(ii) Apply to non-residents in order to ensure the imposition or collection of taxes in the Member's territory; or

(iii) Apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures; or

(iv) Apply to consumers of services supplied in or from the territory of another Member in order to ensure the imposition or collection of taxes on such consumers derived from sources in the Member's territory; or
(v) Distinguish service suppliers subject to tax on worldwide taxable items from other service suppliers, in recognition of the difference in the nature of the tax base between them; or

(vi) Determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Member's tax base.

Tax terms or concepts in paragraph (d) of Article XIV and in this footnote are determined according to tax definitions and concepts, or equivalent or similar definitions and concepts, under the domestic law of the Member taking the measure. Page 296

(b) To prevent any Member from taking any action which it considers necessary for the protection of its essential security interests:

(i) relating to the supply of services as carried out directly or indirectly for the purpose of provisioning a military establishment;

(ii) relating to fissionable and fusionable materials or the materials from which they are derived;

(iii) taken in time of war or other emergency in international relations; or

(c) to prevent any Member from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

2. The Council for Trade in Services shall be informed to the fullest extent possible of measures taken under paragraphs 1(b) and (c) and of their termination.

Article XV

Subsidies

1. Members recognize that, in certain circumstances, subsidies may have distortive effects on trade in services. Members shall enter into negotiations with a view to developing the necessary multilateral disciplines to avoid such trade-distortive effects. The negotiations shall
also address the appropriateness of countervailing procedures. Such negotiations shall recognize the role of subsidies in relation to the development programmes of developing countries and take into account the needs of Members, particularly developing country Members, for flexibility in this area. For the purpose of such negotiations, Members shall exchange information concerning all subsidies related to trade in services that they provide to their domestic service suppliers.

2. Any Member which considers that it is adversely affected by a subsidy of another Member may request consultations with that Member on such matters. Such requests shall be accorded sympathetic consideration. A future work programme shall determine how, and in what time-frame, negotiations on such multilateral disciplines will be conducted.

PART III

SPECIFIC COMMITMENTS

Article XVI

Market Access

1. With respect to market access through the modes of supply identified in Article I, each Member shall accord services and service suppliers of any other Member treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule.

2. In sectors where market-access commitments are undertaken, the measures which a Member shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in its Schedule, are defined as:

(a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;

(b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
(c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;

(d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;

(e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and

(f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment. If a Member undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph 2(a) of Article I and if the cross-border movement of capital is an essential part of the service itself, that Member is thereby committed to allow such movement of capital. If a Member undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph 2(c) of Article I, it is thereby committed to allow related transfers of capital into its territory. Subparagraph 2(c) does not cover measures of a Member which limit inputs for the supply of services.

Article XVII

National Treatment

1. In the sectors inscribed in its Schedule, and subject to any conditions and qualifications set out therein, each Member shall accord to services and service suppliers of any other Member, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.

2. A Member may meet the requirement of paragraph 1 by according to services and service suppliers of any other Member, either formally
identical treatment or formally different treatment to that it accords to its own like services and service suppliers.

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Member compared to like services or service suppliers of any other Member.

Article XVIII

Additional Commitments

Members may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Articles XVI or XVII, including those regarding qualifications, standards or licensing matters. Such commitments shall be inscribed in a Member's Schedule.

PART IV

PROGRESSIVE LIBERALIZATION

Article XIX

Negotiation of Specific Commitments

1. In pursuance of the objectives of this Agreement, Members shall enter into successive rounds of negotiations, beginning not later than five years from the date of entry into force of the WTO Agreement and periodically thereafter, 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. This process shall take place with a view to promoting the interests of all participants on a mutually advantageous basis and to securing an overall balance of rights and obligations.

2. The process of liberalization shall take place with due respect for national policy objectives and the level of development of individual Members, both overall and in individual sectors. There shall be appropriate flexibility for individual developing country Members for opening fewer sectors,
liberalizing fewer types of transactions, progressively extending market access in line with their development situation and, when making access to their markets available to foreign service suppliers, attaching to such access conditions aimed at achieving the objectives referred to in Article IV. Specific commitments assumed under this Article shall not be construed to require any Member to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

3. For each round, negotiating guidelines and procedures shall be established. For the purposes of establishing such guidelines, the Council for Trade in Services shall carry out an assessment of trade in services in overall terms and on a sectoral basis with reference to the objectives of this Agreement, including those set out in paragraph 1 of Article IV. Negotiating guidelines shall establish modalities for the treatment of liberalization undertaken autonomously by Members since previous negotiations, as well as for the special treatment for least-developed country Members under the provisions of paragraph 3 of Article IV.

4. The process of progressive liberalization shall be advanced in each such round through bilateral, plurilateral or multilateral negotiations directed towards increasing the general level of specific commitments undertaken by Members under this Agreement.

Article XX

Schedules of Specific Commitments

1. Each Member shall set out in a schedule the specific commitments it undertakes under Part III of this Agreement. With respect to sectors where such commitments are undertaken, each Schedule shall specify:

(a) Terms, limitations and conditions on market access;

(b) Conditions and qualifications on national treatment;

(c) Undertakings relating to additional commitments;
(d) Where appropriate the time-frame for implementation of such commitments; and

(e) The date of entry into force of such commitments.

2. Measures inconsistent with both Articles XVI and XVII shall be inscribed in the column relating to Article XVI. In this case the inscription will be considered to provide a condition or qualification to Article XVII as well.

3. Schedules of specific commitments shall be annexed to this Agreement and shall form an integral part thereof.

**Article XXI**

**Modification of Schedules**

1. (a) A Member (referred to in this Article as the "modifying Member") may modify or withdraw any commitment in its Schedule, at any time after three years have elapsed from the date on which that commitment entered into force, in accordance with the provisions of this Article.

(b) A modifying Member shall notify its intent to modify or withdraw a commitment pursuant to this Article to the Council for Trade in Services no later than three months before the intended date of implementation of the modification or withdrawal.

2. (a) At the request of any Member the benefits of which under this Agreement may be affected (referred to in this Article as an "affected Member") by a proposed modification or withdrawal notified under subparagraph 1(b), the modifying Member shall enter into negotiations with a view to reaching agreement on any necessary compensatory adjustment. In such negotiations and agreement, the Members concerned shall endeavour to maintain a general level of mutually advantageous commitments not less favourable to trade than that provided for in Schedules of specific commitments prior to such negotiations.

(b) Compensatory adjustments shall be made on a most-favoured-nation basis.

3. (a) If agreement is not reached between the modifying Member and any affected Member before the end of the period provided for negotiations,
such affected Member may refer the matter to arbitration. Any affected Member that wishes to enforce a right that it may have to compensation must participate in the arbitration.

(b) If no affected Member has requested arbitration, the modifying Member shall be free to implement the proposed modification or withdrawal.

4. (a) The modifying Member may not modify or withdraw its commitment until it has made compensatory adjustments in conformity with the findings of the arbitration.

(b) If the modifying Member implements its proposed modification or withdrawal and does not comply with the findings of the arbitration, any affected Member that participated in the arbitration may modify or withdraw substantially equivalent benefits in conformity with those findings.

