



## Dealing with Cross-Border Higher Education: Comparing the Chinese and the Indian Ways

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### *Abstract*

Cross Border Higher Education (CBHE) is one of the issues of the present knowledge era. As knowledge transmission is becoming increasingly borderless, we understand that the forces of globalisation, neo-liberal principles and the General Agreement on Trade in Services (GATS) are the three important driving factors for this development in cross-border education and higher education is the most affected area by this development.

The huge higher education potentials of China and India have greatly attracted cross-border providers and in recent years there has been remarkable growth in the CBHE of these two countries. The accession of China and India to the World Trade Organization (WTO) and the agreement on GATS allowed the free entry of for-profit cross-border educational providers both in and out.

Both of these countries have encountered several problems in dealing with the CBHE. In response, they have taken some measures in recent years to regulate and manage CBHE. However, we understand that many things are not yet clear. We also became more curious recently to know how these two countries differ and resemble one another in dealing with CBHE. In this paper we would like to understand and compare the similarities and the differences in the ways that China and India organise and manage the CBHE.

### Introduction

CBHE has become one of the irresistible phenomena in the knowledge race of the 21<sup>st</sup> century. The fast track of globalisation has boosted the increase of transnational higher education in recent years. New providers, new delivery methods and new programmes have come into the space of higher education. China and India have got respectively the second and third largest higher education system in the world next to USA. Although there have not been many widespread higher education imports and exports in the Chinese and the Indian history of higher education, in recent years the situation has changed rapidly.

The CBHE providers are very much attracted by China and India as they have huge higher education potentials, besides being fast growing newly industrialised economies, having large educational markets and accelerating strong educational expansion in higher education. The accession of China and India to WTO and the acceptance of GATS allowed the free entry of for-profit cross-border educational providers. CBHE is often for-profit and very often market-oriented. The primary worry here is that the buying and selling of foreign degrees is organized through unrecognised institutions abroad and within the country without proper teaching and learning processes. There is a great deal of concern among some education stakeholders that this new development has not been properly recognised and regularised (Powar & Bhalla, 2001, p. 2).

There are two opposite views on CBHE. The first one (often held by traditional domestic stakeholders of higher education) opposes the operation of foreign institutions in their countries. The second view is that some others (very often the new domestic and foreign stakeholders) recommend benefiting from this opportunity. A more pragmatic approach suggests combining both previous views by regulating CBHE with proper legislation. The argument is that CBHE is already an inevitable reality, so one must better regulate it. International organisations such as United Nations Educational Scientific and Cultural Organization (UNESCO) provide advice in line with the ‘third way’ position.

What is needed for all to benefit from globalization trends are mechanisms and policies at the national level that regulate and monitor certain aspects of crossborder provision such as registering and licensing of foreign providers, as well as quality assurance or accreditation of new programmes and providers (UNESCO, 2004, p. 13).

This study presents both descriptive and prescriptive argumentation on the management of CBHE in China and in India. It is descriptive because it is primarily a literature review and it is prescriptive because it reflects the authors’ opinion about CBHE policy directions for the future in China and in India concerning CBHE.

## 1. Cross-border higher education

Exchanges of ideas and people across borders in the higher education space have existed for a long time, mainly for reasons of mutual cultural, social and economic advancement. Yet the present age is experiencing an explosion of CBHE initiatives. The International Association of Universities (IAU) has observed two main trends that characterise this expansion:

One is the growing imperative of higher education institutions to internationalize – to integrate an international/intercultural dimension into teaching, research, and community service – in order to enhance their academic excellence and the relevance of their contribution to societies. Higher education institutions have long experience in this area and are rapidly expanding their cooperation with their counterparts around the world. The second trend is the growth of market-driven activities, fueled by increased demand for higher education worldwide,

declining public funding in many national contexts, the diversification of higher education providers, and new methods of delivery (IAU, 2005, p. 1).

### 1.1 Conceptualising cross-border higher education

The term 'cross-border higher education' can basically be understood as the movement of education and educational activities (students, scholars, knowledge, learning materials, content, programmes and providers, etc.) across national borders. Organization for Economic Co-operation and Development (OECD)/UNESCO, in their recent Guidelines for Quality Provision in CBHE, give the following definition of CBHE.