Notwithstanding Article II, such a modification or withdrawal may be implemented solely with respect to the modifying Member. 5. The Council for Trade in Services shall establish procedures for rectification or modification of Schedules. Any Member which has modified or withdrawn scheduled commitments under this Article shall modify its Schedule according to such procedures.

PART V

INSTITUTIONAL PROVISIONS

Article XXII

Consultation

1. Each Member shall accord sympathetic consideration to, and shall afford adequate opportunity for, consultation regarding such representations as may be made by any other Member with respect to any matter affecting the operation of this Agreement. The Dispute Settlement Understanding (DSU) shall apply to such consultations.

2. The Council for Trade in Services or the Dispute Settlement Body (DSB) may, at the request of a Member, consult with any Member or Members in
respect of any matter for which it has not been possible to find a satisfactory solution through consultation under paragraph 1.

3. A Member may not invoke Article XVII, either under this Article or Article XXIII, with respect to a measure of another Member that falls within the scope of an international agreement between them relating to the avoidance of double taxation. In case of disagreement between Members as to whether a measure falls within the scope of such an agreement between them, it shall be open to either Member to bring this matter before the Council for Trade in Services. The Council shall refer the matter to arbitration. The decision of the arbitrator shall be final and binding on the Members.

With respect to agreements on the avoidance of double taxation which exist on the date of entry into force of the WTO Agreement, such a matter may be brought before the Council for Trade in Services only with the consent of both parties to such an agreement.

**Article XXIII**

**Dispute Settlement and Enforcement**

1. If any Member should consider that any other Member fails to carry out its obligations or specific commitments under this Agreement, it may with a view to reaching a mutually satisfactory resolution of the matter have recourse to the DSU.

2. If the DSB considers that the circumstances are serious enough to justify such action, it may authorize a Member or Members to suspend the application to any other Member or Members of obligations and specific commitments in accordance with Article 22 of the DSU.

3. If any Member considers that any benefit it could reasonably have expected to accrue to it under a specific commitment of another Member under Part III of this Agreement is being nullified or impaired as a result of the application of any measure which does not conflict with the provisions of this Agreement, it may have recourse to the DSU. If the measure is determined by the DSB to have nullified or impaired such a benefit, the Member affected shall be entitled to a mutually satisfactory adjustment on
the basis of paragraph 2 of Article XXI, which may include the modification or withdrawal of the measure. In the event an agreement cannot be reached between the Members concerned, Article 22 of the DSU shall apply.

Article XXIV

Council for Trade in Services

1. The Council for Trade in Services shall carry out such functions as may be assigned to it to facilitate the operation of this Agreement and further its objectives. The Council may establish such subsidiary bodies as it considers appropriate for the effective discharge of its functions.

2. The Council and, unless the Council decides otherwise, its subsidiary bodies shall be open to participation by representatives of all Members.

3. The Chairman of the Council shall be elected by the Members.

Article XXV

Technical Cooperation

1. Service suppliers of Members which are in need of such assistance shall have access to the services of contact points referred to in paragraph 2 of Article IV.

2. Technical assistance to developing countries shall be provided at the multilateral level by the Secretariat and shall be decided upon by the Council for Trade in Services.

Article XXVI

Relationship with Other International Organizations

The General Council shall make appropriate arrangements for consultation and cooperation with the United Nations and its specialized agencies as well as with other intergovernmental organizations concerned with services.
PART VI

FINAL PROVISIONS

Article XXVII

Denial of Benefits

A Member may deny the benefits of this Agreement:

(a) To the supply of a service, if it establishes that the service is supplied from or in the territory of a non-Member or of a Member to which the denying Member does not apply the WTO Agreement;

(b) In the case of the supply of a maritime transport service, if it establishes that the service is supplied:

(i) By a vessel registered under the laws of a non-Member or of a Member to which the denying Member does not apply the WTO Agreement, and

(ii) by a person which operates and/or uses the vessel in whole or in part but which is of a non-Member or of a Member to which the denying Member does not apply the WTO Agreement;

(c) To a service supplier that is a juridical person, if it establishes that it is not a service supplier of another Member, or that it is a service supplier of a Member to which the denying Member does not apply the WTO Agreement.

Article XXVIII

Definitions

For the purpose of this Agreement:

(a) "Measure" means any measure by a Member, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;

(b) "Supply of a service" includes the production, distribution, marketing, sale and delivery of a service;
(c) "measures by Members affecting trade in services" include measures in respect of

(i) the purchase, payment or use of a service;

(ii) the access to and use of, in connection with the supply of a service, services which are required by those Members to be offered to the public generally;

(iii) the presence, including commercial presence, of persons of a Member for the supply of a service in the territory of another Member;

(d) "commercial presence" means any type of business or professional establishment, including through

(i) the constitution, acquisition or maintenance of a juridical person, or

(ii) the creation or maintenance of a branch or a representative office, within the territory of a Member for the purpose of supplying a service;

(e) "sector" of a service means,

(i) with reference to a specific commitment, one or more, or all, subsectors of that service, as specified in a Member's Schedule,

(ii) otherwise, the whole of that service sector, including all of its subsectors;

(f) "service of another Member" means a service which is supplied,

(i) from or in the territory of that other Member, or in the case of maritime transport, by a vessel registered under the laws of that other Member, or by a person of that other Member which supplies the service through the operation of a vessel and/or its use in whole or in part; or

(ii) in the case of the supply of a service through commercial presence or through the presence of natural persons, by a service supplier of that other Member;

(g) "service supplier" means any person that supplies a service;12

(h) "monopoly supplier of a service" means any person, public or private, which in the relevant market of the territory of a Member is authorized or
established formally or in effect by that Member as the sole supplier of that service;

(i) "service consumer" means any person that receives or uses a service;

(j) "person" means either a natural person or a juridical person;

(k) "natural person of another Member" means a natural person who resides in the territory of that other Member or any other Member, and who under the law of that other Member:

(i) is a national of that other Member; or

(ii) has the right of permanent residence in that other Member, in the case of a Member which:

1. does not have nationals; or

2. accords substantially the same treatment to its permanent residents as it does to its nationals in respect of measures affecting trade in services, as notified in its acceptance of or accession to the WTO Agreement, provided that no Member is obligated to accord to such permanent residents treatment more favourable than would be Where the service is not supplied directly by a juridical person but through other forms of commercial presence such as a branch or a representative office, the service supplier (i.e. the juridical person) shall, nonetheless, through such presence be accorded the treatment provided for service suppliers under the Agreement. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the territory where the service is supplied accorded by that other Member to such permanent residents. Such notification shall include the assurance to assume, with respect to those permanent residents, in accordance with its laws and regulations, the same responsibilities that other Member bears with respect to its nationals;

(l) "juridical person" means any legal entity duly constituted or otherwise organized under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any
corporation, trust, partnership, joint venture, sole proprietorship or association;

(m) "juridical person of another Member" means a juridical person which is either:

(i) constituted or otherwise organized under the law of that other Member, and is engaged in substantive business operations in the territory of that Member or any other Member; or

(ii) in the case of the supply of a service through commercial presence, owned or controlled by:

1. natural persons of that Member; or

2. juridical persons of that other Member identified under subparagraph (i);

(n) a juridical person is:

(i) "owned" by persons of a Member if more than 50 per cent of the equity interest in it is beneficially owned by persons of that Member;

(ii) "controlled" by persons of a Member if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;

(iii) "affiliated" with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person;

(o) "direct taxes" comprise all taxes on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, and taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

Article XXIX

Annexes

The Annexes to this Agreement are an integral part of this Agreement.
ANNEX ON ARTICLE II EXEMPTIONS

Scope

1. This Annex specifies the conditions under which a Member, at the entry into force of this Agreement, is exempted from its obligations under paragraph 1 of Article II.

2. Any new exemptions applied for after the date of entry into force of the WTO Agreement shall be dealt with under paragraph 3 of Article IX of that Agreement.

Review

3. The Council for Trade in Services shall review all exemptions granted for a period of more than 5 years. The first such review shall take place no more than 5 years after the entry into force of the WTO Agreement.

4. The Council for Trade in Services in a review shall:
   (a) examine whether the conditions which created the need for the exemption still prevail; and
   (b) determine the date of any further review.

Termination

5. The exemption of a Member from its obligations under paragraph 1 of Article II of the Agreement with respect to a particular measure terminates on the date provided for in the exemption.

6. In principle, such exemptions should not exceed a period of 10 years. In any event, they shall be subject to negotiation in subsequent trade liberalizing rounds.

7. A Member shall notify the Council for Trade in Services at the termination of the exemption period that the inconsistent measure has been brought into conformity with paragraph 1 of Article II of the Agreement.

Lists of Article II Exemptions

[The agreed lists of exemptions under paragraph 2 of Article II will be annexed here in the treaty copy of the WTO Agreement.]
ANNEX ON MOVEMENT OF NATURAL PERSONS

SUPPLYING SERVICES UNDER THE AGREEMENT

1. This Annex applies to measures affecting natural persons who are service suppliers of a Member, and natural persons of a Member who are employed by a service supplier of a Member, in respect of the supply of a service.

2. The Agreement shall not apply to measures affecting natural persons seeking access to the employment market of a Member, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

3. In accordance with Parts III and IV of the Agreement, Members may negotiate specific commitments applying to the movement of all categories of natural persons supplying services under the Agreement. Natural persons covered by a specific commitment shall be allowed to supply the service in accordance with the terms of that commitment.

4. The Agreement shall not prevent a Member from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to any Member under the terms of a specific commitment.1 1The sole fact of requiring a visa for natural persons of certain Members and not for those of others shall not be regarded as nullifying or impairing benefits under a specific commitment.

ANNEX ON AIR TRANSPORT SERVICES

1. This Annex applies to measures affecting trade in air transport services, whether scheduled or non-scheduled, and ancillary services. It is confirmed that any specific commitment or obligation assumed under this Agreement shall not reduce or affect a Member's obligations under bilateral or multilateral agreements that are in effect on the date of entry into force of the WTO Agreement.
2. The Agreement, including its dispute settlement procedures, shall not apply to measures affecting:
(a) traffic rights, however granted; or
(b) services directly related to the exercise of traffic rights, except as provided in paragraph 3 of this Annex.

3. The Agreement shall apply to measures affecting:
(a) aircraft repair and maintenance services;
(b) the selling and marketing of air transport services;
(c) computer reservation system (CRS) services.

4. The dispute settlement procedures of the Agreement may be invoked only where obligations or specific commitments have been assumed by the concerned Members and where dispute settlement procedures in bilateral and other multilateral agreements or arrangements have been exhausted.

5. The Council for Trade in Services shall review periodically, and at least every five years, developments in the air transport sector and the operation of this Annex with a view to considering the possible further application of the Agreement in this sector.

6. Definitions:
(a) "Aircraft repair and maintenance services" mean such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and do not include so-called line maintenance.

(b) "Selling and marketing of air transport services" mean opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution. These activities do not include the pricing of air transport services nor the applicable conditions.

(c) "Computer reservation system (CRS) services" mean services provided by computerized systems that contain information about air carriers'
schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued.

(d) "Traffic rights" mean the right for scheduled and non-scheduled services to operate and/or to carry passengers, cargo and mail for remuneration or hire from, to, within, or over the territory of a Member, including points to be served, routes to be operated, types of traffic to be carried, capacity to be provided, tariffs to be charged and their conditions, and criteria for designation of airlines, including such criteria as number, ownership, and control.

ANNEX ON FINANCIAL SERVICES

1. Scope and Definition

(a) This Annex applies to measures affecting the supply of financial services. Reference to the supply of a financial service in this Annex shall mean the supply of a service as defined in paragraph 2 of Article I of the Agreement.

(b) For the purposes of subparagraph 3(b) of Article I of the Agreement, "services supplied in the exercise of governmental authority" means the following:

(i) activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;

(ii) activities forming part of a statutory system of social security or public retirement plans; and

(iii) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the Government.

(c) For the purposes of subparagraph 3(b) of Article I of the Agreement, if a Member allows any of the activities referred to in subparagraphs (b)(ii) or (b)(iii) of this paragraph to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, "services" shall include such activities.
(d) Subparagraph 3(c) of Article I of the Agreement shall not apply to services covered by this Annex.

2. Domestic Regulation

(a) Notwithstanding any other provisions of the Agreement, a Member shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of the Agreement, they shall not be used as a means of avoiding the Member's commitments or obligations under the Agreement.

(b) Nothing in the Agreement shall be construed to require a Member to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

3. Recognition

(a) A Member may recognize prudential measures of any other country in determining how the Member's measures relating to financial services shall be applied. Such recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the country concerned or may be accorded autonomously.

(b) A Member that is a party to such an agreement or arrangement referred to in subparagraph (a), whether future or existing, shall afford adequate opportunity for other interested Members to negotiate their accession to such agreements or arrangements, or to negotiate comparable ones with it, under circumstances in which there would be equivalent regulation, oversight, implementation of such regulation, and, if appropriate, procedures concerning the sharing of information between the parties to the agreement or arrangement. Where a Member accords recognition
autonomously, it shall afford adequate opportunity for any other Member to demonstrate that such circumstances exist.

(c) Where a Member is contemplating according recognition to prudential measures of any other country, paragraph 4(b) of Article VII shall not apply.

4. Dispute Settlement

Panels for disputes on prudential issues and other financial matters shall have the necessary expertise relevant to the specific financial service under dispute.

5. Definitions

For the purposes of this Annex:

(a) A financial service is any service of a financial nature offered by a financial service supplier of a Member. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance). Financial services include the following activities:

Insurance and insurance-related services

(i) Direct insurance (including co-insurance):

(A) life

(B) non-life

(ii) Reinsurance and retrocession;

(iii) Insurance intermediation, such as brokerage and agency;

(iv) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

Banking and other financial services (excluding insurance)

(v) Acceptance of deposits and other repayable funds from the public;

(vi) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

(vii) Financial leasing;
(viii) All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;

(ix) Guarantees and commitments;

(x) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

(A) money market instruments (including cheques, bills, certificates of deposits);
(B) foreign exchange;
(C) derivative products including, but not limited to, futures and options;
(D) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
(E) transferable securities;
(F) other negotiable instruments and financial assets, including bullion.