Cross-border higher education includes higher education that takes place in situations where the teacher, student, programme, institution/provider or course materials cross national jurisdictional borders. Cross-border higher education may include higher education by public/private and not-for-profit/for-profit providers. It encompasses a wide range of modalities, in a continuum from face-to-face (taking various forms such as students traveling abroad and campuses abroad) to distance learning (using a range of technologies and including e-learning) (OECD & UNESCO, 2005, p. 11).

Although CBHE could be understood in a broader sense, our focus in this article primarily is on the recent for-profit CBHE that has widely grown after the legitimization of trade in educational services under GATS. By cross-border one can understand that either you cross your border or some one crosses your border and moves into your territory. The traditional CBHE activities were mainly studying or teaching abroad, research collaboration and lesson drawing from other countries to organise one's higher educational system.

The rationales behind traditional cross border higher education were: development cooperation, gaining useful foreign experiences, mutual understanding and friendship through educational programmes between partner countries. Yet in recent years new providers, players and delivery methods have been incorporated into CBHE. Therefore our primary concern in this regard is to know how to deal with this new development in the area of CBHE.

In order to provide a further understanding of what cross-border education is, we use the framework below by Jane Knight on cross-border education in general. Nevertheless this applies to CBHE as well.

The above-mentioned framework explains how the cross-border activities take place. Knight identifies four different categories such as people, programmes, providers and projects that are moving across borders through different modes as explained in the second column. She also figures out three different conditions namely development cooperation, exchanges/linkages and commercial/for-profit under which the cross border activities take place.

Table 1: Framework for Cross-Border Education

Category	Modes	Conditions of Cross-border Activity		
		1 Development Cooperation →	2 Exchanges/ Linkages →	3 Commercial/ For-Profit →
People ↓ – Students – Professors/scholars – Researchers/ – Experts/consultants	– Semester/year abroad – Full degrees – Field/research work – Internships – Sabbaticals – Consulting			→
Programs ↓	– Twinning – Franchised – Articulated/Validated – Joint/Double Award – Online/Distance			
Providers Institutions, organization and companies ↓	– Branch Campus – Virtual University – Merger/Acquisition – Independent Institutions			
Projects ↓	– Research – Curriculum – Capacity Building – Educational services			

Source: Knight, 2006, p. 4.

Knight describes two basic elements of this dynamic: 1) who/what moves – people, programmes, providers and projects/services and 2) how education moves and under what conditions of development cooperation, academic exchange and commercial initiatives. However, in recent years due to the pressures of globalisation and trade in higher education, much emphasis is being placed on delivering foreign academic courses and programmes to students in their home country by various means (cf. table 1).

The above-mentioned development has brought in new players, providers, delivery methods and types of programmes in recent years. Knight identifies six types of cross-border providers, such as: 1. recognised institutions, 2. non-recognised institutions, 3. commercial companies such as Apollo (USA), Informatics (Singapore) and Aptech (India), 4. corporate universities such as those run by Motorola and Toyota, 5. networks and affiliations (both public and private) and 6. virtual institutions. However,

the traditional institutions such as public and private universities have also begun to operate with commercial motives along with the for-profit institutions in providing programmes in other countries either independently or in connection with foreign partners. The dynamics of CBHE are complex and have to be understood by the differing characteristics of importing and exporting countries. We understand that this development has been accelerated by trade in educational services which gained momentum with GATS.

One of the important elements of globalization and the internationalization of higher education is the development of the new trade agreement called GATS that allows trade in education services. GATS operates under World Trade Organization (WTO) that came into effect from 1995 and has identified six sub-sectors of education as tradable, such as primary education, secondary education, higher education, post secondary technical and vocational, university degree or equivalent, adult education and other education services.

A multi-billion dollar potential has been estimated in international higher education as the demand for higher education has grown in recent years due to the global emphasis on knowledge and skills advancement for development. “As early as 1998 the international market for student mobility alone amounted to around USD 30 billion in exports. (3 % of global services exports). Today it maybe more than USD 50 billion” (Sanyal, 2005, p. 3). The numbers of cross-border providers grew rapidly when trade in educational services was legitimised. Countries in knowledge advancement such as the USA, UK, Canada, Australia, France and Germany are identified as major exporter countries with huge populations and less access to higher education such as China and India are identified as major importers.

Cross-border education is basically education that is transferred from one country to another, as described in the four modes of supply that are referred to in GATS.