(xi) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

(xii) Money broking;

(xiii) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

(xiv) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(xv) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;

(xvi) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.
(b) A financial service supplier means any natural or juridical person of a Member wishing to supply or supplying financial services but the term "financial service supplier" does not include a public entity.

(c) "Public entity" means:

(i) a government, a central bank or a monetary authority, of a Member, or an entity owned or controlled by a Member, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or

(ii) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions.

SECOND ANNEX ON FINANCIAL SERVICES

1. Notwithstanding Article II of the Agreement and paragraphs 1 and 2 of the Annex on Article II Exemptions, a Member may, during a period of 60 days beginning four months after the date of entry into force of the WTO Agreement, list in that Annex measures relating to financial services which are inconsistent with paragraph 1 of Article II of the Agreement.

2. Notwithstanding Article XXI of the Agreement, a Member may, during a period of 60 days beginning four months after the date of entry into force of the WTO Agreement, improve, modify or withdraw all or part of the specific commitments on financial services inscribed in its Schedule.

3. The Council for Trade in Services shall establish any procedures necessary for the application of paragraphs 1 and 2.

ANNEX ON NEGOTIATIONS ON MARITIME TRANSPORT SERVICES

1. Article II and the Annex on Article II Exemptions, including the requirement to list in the Annex any measure inconsistent with most-favoured-nation treatment that a Member will maintain, shall enter into force for international shipping, auxiliary services and access to and use of port facilities only on:
(a) the implementation date to be determined under paragraph 4 of the Ministerial Decision on Negotiations on Maritime Transport Services; or,
(b) should the negotiations not succeed, the date of the final report of the Negotiating Group on Maritime Transport Services provided for in that Decision.

2. Paragraph 1 shall not apply to any specific commitment on maritime transport services which is inscribed in a Member's Schedule.

3. From the conclusion of the negotiations referred to in paragraph 1, and before the implementation date, a Member may improve, modify or withdraw all or part of its specific commitments in this sector without offering compensation, notwithstanding the provisions of Article XXI.

ANNEX ON TELECOMMUNICATIONS

1. Objectives

Recognizing the specificities of the telecommunications services sector and, in particular, its dual role as a distinct sector of economic activity and as the underlying transport means for other economic activities, the Members have agreed to the following Annex with the objective of elaborating upon the provisions of the Agreement with respect to measures affecting access to and use of public telecommunications transport networks and services. Accordingly, this Annex provides notes and supplementary provisions to the Agreement.

2. Scope

(a) This Annex shall apply to all measures of a Member that affect access to and use of public telecommunications transport networks and services.1

(b) This Annex shall not apply to measures affecting the cable or broadcast distribution of radio or television programming.

(c) Nothing in this Annex shall be construed:

(i) to require a Member to authorize a service supplier of any other Member to establish, construct, acquire, lease, operate, or supply
telecommunications transport networks or services, other than as provided for in its Schedule; or

(ii) to require a Member (or to require a Member to oblige service suppliers under its jurisdiction) to establish, construct, acquire, lease, operate or supply telecommunications transport networks or services not offered to the public generally.

3. **Definitions**

For the purposes of this Annex:

(a) "Telecommunications" means the transmission and reception of signals by any electromagnetic means.

(b) "Public telecommunications transport service" means any telecommunications transport service required, explicitly or in effect, by a Member to be offered to the public generally. Such services may include, *inter alia*, telegraph, telephone, telex, and data transmission typically involving the real-time transmission of customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information.

(c) "Public telecommunications transport network" means the public telecommunications infrastructure which permits telecommunications between and among defined network termination points.

(d) "Intra-corporate communications" means telecommunications through which a company communicates within the company or with or among its subsidiaries, branches and, subject to a Member's domestic laws and regulations, affiliates. For these purposes, "subsidiaries", "branches" and, where 1This paragraph is understood to mean that each Member shall ensure that the obligations of this Annex are applied with respect to suppliers of public telecommunications transport networks and services by whatever measures are necessary applicable, "affiliates" shall be as defined by each Member. "Intra-corporate communications" in this Annex excludes commercial or non-commercial services that are supplied to companies that are not related subsidiaries, branches or affiliates, or that are
offered to customers or potential customers. (e) Any reference to a paragraph or subparagraph of this Annex includes all subdivisions thereof.

4. Transparency

In the application of Article III of the Agreement, each Member shall ensure that relevant information on conditions affecting access to and use of public telecommunications transport networks and services is publicly available, including: tariffs and other terms and conditions of service; specifications of technical interfaces with such networks and services; information on bodies responsible for the preparation and adoption of standards affecting such access and use; conditions applying to attachment of terminal or other equipment; and notifications, registration or licensing requirements, if any.

5. Access to and use of Public Telecommunications Transport Networks and Services

(a) Each Member shall ensure that any service supplier of any other Member is accorded access to and use of public telecommunications transport networks and services on reasonable and nondiscriminatory terms and conditions, for the supply of a service included in its Schedule. This obligation shall be applied, *inter alia*, through paragraphs (b) through (f).

(b) Each Member shall ensure that service suppliers of any other Member have access to and use of any public telecommunications transport network or service offered within or across the border of that Member, including private leased circuits, and to this end shall ensure, subject to paragraphs (e) and (f), that such suppliers are permitted:

(i) to purchase or lease and attach terminal or other equipment which interfaces with the network and which is necessary to supply a supplier's services;

(ii) to interconnect private leased or owned circuits with public telecommunications transport networks and services or with circuits leased or owned by another service supplier; and
(iii) to use operating protocols of the service supplier's choice in the supply of any service, other than as necessary to ensure the availability of telecommunications transport networks and services to the public generally.

(c) Each Member shall ensure that service suppliers of any other Member may use public telecommunications transport networks and services for the movement of information within and across borders, including for intra-corporate communications of such service suppliers, and for access to information contained in data bases or otherwise stored in machine-readable form in the territory of any Member. Any new or amended measures of a Member significantly affecting such use shall be notified and shall be subject to consultation, in accordance with relevant provisions of the Agreement.

(d) Notwithstanding the preceding paragraph, a Member may take such measures as are necessary to ensure the security and confidentiality of messages, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services. The term "non-discriminatory" is understood to refer to most-favoured-nation and national treatment as defined in the Agreement, as well as to reflect sector-specific usage of the term to mean "terms and conditions no less favourable than those accorded to any other user of like public telecommunications transport networks or services under like circumstances".

(e) Each Member shall ensure that no condition is imposed on access to and use of public telecommunications transport networks and services other than as necessary:

(i) to safeguard the public service responsibilities of suppliers of public telecommunications transport networks and services, in particular their ability to make their networks or services available to the public generally;
(ii) to protect the technical integrity of public telecommunications transport networks or services; or

(iii) to ensure that service suppliers of any other Member do not supply services unless permitted pursuant to commitments in the Member's Schedule.