1. ‘Cross-border supply’ – where the service and not the individual crosses a border (for example, distance education).
2. ‘Cross-border consumption’ – where a user moves across the border to acquire competences elsewhere (for example, students studying abroad).
3. ‘Commercial presence’ – where a service supplier establishes a physical presence in a second country to provide services (for example, franchise, twining or branch campus arrangements).
4. ‘Presence of natural persons’ – where an individual from one country supplies a service in another country (for example, faculty exchange, or some aspect of twining/franchise courses) (Middlehurst & Woodfield, 2004, p. 14).

## 1.2 Challenges and opportunities

One of UNESCO’s education position paper titled ‘Higher Education in a Globalized Society’ elaborates both the opportunities and challenges involved in CBHE. The op-

opportunities are the increased supply of higher education, greater access for students, support for the knowledge economy, development of joint degrees, fusion or hybridisation of cultures, growing comparability of qualifications, increasing role for the market-based approach, economic benefits for education providers, and diversification and generation of new academic environments.

The challenges include concern about quality of provision, inequality of access leading to a two-tier system, the growing problem of physical and virtual brain drain on the developed country-developing country axis but also on other routes, homogenisation of culture, weakening role of the state in establishing national policy objectives, growth in market-oriented programmes such as business and information technology, and decline in some liberal arts and pure science disciplines. These opportunities and challenges depend on the priorities, policies, resources, strengths and weaknesses of countries (UNESCO, 2004, p. 13).

One interesting observation with regard to the globalisation of higher education is that the mobility of students is directed from the South to the North but the mobility of programmes is directed from the North to the South. Table 2 shows the flows of the leading source countries towards the leading host countries for overseas student mobility.

Table 2: Leading source country flows to leading host countries (2002/2003)

Source Country	Host Country				
	USA (582,996) TNFSE*	UK (227,273)	Australia (179,619)	Germany (219,039)	France (165,437)
China + Hong Kong	70,968	25,524	30,814	14,081	5,477
India	68,836	6,016	9,539	2,196	309
Japan	46,810	5,741	3,271	2,317	1,483
Malaysia	7,395	9,011	17,574	216	212
Korea	49,046	2,322	3,935	5,153	1,785

Source: OECD, 2005, table C3.7a. \* TNFSE = Total number of foreign students enrolled.

The successful CBHE exporters are the Anglophone countries which are offering programmes in English. A major reason for this success is that English has become the most-used academic language of the present age. For many countries, education is still a public good, and developments such as market forces and trading educational services are hard to accept. Leaving the education sector to the markets may affect the nation-building agenda as markets, whilst enhancing efficiency, have not yet proved their role in promoting equality and civic commitment and their concern for more humanistic dimensions of education and training. Moreover the international markets

could lead to a decline in national influence on deciding and designing content and curriculum. This could have a long-standing adverse effect on national concerns and national development (Varghese, 2005, p. 6).

The promoters of CBHE (often the multinational corporations and the countries which are largely exporting higher education) argue that CBHE can help the developing countries in catering the needs of their poorest people (Daniel, Kanwar & Trumbic, 2005, p. 7), but the reality is that it is very rare to find cross-border providers who are serving the poorest of the developing countries and the poorest within the developing countries, as these countries and the group of people do not seem very profitable.

If CBHE is argued on the grounds of trade agreements, level playing field remains a barrier. Trade becomes mutually beneficial when it takes place among more or less equal partners. This is not the case in education. Certain countries such as the USA have a huge educational advantage. Not only is it the largest, but it is also perceived to be the best (Altbach, 2003, p. 1). For example, in 2001, the USA earned US\$ 11.5 billion by exporting education services, whereas it spent only US\$ 2.4 billion on its students studying in other countries (Varghese, 2005, p. 6). From a social justice perspective it would therefore be more relevant to encourage development cooperation with the developing countries rather than liberalising trade in education.

Table 3: Advantages and Disadvantages of CBHE

Advantages of CBHE	Disadvantages of CBHE
Widening access	Available only for those who can afford it
Creates competition that might enhance quality	Threat to the role of the state
Stops the brain drain	Creating unemployment
Cheaper to get a foreign degree	Not giving a real foreign experience
Brings innovation	Challenges local knowledge
Fusion of cultures	Homogenization of culture

One of the serious challenges that this development has brought is the increasing academic fraud in CBHE. Since cross-border providers tend to operate commercially, there seem to be more possibilities for malpractices. Hallak and Poisson point out the new opportunities for fraud offered by the trans-border phenomenon in their article on ‘Academic fraud and quality assurance: Facing the challenge of internationalisation of higher education’:

Given the apparent profitability of cross-border education ... Moreover, the franchising process, which represents a major component of this type of education, also offers numerous possibilities for distorted practices, with consequences such as financial corruption and/or professional fraud (Hallak & Poisson, 2005, p. 13).