(f) Provided that they satisfy the criteria set out in paragraph (e), conditions for access to and use of public telecommunications transport networks and services may include:

(i) restrictions on resale or shared use of such services;

(ii) a requirement to use specified technical interfaces, including interface protocols, for inter-connection with such networks and services;

(iii) requirements, where necessary, for the inter-operability of such services and to encourage the achievement of the goals set out in paragraph 7(a);

(iv) type approval of terminal or other equipment which interfaces with the network and technical requirements relating to the attachment of such equipment to such networks;

(v) restrictions on inter-connection of private leased or owned circuits with such networks or services or with circuits leased or owned by another service supplier; or

(vi) notification, registration and licensing.

(g) Notwithstanding the preceding paragraphs of this section, a developing country Member may, consistent with its level of development, place reasonable conditions on access to and use of public telecommunications transport networks and services necessary to strengthen its domestic telecommunications infrastructure and service capacity and to increase its participation in international trade in telecommunications services. Such conditions shall be specified in the Member's Schedule.
6. Technical Cooperation

(a) Members recognize that an efficient, advanced telecommunications infrastructure in countries, particularly developing countries, is essential to the expansion of their trade in services. To this end, Members endorse and encourage the participation, to the fullest extent practicable, of developed and developing countries and their suppliers of public telecommunications transport networks and services and other entities in the development programmes of international and regional organizations, including the International Telecommunication Union, the United Nations Development Programme, and the International Bank for Reconstruction and Development.

(b) Members shall encourage and support telecommunications cooperation among developing countries at the international, regional and sub-regional levels.

(c) In cooperation with relevant international organizations, Members shall make available, where practicable, to developing countries information with respect to telecommunications services and developments in telecommunications and information technology to assist in strengthening their domestic telecommunications services sector.

(d) Members shall give special consideration to opportunities for the least-developed countries to encourage foreign suppliers of telecommunications services to assist in the transfer of technology, training and other activities that support the development of their telecommunications infrastructure and expansion of their telecommunications services trade.

7. Relation to International Organizations and Agreements

(a) Members recognize the importance of international standards for global compatibility and inter-operability of telecommunication networks and services and undertake to promote such standards through the work of relevant international bodies, including the International Telecommunication Union and the International Organization for Standardization.
(b) Members recognize the role played by intergovernmental and non-
governmental organizations and agreements in ensuring the efficient
operation of domestic and global telecommunications services, in
particular the International Telecommunication Union. Members shall
make appropriate arrangements, where relevant, for consultation with such
organizations on matters arising from the implementation of this Annex.

ANNEX ON NEGOTIATIONS ON BASIC TELECOMMUNICATIONS

1. Article II and the Annex on Article II Exemptions, including the
requirement to list in the Annex any measure inconsistent with most-
favoured-nation treatment that a Member will maintain, shall enter into
force for basic telecommunications only on:

   (a) the implementation date to be determined under paragraph 5 of the
   Ministerial Decision on Negotiations on Basic Telecommunications; or,

   (b) should the negotiations not succeed, the date of the final report of the
   Negotiating Group on Basic Telecommunications provided for in that
   Decision.

2. Paragraph 1 shall not apply to any specific commitment on basic
telecommunications which is inscribed in a Member's Schedule.
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SYNOPSIS

MANAGING HIGHER EDUCATION IN PAKISTAN UNDER GATS ENVIRONMENT

Introduction

The General Agreement on Trade in Services (GATS) is the first ever set of multilateral rules covering international trade in services. It came into effect in 1995 and is being negotiated under the auspices of World Trade Organization (WTO). The rapid increase in globalization has resulted in significant changes in the knowledge economy and ushered in new conditions for the provision of educational services. Trade in higher education services has emerged over the last few years as a major economic sector worth several billion dollars for a number of exporting countries such as the United States, United Kingdom and Australia. As per the report; in 2000 universities in USA have almost hosted 80000 scholars\(^1\), and in 2004, Australian public universities enrolled a total of 210,397 international students, constituting 22.6 percent of the country’s total higher education enrollments.\(^2\) The Global Student Mobility 2025 Report, predicts the demand for international education in Australia will increase from 1.8 million international students in 2000 to 7.2 million in 2025.\(^3\)

In the developing countries like Pakistan, the flow of direct foreign investment in search of lower taxes and cheap labour has expanded the market for skilled labour while at the same time generating a higher demand for adult education and lifelong learning. Advances in information and communication technologies and the relative reduction in costs have not only opened up new markets for cross-border provision of education but also increased educational access to those who can afford it. As per the one estimate approximately 70 per cent Pakistani students want to go abroad to pursue their higher

\(^{1}\) Philip G. Altbach, “Globalization And The University: Myths And Realities In An Unequal World”, TERTIARY EDUCATION AND MANAGEMENT, (No. 1, 2004), Boston
\(^{2}\) Grant Harman, Australia as an Higher Education Exporter, http://www.chet.edu.pk/updocs/Australia.doc
\(^{3}\) Jane Knight, Cross-Border Education: Not Just Students on the Move, At: http://www.chet.edu.pk/updocs/Cross-border%20Education.doc
The normal trend of student mobility from South (80% world population) to North (20% of world Population) is towards Australia, Cyprus, Ireland, Canada, America and the UK to study. However, students pursuing post-graduate degrees in USA are required to have at least 35 thousand US dollars to bear the expenses of two year. Whereas the approximate cost for a year of an undergraduate programme at UK or Australia, is 6,000 to 9,000 pound sterling and living expenses are from 5,000 to 6,500. The cost of living is eliminated, if the foreign institutions are able to deliver the education to the students of developing countries at their door steps. Resultantly decreasing cost will cause increasing demand of foreign institutions in local higher education market and switching trend of student enrolment from local universities to the foreign facilities unless the local education standards are not matching ones. Therefore, the ever-growing drive to expand the global market for trade in services including education has been accompanied by an increasing demand of liberalization and removal of all impediments to free trade in the sector. The trade creep into the education sector and the resultant inclusion of education under the umbrella of the General Agreement on Trade in Services (GATS) is thus one significant outcome of this process of globalization.

The General Agreement on Trade in Services (GATS), which came into effect in 1995, is a set of multilateral, legally enforceable rules governing international trade in services. These rules are aimed at enhancing international trade through promotion of progressive liberalization of trade in services, free competition among service providers, and unfettered access to national markets. The GATS, which is administered by the World Trade Organization (WTO), covers the twelve service sectors, of which education is one. Under education, there are 5 levels: primary, secondary, higher, adult and others for which there are 4 modes of supply for delivery. These are: cross-border supply

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5. ibid
6. WTO Secretariat. The General Agreement in Trade in Services - objectives, coverage and discipline. (www.wto.org/english/tratop_e/serv_e/gatsqa_e.htm)
(distance education & virtual universities); consumption abroad; commercial presence and presence of natural persons.7

At present, 149 nations have agreed to participate in GATS; and Pakistan is out of those 49 countries that have agreed to include at least one sector of education under GATS. There is a strong belief that being outside GATS can mean not enjoying equal access to those markets and losing unrestricted access to markets in critical export areas. The pressure on member countries to join GATS is therefore tremendous. Once a country accedes to GATS, it has to abide by the general obligations of GATS and is expected to make specific commitments regarding market access and national treatment in any of the service sectors (including education). For a GATS member, every round of negotiations means increasing liberalization, committing more sectors and removing major restrictions.