Table 3 gives a general overview of the advantages and disadvantages of CBHE.

## 2. Comparing the Chinese and the Indian ways

Although modern higher education systems in most countries share similar features, they are more often designed and delivered in view of the nation's demand. One may also notice these features when looking at the Chinese and Indian higher education systems. However we have to be very careful in comparing China and India as the political and cultural contexts which shape particular features are quite different. Although the two countries had similar political beginnings in feudalism, they developed quite different political, social, economic and cultural regimes in the past.

China: Feudalism – Colonialism (Part of China) – Communism – New liberalism.

India: Feudalism – Colonialism (Entire India) – Socialism – New liberalism.

For instance China's single party political system provides a strong focus for goal-oriented progression, while India's coalition government undergoes constant negotiation to work for the common good and try to satisfy different interest groups. Although we are aware of the risks involved in comparison, our interest is to understand the different ways these two countries deal with CBHE. And therefore we compare only the regulatory measures for CBHE in these two countries. Table 4 illustrates the educational systems of the two countries.

Table 4: General Education System in China and in India

	China	India
Pre-University	12 years of schooling	12 years of schooling
Bachelors Degree	4 years	3 years
Masters Degree	2–3 years	2 years
Pre-doctoral Degree	NA	1 or 2 years
Doctoral Degree	3 years	3–5 years

Source: Ministry of Education China and Ministry of Education India (Websites).

The huge human potential of these two countries has made them the world's most attractive destinations for cross-border educational providers. Global Student Mobility 2025 forecasts that by 2025 there will be 7.2 million international students studying abroad (in 2000 there were 1.8 million). By 2025 Asia will represent 70 % of the international students in the global market (an increase of 27 % from 2000). China and India will be the key growth drivers generating over half of the global demand in the international higher education by 2025 (Böhm, Davis, Meares & Pearce, 2002, p. 3). Table 5, with the particulars of the tertiary education student enrolment in USA, in China and in India during 2002/2003, shows the potential of China and India.



Table 5: Tertiary Education Student Enrolment (2002/2003)

	Total Enrolment	Female %	Foreign Students Enrolled
USA	15,927,987	56	582,996 (Female 44 %)
China	15,186,217	44	17,541 (Female 26 %)
India	11,295,041	38	7,738 (Female NA)

Source: UIS, 2005, pp. 96–105.

The information provided in table 5 is from 2002/2003. But in December 2003 China already announced that it has been hosting the world's largest system of higher education. About 19 million students have been enrolled in higher education in China (Kai-ming, 2004, p. 82). Higher Edge, a Toronto-based Canadian organisation that promotes international education, published a report on China's impressive strides in higher education in which an informal comparison is made between Chinese and Indian means of internalisation of higher education. Some of their estimations are interesting to be mentioned here (Broitman, 2003, p. 1):

- China is turning out to be a more important International Education Market than India.
- China and India face similar challenges in their higher education sector with intense competition for admission to the best institutions and universities. But China is far ahead on the supply side with nearly 100 high-quality institutions and is investing heavily in creating many more, leaving India far behind. As a result China is turning out many more top-quality students than India.
- China has opened up higher education for both private and foreign investment. Foreign investors can come in by tying up with local Chinese partners.
- Unlike India, China is experiencing a great deal of two-way international student traffic. China has become one of the world's greatest study-abroad destinations. Currently more than 60,000 foreigners study in Chinese universities, and that number is swelling each year. China is the number one choice for US students who want to study in Asia.
- China is active and aggressive about becoming a major player in international education. It recognises that huge sums of money leave the country when students go abroad, and it is keen to tip that trade balance in its favour.

Altbach, in one of his interesting articles entitled 'A World-Class Country without World-Class Higher Education: India's 21<sup>st</sup> Century Dilemma', expresses a similar impression by saying that India has failed to create world-class universities while rushing headlong towards economic success and modernisation (Altbach, 2005, p. 1).

However, one cannot underestimate India's top technical institutes 'Indian Institutes of Technologies' (IITs) which are producing experts in technologies, which

Altbach as well acknowledges in his article. China has basically created very strong competition among Chinese universities since 1993 when the policy of giving priority funding to top higher education institutions came into effect. India has been rating higher educational institutions for a long time, but only very recently started the priority funding. However, priority funding is under severe criticism in many countries.

## 2.1 Cross-border higher education in India

India has been a country of global exchanges, both in importing and exporting on the knowledge spheres. Nalanda, one of the early higher educational institutions in the world, was involved in knowledge exchanges through many foreign students and scholars primarily from South Asia as early as the 5<sup>th</sup> century AD. However, cross-border education has become very evident since colonisation and more specifically from the 1990's since India's accession to free the market economy.

India did not make any offer in education services in the GATS 2000 round as education is considered a sensitive public good (Chanda, 2004, p. 1). However, in the 2005 rounds India has committed only on higher education with regard to all the four modes (Rao, 2005, p. 1). Today the reality is that India is both an importer and exporter of CBHE. To cite some examples: 1. Indian business school, Loyola Institute of Business Administration (LIBA), has received agreement from universities 21 global to receive their online training elements for a mixed mode programme offered by LIBA; 2. Indian Institute of Management (IIM), Ahmedabad, launches a management development programme in Egypt (Sanyal, 2005).

In the area of export, India recently has increased the admission of foreign students, thereby exporting higher education through Educational Consultants India Limited (Ed.CIL), the government sponsored agency supported by the Ministry of Overseas Indian Affairs. The agency has been designated as the Single Window Agency to facilitate the admission of Indian Diasporas and foreign students. Ed.CIL not only guides and informs students about higher education opportunities in India but takes care of admission formalities, provides administrative support and acts as local guardian. Indian Universities such as Indira Gandhi National Open University (IGNOU) offer off-shore programmes mostly for the Indian Diasporas, but Indian knowledge corporations such as APTECH, NITT, BITS and TATA Infotech provide profit and market-oriented programmes to both Indian Diasporas and to foreign students. In the area of import of higher education an incomplete list prepared by the National Institute of Educational Planning and Administration (NIEPA) of India gives 131 examples of programmes imported in 13 states from different universities abroad. The programmes can be classified in four categories: Twinning, Joint Degrees, Franchise and others. NIEPA identifies the state wise foreign programmes, which are operating in India (Bhushan, 2004, p. 1–70).

Table 6: Foreign Education Providers: Issues and Concerns: Directory

State	Twinning	Joint Degree	Franchise	Others	Total
Andhra Pradesh	9	9	–	–	18
Delhi	14	3	2	–	19
Goa	–	2	–	–	2
Gujarat	2	2	–	–	4
Haryana	4	2	–	–	6
Karnataka	8	3	1	1	13
Kerala	–	3	–	–	3
Madhya Pradesh	2	–	–	1	3
Maharashtra	10	7	1	2	20
Rajasthan	1	–	–	–	1
Tamil Nadu	8	9	4	2	23
Uttar Pradesh	2	2	–	–	4
West Bengal	9	3	1	2	15
Total	69	45	9	8	131

The number of cross-border providers to India is growing fast. However, note that over 30 % of these institutions are not recognised or accredited in their country of origin. An equal number of their Indian collaborators are not part of the formal higher education system either. Even when the providers are universities, they are not often in the premier league and in many cases they have low reputations in their countries of origin. Neither branch campuses nor franchise agreements have had much success. Some exceptions are 61 twinning and articulation arrangements that allow students to go to the source country in the final year and stay on for employment purposes.

The programmes offered by cross-border providers in India are predominantly in the professional areas of management and engineering. Internationalisation of education in India has taken a commercial form, with academic consideration often taking a backseat. In principle, no objection can be raised against foreign universities trying to recruit students for study outside India. The objection is against the ‘selling of degrees’ of questionable standard, by non-recognised institutions and even by some recognised universities (Powar & Bhalla, 2001, p. 2).

## 2.2 The Chinese situation with cross-border higher education

Chinese higher education could be as old as the foundation of Chinese culture is, however, historians date that from the 16<sup>th</sup> century BC (Yang, 2002, p. 5). Since then the Chinese higher education had undergone several changes from ancient times to the modern days.

Higher education in China has been molded and influenced by a variety of forces. On the one hand there was the pervasive feudal thinking, represented by the doctrines of Confucius, dominating every facet of Chinese higher education until recent times. On the other hand there were, in the modern period, persistent foreign patterns either infiltrated into the country following the aggression by foreign powers or modeled consciously by the Chinese out of political and economic considerations (Du, 1992, p. 1).