**Background of the Study**

Pakistan being an active member of WTO is committed to oblige Internationalization of Higher Education and Operation of Foreign Universities in Pakistan. Thus it is necessary to allow free flow of knowledge cutting across its geographical boundaries through use of any or all four type of modes. Hence, the export of higher education to Pakistan by universities of several countries has been through modes of consumption abroad, cross border supply, franchisee, twinning programs and virtual universities. People favoring WTO and GATS believe that the inclusion of education under the GATS will provide new opportunities and benefits, especially in terms of diversifying educational suppliers and enhancing access, introducing innovative ways of program delivery, building capacity through cooperative linkages and partnerships, and enhancing economic growth through increased trade. They point out that the GATS have been made flexible in its application to developing countries, taking note of their limited capacities. The GATS has come at a time when the world is experiencing an increase in cross- border provision of higher education regardless of GATS or trade agreements. Academic mobility involving professors, researchers, students, institutions and projects moving across borders started

7. ibid
long before GATS through development cooperation, exchanges, linkages and partnerships, etc., among countries and through commercial initiatives. The major difference introduced by the GATS is that it draws higher education into relations that are already asymmetrical. But the potential impact of GATS is still unknown as it is a new agreement yet to be implemented fully. However, it is important to be analytical and proactive with regards to its potentials and risks.

However, the inclusion of education under the GATS has caused much concern and debate among members of the higher education community in Pakistan. Salient points of this debate are:

- Student unions, teachers unions, university associations, leaders of higher education institutions, scholars and advocacy groups have raised their voice against the commodification of education by its treatment as a tradable service subject to the rules of GATS.

- The main orientation of educational institutions will shift from welfare to the profit maximization. If this happens then the Pakistani public as well as private sector universities are likely to be marginalized in the race due to existing qualitative and administrative gaps against their foreign counterparts.

- The emerging scenario of shifting of education supply function in foreign hands might result in draining of resources as well as cultural and political influence on our socio-ideological settings. Moreover there is bound to be an inbuilt unfavorable balance in the trade of education services in Pakistan.

- GATS poses potential threats to national autonomy while regulating higher education:

  - Changing the value of education from social provision to a commercial good thus depriving poor population of developing countries in general and Pakistan in particular from their basic human right of free education.8

8. Article---------, Universal Declaration of Human Right-948, and Convention on child right 1982 article--
On the name of quality assurance, social equity and wider access, exporting countries may execute their hidden agenda of protection and promotion of own cultural and religious values and traditions.

- The underline limited capacity of public and private educational institutions in Pakistan supplemented by weak national regulatory framework tilts the higher education market in the favour of cross-border provider. Thus generating an ultimate risk of diminishing role of the state both as a provider and controller, as well as the risk of cultural and social degeneration in values and traditions

While these debates have been going on since very inception of GATS, the issue of the GATS has not received the critical discourse it deserves either in scholarly or other public forums in Pakistan. Not only is there a deficiency of public attention and dialogue on the subject but there is also very little compiled and publicly accessible data on the status and impact of GATS in Pakistan. What so ever little information is available indicates that Pakistan’s commitments in education under the GATS, and related policy decisions were made apparently without adequate consultation with major stakeholders. All this points to the absolute need for public fora to raise awareness of the critical issues involved, for facilitating dialogue between stakeholders and policy- makers, identifying strategies for a proactive response to GATS as well as the major actors in realizing these strategies, and for setting priorities for research and advocacy. There is also a need for realization that our institution has to draw a competitive edge in the emerging scenario of globalization of higher education, which is characterized with the issues of increased cross border provision, new modes and technologies of provision, new types of providers and qualifications, and new trade imperatives driving education.

Forgoing in view, it is imperative to reaffirm the role and importance of higher education for sustainable social, political and economic development in Pakistan in the context of ongoing globalization process. This background of the study suggests the research process to discuss and determine the key issues and actions for research, data gathering, policy analysis, consultation and advocacy on the complexities and policy implications of
cross border and commercial education in the context of new trade policies and regulations.

**Statement of the Problem**

It is with above considerations in mind that compels one to ascertain potential “Implications of GATS on Higher Education in Pakistan” so as to manage own institutions in highly qualitative environments filled with foreign entities lead by highly qualified human resource, equipped with TQM techniques and belts. And help own institutions to tap the opportunities being offered by foreign market like Middle East, Central Asia, South Asia etc through performing an efficient role as a educational providers across border. Thus contributing two folds in Pakistan economy, firstly through preventing out flow of foreign reserve by controlling own education market and secondly, tapping foreign education market and acting as foreign reserve earner as well. Higher education in Pakistan has to respond to these challenges in “global environment characterized by increasing differences in wealth, social well-being, educational opportunity and resources between rich and poor countries and where it is often asserted that ‘sharing knowledge, international co-operation and new technologies can offer new opportunities to reduce this gap”.\(^9\) Since 1994(establishment of WTO) numbers of universities or degree awarding institutions in Pakistan have jumped from “28” to a big number of \(110\) in public and private sector.\(^10\) However, this raise doesn’t address the deeper underlying question of the quality and credibility - rather than just the quantity – of higher education.\(^11\)

View of the experts and analysts on the subject points out a dismal picture about these institutions. They are adamant that over time, these institutions have witnessed marked deterioration and none of our university find any place in the ranking of the top 50 institutions of higher learning in Asia even.\(^12\)

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\(^11\). Pervez Hoodbhoy, REFORMING PAKISTAN’S UNIVERSITIES -- II
\(^12\). Prof. S. Zulfiqar H Gilani, Academic Audit of Universities, circulated by Centre for Higher Education Transformation vide their letter No. CHET/ 2/4/601-25 dated January 25\(^\text{th}\), 2006
Objectives of the Study

Foregoing background in view, the purposes / objectives of this dissertation are manifolds. However, few of the important objectives which I intend to pursue with more concentrated focus are given in following order of priority:

1) To discuss major issues relating to higher education in Pakistan, likely to emerge from ongoing globalization process and ascertain implications of highly competitive GATS environment.

2) To bring together the ideas and concerns of the leaders of Pakistani higher education and other stakeholders – policy-makers, institutional heads, academics, NGOs, etc. – for raising awareness and sharing information about the key issues relating to WTO/GATS and Pakistani higher education, within the broader context of the globalization of higher education.

3) Developing strategies to assist Pakistani higher education institutions in following areas so as to enhance their capabilities and capacities matching to their foreign counter parts in forthcoming fluid nature of competitive environment:
   a. faculty and staff development,
   b. curriculum and programs development,
   c. research,
   d. Up gradation of skill levels of trainers and trainees alike,
   e. Developing foreign and local links, and in reaching out and making their programs and courses accessible to all socioeconomic segments.