Table 7: Newly Accredited Chinese Joint Programmes from 1995 to 2002

	1995	1996	1997	1998	1999	2000	2001	2002	Total
Newly accredited programmes countries & areas	2	3	5	8	9	14	18	11	70
USA	1	1	2	5	1	5	7	2	24
Netherlands	1	1	1						3
France		1	1	1		1	1		5
Australia			1	1	6	1	2	5	16
Hong Kong				1	1	4	4	1	11
Singapore					1				1
Canada						3	2		5
Belgium							1		1
UK							1	2	3
EU								1	1

Source: Huang, 2003, p. 8.

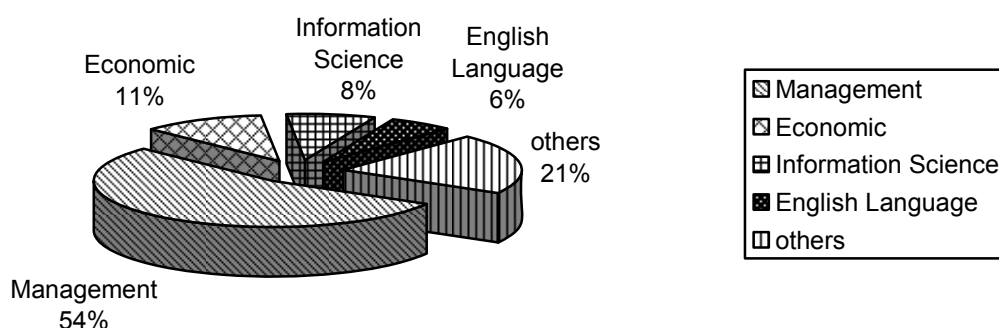
Western education was introduced in China by the Society of Jesus (Jesuits) as early as the 17<sup>th</sup> century (Xiaoqing Diana Lin, 2005). However, during the Nationalistic era which lasted for more than a century from the 1840s till the 1990s, Chinese higher education was considerably influenced by Russia as they were neighbours geographically and very close to each other ideologically. Since China's accession to WTO and its 'Open Door Policy' in the 1990s China radically and carefully restructured its higher educational system, especially with a view to emulating the Western system, while still maintaining a strong hold on the homegrown system. Yang refers to Axford (1995) in his book 'Third Delight: The internationalization of Higher Education in China'.

The current age is witnessing two parallel developments: a trend towards more global cooperation and interdependence on the one hand; and the continuing importance of nationalism and the enduring power of the myths of statehood on the other hand (Yang, 2002, p. 25).

Table 7 provides a list of newly accredited joint programmes from 1995 to 2002 in China.

Huang (2003, p. 2) observes that as early as the 1980s efforts were made by several leading universities in China such as the People's University of China and Fudan University to provide various training courses and programmes on economics, international law, and foreign languages in cooperation with US universities. However, foreign institutions were not allowed to recruit private students in China without the permission of the State Education Commission (SEC, renamed as the Ministry of Education in 1998, MOE). By the 1990s, many Chinese higher education institutions were beginning to undertake various joint programmes in cooperation with foreign institutions. The pie chart in figure 1 explains the types of programmes offered by CBHE providers in China (Huang, 2003, p. 8).

Figure 1: Types of programmes offered by CBHE providers in China



The above list of accredited programmes given by the ministry records only 70 joint programmes, but Richard Garrett estimates 712 joint programmes which would be 10 times higher than the official record. He refers to the data published by the Australian Vice-Chancellor's Committee (AVCC) in May 2003 that lists 200 current offshore programmes in China undertaken by Australian universities. He adds that if the USA and UK are the leading CBHE providers, then the official list of the Ministry of Education is far from reality (Garrett, 2004, p. 2).

China's commitments to education with the WTO consist of permitting member countries to provide educational services in elementary, secondary, tertiary, adult education and other educational services, and China makes specific commitments on four kinds of services: commercial presence, cross-border delivery, extra-border consumption, and flow of natural persons. However, this is in line with the WTO table of reduction and waivers with the exception of education and compulsory education pertaining to military affairs, police, politics, and party schools (Bing & Jianhui, 2003, pp. 69–79).

### 3. Dealing with cross-border higher education in China and in India

Some traditional stakeholders oppose CBHE as it might endanger the local higher educational system while some others welcome it so they can benefit from CBHE, and the realists claim that today CBHE is inevitable and that it has both threats and opportunities. According to them, either resisting or allowing are no good responses to this development. However, a third way to deal with this challenge is regulating its development, by proper legislation. One interesting major policy issue in this regard is the following question: How can new for-profit providers and traditional higher education cross-border providers contribute to the development agenda of a developing country and not weaken it? (UNESCO, 2004, p. 10).

OECD and UNESCO's (2005, p. 13) guidelines on quality provision in CBHE (non-binding international guidelines that facilitate but would not supersede individual countries' authority to regulate their own higher education system) provide four main policy objectives in this regard:

- Students/learners' protection from the risks of misinformation, low-quality provision and qualification of limited validity.
- Qualification should be readable and transparent in order to increase their international validity and portability. Reliable and user-friendly information sources should facilitate this.
- Recognition procedures should be transparent, coherent, fair and reliable and impose as little burden as possible to mobile professionals.
- National quality assurance and accreditation agencies need to intensify their international cooperation in order to increase mutual understanding.

The central issue in CBHE is who recognises and gives the power to award the qualifications both in the guest and in the host countries to the cross-border providers. The role of both the guest and host governments is very important on the following areas with regard to the CBHE:

- Licensing and regulation procedures for foreign providers.
- Quality assurance and accreditation for imported and exported education services.
- Funding protocols including operating grants, loans, subsidies and scholarships.
- Qualification recognition and credit transfer systems (Knight, 2002, p. 16).

Such a regulatory framework by the governments or by the concerned authorities for higher education would facilitate this development. We have been looking at different sources, especially on the government policies for CBHE, to know if China and India have got proper legislation to regulate CBHE. We elaborate in the following chapter on the present regulatory measures available in these two countries.

### 3.1 Present regulatory measures in China

In 2003, the Chinese government (Ministry of Education) released its third and recent legislation on transnational educational provision. The State Council also promulgated in June 2004 a set of Implementation Measures for the Regulation on Chinese-Foreign Cooperation in Running Schools. They have provided a very detailed legislation under eight chapters: 1. General Provision, 2. Establishment, 3. Organisation and Administration, 4. Education and Teaching, 5. Assets and Financial Matters, 6. Alteration and Termination, 7. Legal Liabilities and 8. Supplementary Provisions. Major features include the stipulation that

- foreign institutions must partner with Chinese institutions;
- partnerships must not seek profit as their objective;
- no less than half the members of the governing body of the institution must be Chinese citizens and the post of president or the equivalent must be a Chinese citizen residing in China;
- the basic language of instruction should be Chinese; and tuition fees may not be raised without approval.

This regulation seems to suggest a genuine opening up of the international market in the higher education space in China. From the Chinese perspective, the major benefits of foreign involvement in education are capacity, status and innovation. This regulation for foreign education institutions making profit in China is in contrast to its 2002 law on domestic private higher education, which permits a 'reasonable return'. China's legislation seems to be severe and the WTO might expect China to revise the regulations in view of transparency principles, especially of legislation in conflict with the GATS rules (Bing & Jianhui, 2003, pp. 69–79).

### 3.2 Present regulatory measures in India

India's view on CBHE is that any cross-border operation both inside and outside of the country clearly needs to be regulated. But unfortunately the laws concerned are not clear enough. The 1956 University Grants Commission (UGC) Act and the 1987 All India Council for Technical Education (AICTE) regulations for the entry of foreign universities do not prohibit the operation of foreign institutions in India.

In 1999, the Association of Indian Universities (AIU) formulated guidelines covering the grant of equivalence to degrees offered in India by foreign universities. The main conditions laid down are, first, that the Indian institution (partner) has adequate infrastructure and facilities as substantiated by the report of a Review Committee of the AIU; second, that the programme is implemented jointly by the foreign and the Indian universities, or academic institutions affiliated to them, with both contributing to the academic programme in approximately equal measure; and third, that the foreign university gives an undertaking, in form of a certificate, that the degree or

diploma awarded to the student in India would be considered as equivalent to the corresponding degree or diploma awarded by the home university, and that it would be recognised in that country as being equivalent to the corresponding degree or diploma of the awarding university.

Again, AICTE announced on its website (May 16, 2005) the revised regulations for the entry of foreign universities/institutions imparting technical education in India. It also provides a list of approved foreign institutions that can operate in India (AICTE, 2006, p. 1). Many foreign providers refused to accept these guidelines and continued operations without a grant of equivalence as the desire to obtain a foreign degree has become one of the most attractive academic aspirations among Indian students. Moreover there are no clear codes for dealing with cross-border academic fraud and malpractice (Powar & Bhalla, 2001, p. 1).