4) To identify the key issues for consideration and explore major areas of policy intervention;

5) To identify major actors and their potential roles in generating and/or countering threats and opportunities; and

6) To suggest follow-up action, including the empowerment of key stakeholders to intervene on the basis of informed judgment in national, regional and global policy on these questions
7) As trade in higher education becomes more and more liberalized, there would be a need for regulatory frameworks to deal with the diversity of providers, to meet national policy objectives and to protect public interest. There are provisions specifically aimed at increasing the supply capacity and competitiveness of developing countries (Article 4).

8) Developing realistic, qualitative and quantitative indicators for quality assurance in higher education so as to meet the challenges and opportunities likely to confront with the wholesome enforcement of GATS.

Significance of the Research Study

Significance of the research study in hand is wide ranging. However for the purpose of brevity few dimensions are underlined;

- There is a serious lack of solid data on the volume and type of cross-border programs and providers. Countries world over which are alive with the problem are investing a lot of effort in gathering reliable data and statistics from their recognized higher education institutions on cross-border programs, student mobility, twin programs and provider mobility etc. In Pakistan the issue seems dormant. Prevailing paucity of information on the subject creates an undesirable environment of speculation, confusion, and often misinformation. This can undermine confidence in the quality and dependability of cross-border education provision and impedes the analysis needed to underpin solid policy and regulatory frameworks in Pakistan. Therefore, such a study is vitally needed to have an in-depth analysis of the problem based on

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13. Provision of such frameworks is compatible with the GATS (Article IV). Members have the right to regulate to achieve national policy objectives. Domestic regulation could cover such issues as licensing, standards, qualification requirements and quality assurance. However, the GATS seek to prevent domestic regulation from becoming a barrier to trade. For this reason, we are not sure as to the limits of this regulation. In other words, how far does this limit our right to regulate such a major social sector?

14. According to these provisions, as developing countries, we can open fewer sectors and liberalize fewer types of transactions and extend market access in line with our development situation. It must be admitted, however, that the big players – our more powerful trading partners – sometimes do exert pressure on us to open our markets more than we may be prepared to, but that does not take away from us these flexibilities.
reliable data to facilitate decision making of public or private stack holders in any challenging situation forthcoming under GATS environment.

- The growth in the volume, scope, and dimensions of cross-border education may provide increased access and promote innovation and responsiveness of higher education, but these developments also bring new challenges and unexpected consequences. The current realities include the fact that unrecognized and rogue cross-border providers are active, that much of the latest cross-border education is driven by commercial interests, and that mechanisms to recognize qualifications and ensure quality of the academic courses and programs are still not in place in many of our universities and foreign institution operating on our soil. These realities present major challenges to our education sector. It is important to acknowledge the huge potential of cross-border education but not at the expense of academic quality, integrity, and survival of our socio-cultural value, and own under equipped institutions. Higher education is not the only sector that needs to look at ways to guide, monitor, and regulate the movement of education programs and providers. It needs to work in close cooperation with other sectors and to play a pivotal role in ensuring that cross-border education reflects and helps to meet individual countries’ educational goals, culture, priorities, and policies.

**Research Sample**

The research intends to interact with high profile participants, including ministers and representatives of ministries of trade and education, other senior policy-makers, Vice-Chancellors and other leaders of public and private universities, heads of regional research and higher education organizations, representatives of national and regional higher education regulatory agencies, sub-regional and international organizations, donors, advocacy networks, as well as consultants, journalists and other major stakeholders drawn from Pakistan in general and NWFP in particular.

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15. HEC, Parent Alert,
**Scope of the research**

This research study raises a number of crucial issues of pertinence to any discussion of contemporary higher education, high-level human resource development and macroeconomic policy of Pakistan in an era of GATS. However, the main focus of the research would remain to architect a model “management system for Pakistan’s higher education institutions” so as to enable them to operate in befitting manner in forthcoming competitive environment under GATS. For the purpose of case study and collection of data universities operating in NWFP will be taken target and latterly the results would be generalize in Pakistan’s setting as a whole.

7. **Method and Procedure:** The nature of study is descriptive which involves SWOT analysis of the existing situation of Pakistani universities visa vie foreign institutions. This education industry analysis will be drawn on different models including “Porter Five Forces Model” so as to ascertain foreseeable threats and prevailing opportunities under GATS environments. Different sets of comprehensive questionnaires, one each for each stack holder i.e. students, educationists, educational administrators from public as well as private sector of Pakistan, and universities from abroad will be prepared for the purpose of collecting data.

**Theoretical Framework**

1. **Higher Education:**

   "Education beyond the secondary level, especially education at the college or university level is termed as higher education.

   “Higher education is education provided by universities and other institutions that award academic degrees, such as community colleges, and liberal arts colleges.”

Higher education includes both the teaching and the research activities of universities, and within the realm of teaching, it includes both the undergraduate level (sometimes referred to as tertiary education) and the graduate (or postgraduate) level (sometimes referred to as quaternary education or graduate school). Higher education differs from other forms of post-secondary education such as vocational education. However, most
professional education is included within higher education, and many postgraduate qualifications are strongly vocationally or professionally oriented, for example in disciplines such as law and medicine.

In Pakistan, the term 'higher education' refers to education at degree level and above. In the Pakistani education framework, higher education courses are those leading to the award of, bachelor's degree, graduate certificate or post graduate certificates, graduate or post graduate diplomas, master's degree, M.Phil or MS and doctoral degree etc. Most higher education in Pakistan is offered by universities or degree awarding institutes duly chartered by provincial or federal government and recognized / accredited by Higher Education Commission Pakistan. Higher education is very important to our national economy, both as a significant industry in its own right, and as a source of trained and educated personnel for the rest of the economy.

2. **Tertiary Education:** Education beyond secondary education, adult education, and training services.

3. **Globalization:** For some, globalization means everything. For others, it includes only the negative side of contemporary society. This research concentrates on the specific international context of higher education and the effect of globalization. In this analysis, globalization is defined as the broad economic, technological and scientific trends that directly affect higher education and are largely inevitable. Politics and culture are also part of the new global realities.

Academic systems and institutions may accommodate these developments in different ways, but they cannot ignore them. These phenomena include information technology in its various manifestations, the use of a common language for scientific communication, and the imperatives of both mass demand for higher education (massification) and societal needs for highly educated personnel. Academe is affected by, for example, patterns in the ownership of multinational publishing and internet companies, the expenditure of R & D funds worldwide, and international patterns of cultural diffusion.

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All of these elements and many more, are parts of a global environment that impacts higher education in different ways.

4. **Internationalization**: Internationalization includes specific policies and programs undertaken by governments, academic systems and institutions, and even individual departments or institutions to cope with or exploit globalization. Internationalization describes the voluntary and perhaps creative ways of coping. With much room for initiative, institutions and governments can choose the ways in which they deal with the new environment. While the forces of globalization cannot be held completely at bay, it is not inevitable that countries or institutions will necessarily be overwhelmed by them or that the terms of the encounter must be dictated from afar. Internationalization accommodates a significant degree of autonomy and initiative.\(^{17}\)

5. **Multinationalization**: For the purpose of this study multinationalization is defined as academic programs or institutions from one country offered in other countries. Often, the programs are sponsored in collaboration, but this is not always the case. Joint-degree offerings among institutions in two or more countries, often called “twinning,” are an example of a multinational academic enterprise. Setting up offshore institutions constitutes a variation on the trend—this may be carried out through franchising (sometimes referred to as “McDonaldization”) or simply by opening a branch institution.\(^{18}\) Increasingly, the Internet is used in the delivery of multinational academic programs.