The present government (Ministry of Human Resource Development, HRD) set up a special committee in January 2005 under the leadership of the eminent scientist Chintamani Nagesa Ramachandra Rao (CNR Rao), aimed at advising the government of India on the entry of foreign universities into India (education is one of the three departments of the HRD Ministry). The CNR Rao committee submitted the report a couple of months ago. Some of the major recommendations made by CNR Rao committee are as follows:

1. The foreign universities have to get prior approval to set up Indian operations.
2. In the first phase, foreign universities will be given a limited trial period, a sort of probation period and depending on their performance (during the trial period) they will either be allowed or forbidden to set up long-term operations.
3. The proposed system will apply to all modes of operation, such as franchise, agreements, twinning programmes, study centres, programme collaborations, and offshore or branch campuses.
4. The proposal also calls for strong disincentives, such as forfeiture of substantial security deposits. This has been suggested to ensure that foreign players and their partners do not discontinue their operations after a few years, leaving students in the lurch (Satyanarayan, 2006, p. 1).

Following the CNR Rao committee's report the Prime Minister had set up a high powered ministers panel to work on the legislation. The HRD ministry has prepared the foreign institutions regulatory bill and will introduce it in the 2006 monsoon parliamentary session to be approved. Meanwhile the planning commission in India has suggested not to regulate too much as that might not help India benefit from the neo-liberal economy.



## Conclusion

By our literature study we understand that China had committed to GATS in all the educational sectors and made legislation on the entry and the operation of foreign institutions and started recognising them. India had only committed on higher education from the 2005 GATS rounds and very recently made regulations but has yet to make legislation. It seems that India might withdraw its commitment to GATS on educational services.

Reversing its earlier decision, India plans to withdraw from its list of offers to the World Trade Organisation a provision that would have allowed foreign universities free entry into the country. The ministry (of HRD) said that there was no need to make a hurried offer when others were dragging their feet. The ministry (of HRD) also suggested that the country adopt a 'cautious approach' considering that other countries in the Third World and among Muslim nations as well had told the WTO that they would not open their education sector as doing so would affect local political and cultural sensitivities (Ranjan, 2006, p. 1).

Both China and India are facing lots of challenges with CBHE while looking forward to benefiting from this new development. One of the observations is that China has radically opened its doors in a very well-regulated manner, whereas India has carefully opened its doors in a not very well-regulated manner.

With regards to GATS, a member country of the WTO is free to choose which commitment it wants to make and therefore if a country commits on educational services (opening its doors), it is the duty of that particular country to provide clear legislation and proper regulatory measures to make CBHE work for the common good of the country and the people. The absence of proper legislation and a strong regulatory system might induce the CBHE providers to take advantage. However, this must be debated very well in both of these countries at every level.

With the trade agreement on educational services (GATS), countries that are better positioned in the educational sectors should not take advantage of the less privileged countries as education is not only the common good of a nation but also the common good of all of mankind. If trade is agreed on educational services, it should be a fair trade. Thus much emphasis must be put on development cooperation, rather than on corporation of CBHE.

While considerable measures have been taken to regulate the foreign players into China and India, it is equally important to regulate the Chinese and the Indian cross-border providers who are operating in other countries. In recent years University Grants Commission (UGC) in India has taken this effort to facilitate this through the Promotion of Indian Higher Education Abroad (PIHEAD) scheme. This provides policy regulations for Indian institutions to operate in other countries (UGC, 2006, p. 1). China has already on set to promote its Higher Education considerably.

If educational services are based on trade agreements, these countries must provide proper regulatory measures to make them beneficial to everyone. As allowing the

entry of foreign institutions might enhance foreign investment in education, a reasonable return (which is a bit more than cost sharing and a bit less than profit making) could be expected. It is also wise to take the help of the knowledge advancement of the advanced countries through regulated foreign programs. Countries that are in knowledge advancement must not make advantages of CBHE, thus a global negotiation must be triggered to provide space for all to benefit from CBHE.

Proper and genuine legislation must be made available at country level and at international levels for a transparent transnational knowledge transmission to make sure everyone benefits from CBHE. There should be considerable representation of China and India in the global policy debates on CBHE as they are very important for CBHE. We would finally suggest China and India to be very cautious about CBHE. They have to make a careful study before they extensively allow CBHE in their countries, maybe a trial period would be an option. They especially have to study cases like Malaysia and Singapore which radically allowed CBHE in their countries.

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