3. **Most Favoured Nations**: The Most Favoured Nations Treatment implies: there should be no discrimination between the members to the agreement.


\(^{18}\). Hayes, Dennis, and Robin Wynyard (Eds.). (2002). “The McDonaldization of higher education” *New York: Praeger*
4. **National Treatment:** The principle of "National Treatment" suggests that "*each member shall accord to services and service suppliers of any other member, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.""

5. **Modes of Supply:** GATS defines four ways in which higher education and other services can be traded, described as based on modes of supply:\(^{19}\)

   a. **Consumption Abroad:** Consumption abroad of service by consumers traveling to the country of the supplier, e.g. (e.g. students studying abroad) currently represents the largest share of the global market for education services.\(^{20}\)

   b. **Cross Border Supply:** The provision of a service to consumer country, where the service crosses the border and does not require the physical movement of the consumer. For example; open and distance education, e-learning, virtual universities etc. It seems to possess’ great potential through the use especially the Internet.\(^{21}\)

   c. **Commercial Presence:** Commercial presence of a service provider in consumer country in order to render service\(^{22}\) through:
   - local branch or satellite campuses
   - twinning partnerships
   - franchising,
   - arrangements with local institutions (e.g. offshore foreign universities)

   d. **Presence of Natural Persons:** It emphasizes on the mobility of professionals to another country on a temporary basis to provide service i.e. presence of natural persons from supplying country in consuming country\(^{23}\) (e.g. professors, teachers, researcher working outside their home country).

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\(^{19}\) WTO Secretariat. *The General Agreement in Trade in Services - objectives, coverage and discipline.* (www.wto.org/english/tratop_e/serv_e/gatsqa_e.htm)

\(^{20}\) Article I, subsection 2 of *The General Agreement in Trade in Services.*

\(^{21}\) ibid

\(^{22}\) ibid

\(^{23}\) ibid
6. A few comments about the use and meaning of terms used in this paper may help to provide some context. When terms from the trade sector migrate to the education sector and vice versa there is fertile ground for confusion and misunderstanding. This is to be expected. Therefore it is important to lay out how the principal concepts are interpreted and used by these two sectors. Three common terms used by the education sector to describe the international nature of education are internationalization, cross border education and more recently trade in education. There is a hierarchy to these terms, with ‘internationalization of education’ being the most comprehensive, ‘cross border education’ being one component of internationalization and then ‘trade in education’ being used to characterize some, but not all, cross border activities.

A review of reports and articles by trade experts reveals that often when they talk about internationalization of education they actually are referring to international trade in education services. When educators talk about internationalization they are talking about a broad range of activities some of which would have absolutely nothing to do with trade. More and more, internationalization is being seen to consist of two streams or components (Knight 2004). The first is ‘internationalization at home’ which refers to the international and intercultural dimension of curriculum, the teaching/learning process, research, extra-curricular activities, in fact a host of activities which help students develop international understanding and intercultural skills without ever leaving the campus. The second component is ‘internationalization abroad’ that is cross border education (often referred to as transnational education) which involves students, teachers, scholars, programs, courses, curriculum, projects moving between countries and culture, in short, across borders.

So cross border education is a term which educators are using to capture a wide range of education activities that are part of international academic linkages and agreements, international development/aid projects and international commercial trade initiatives. Therefore, ‘trade in education services’ is usually interpreted by educators as a subset of cross border education, and for the most part is described as those activities which have a commercial or for-profit nature or purpose to them. This interpretation is much
narrower than one used by economists or the trade sector. From their perspective, even if a cross border education activity is seen to be non-commercial in purpose – for instance the exchange of students or professors for a semester - there is still export value in a country’s balance of payments from accommodation, living, and travel expenses and therefore there are commercial implications.24

For the purposes of this paper, the term ‘trade in educational services’ is primarily used in the trade and GATS sense, that is commercial and for profit. The term ‘cross border education’ is used to depict a broad range of education activities which move across borders some of which are commercial trade in nature and purpose and most of which are not.

**Research Outline**

Tentative outline of the research study would be as follow, permitting few changes here and there:

- Chapter 1: Introduction
- Chapter 2: Review of the related literature
- Chapter 3: Research methodology and procedure of the study
- Chapter 4: Prevailing environment of higher education including internal and external actors
- Chapter 5: Analysis of the situation, identifying own strength and weaknesses as well as threat and opportunities being offered by the external environment. The analysis will be conducted using most of existing management model like, Porter Five Forces Model, BCG Matrix, finally concluding into SWOT Analysis.
- Chapter 6: Research findings and Conclusions
- Chapter 7: Recommended measures including strategies suggested, and management model capable of meeting up with challenges likely to be posed by the GATS dominated environment.

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Preliminary Bibliography

Books:


**Journals/ Magazines/ Reports**

1. Howard Business Review
2. Higher Education Pakistan News
3. WTO Publications
4. Wall street Journals
5. Economic Commission of Pakistan Reports
6. Pakistan Task Force reports
7. World Bank Reports for the Years; 1995, to 2006
8. State Bank of Pakistan’s reports on the trade etc
9. Magazines, journals and prospectus of selected foreign and Pakistani universities
10. etc

**News Papers**

1. The Dawn
2. The News
3. Washington Time
4. New York Time
5. Wall street journal
6. London Times
7. India Times
8. Others available on internet

**Online Links to Resources on GATS and Higher Education**


first signed by three IAU member organizations - the Association of Universities and Colleges of Canada, the American Council on Education, the European University Association – and by the American based Council for Higher Education Accreditation.)

4. WTO: GATS — Fact and Fiction
   http://www.wto.org/english/tratop_e/serv_e/gats_factfiction_e.htm

5. GATS (WTO) and the Implications for Higher Education in Europe European University Association (EUA) http://www.unige.ch/eua/En/Activities/WTO/

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8. Internationalisation, GATS and Higher Education. Report of Seminar jointly organized by IEASA (International Education Association of South Africa), CHET (Centre for Higher Education Transformation), HEDDA (Higher Education Development Association),

   http://www.oecd.org/findDocument/0,2350,en_2649_34549_1_1_1_1_1_37455,00.html

10. Trends and Models in International Quality Assurance and Accreditation in Higher Education in Relation to Trade in Education Services. By Prof. Dr. Dirk Van Damme
    http://www.oecd.org/document/14/0,2340,en_2649_34549_1833550_1_1_1_37455,00.html

    http://www.oecd.org/document/14/0,2340,en_2649_34549_1833550_1_1_1_37455,00.html

12. Trade in Higher Education and GATS Basics. This web page of UNESCO provides basic information on trade in higher education and GATS, as well as excellent links to different positions on key controversies concerning trade in higher education and GATS.
    http://www.unesco.org/education/studyingabroad/highlights/global_forum/gats_h


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