FDI IN INDIA'S RETAIL SECTOR: A POSITIVE APPROACH

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Abstract:

Opponents of the entry of foreign direct investment (FDI) in retail trade generally point to its adverse impact on employment. This is indeed an important issue, as around 40 million people are engaged in retail trade in India, and even a small percentage loss of employment in this sector amounts to lakhs of unemployed. At the same time, we need to take note of certain other issues as well, in particular the *nature of the relations* which international retailing giants establish with their suppliers, and their implications for workers and cultivators in countries like India.

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Introduction:

Though FDI in retail trade is as yet restricted, the Government of India has a more liberal policy towards wholesale trade, franchising, and commission agents' services, thus preparing the ground for FDI in retail as well. As per the current regulatory regime, retail trading (except under single-brand product retailing — FDI up to 51 per cent, under the Government route) is prohibited in India. Simply put, for a company to be able to get foreign funding, products sold by it to the general public should only be of a 'single-brand'; this condition being in addition to a few other conditions to be adhered to. India being a signatory to World Trade Organisation's General Agreement on Trade in Services, which include wholesale and retailing services, had to open up the retail trade sector to foreign investment. There were initial reservations towards opening up of retail sector arising from fear of job losses, procurement from international market, competition and loss of entrepreneurial opportunities. However, the government in a series of moves has opened up the retail sector slowly to Foreign Direct Investment ("FDI"). In 1997, FDI in cash and carry (wholesale) with 100 percent ownership was allowed under the Government approval route. It was brought under the automatic route in 2006. 51 percent investment in a single brand retail outlet was also permitted in 2006. FDI in Multi-Brand retailing is prohibited in India.

Definition of Retail:

In 2004, The High Court of Delhi defined the term 'retail' as a sale for final consumption in contrast to a sale for further sale or processing (i.e. wholesale). *A sale to the ultimate consumer.*

Thus, retailing can be said to be the interface between the producer and the individual consumer buying for personal consumption. This excludes direct interface between the manufacturer and institutional buyers such as the government and other bulk customers Retailing is the last link that connects the individual consumer with the manufacturing and distribution chain. A retailer is involved in the act of selling goods to the individual consumer at a margin of profit.

FDI Policy with Regard to Retailing in India:

It will be prudent to look into Press Note 4 of 2006 issued by DIPP and consolidated FDI Policy issued in October 2010 which provide the sector specific guidelines for FDI with regard to the conduct of trading activities.

a) FDI up to 100% for cash and carry wholesale trading and export trading allowed under the automatic route.

b) FDI up to 51 % with prior Government approval (i.e. FIPB) for retail trade of 'Single Brand' products, subject to Press Note 3 (2006 Series).

c) FDI is not permitted in Multi Brand Retailing in India.

Distinct character of Indian retail trade:

The Indian trading sector, as it has developed over centuries, is very different from that of the developed countries. In the developed countries, products and services normally reach consumers from the manufacturer/producers through two different channels: (a) via independent retailers ('vertical separation') and (b) directly from the producer ('vertical integration'). In the latter case, the producers establish their own chains of retail outlets, or develop franchises.

In India, however, the above two modes of operation are not very common: For in India, today, less than three per cent of the retail transactions are done in the organized sector; and this is projected to increase to 15-20 per cent by 2010.To date, the organized sector is restricted to metropolises. The second mode is found in a few national firms and some subsidiaries of global firms. Indian wholesale trade too is not organized. The few government initiatives (such as the formation of Boards for tea, coffee, and spices, and the State Trading Corporations) have largely become defunct by now, and private initiatives have mostly remained localized.

Small and medium enterprises dominate the Indian retail scene. The trading sector is highly fragmented, with a large number of intermediaries. So also, wholesale trade in India is marked by the presence of thousands of small commission agents, stockiest and distributors who operate at a strictly local level. Apart from these, in many cases small producers such as artisans and farmers sell their goods directly to end consumers (often one family member is a producer and another sells the products). The existence of thousands of such individual producer-cum-sellers is an example of ‘vertical integration’ as it is found in the Indian retail sector. There is no ‘barrier to entry’, given the structure and scale of these operations.

The source of the pressure for allowing FDI in retail:

Why is the government so keen in inviting FDI in the retail sector? Let us look at some arguments made by the proponents of FDI:

(i) “Only a few global firms possess proprietary expertise in retail trade. They would not transfer their expertise to local firms unless they were allowed to operate in the domestic market.”

Reality: In the literature on retail, we could not trace the existence of any cutting edge proprietary expertise – either technical or managerial.

(ii) “The government needs FDI to meet its foreign exchange requirements.”

Reality: Because of large capital inflows, the Government of India is today burdened with huge and growing foreign exchange reserves. By April 13, 2007, the foreign exchange reserves had swollen to $203 billion. The argument for FDI in retail to attract foreign exchange is not tenable.

(iii) “Only global retailers can satisfy the rising and varied demands of Indian consumers.”

Reality: It has yet to be shown which product or service is being offered by foreign retail firms is unavailable at present to Indian consumers, or cannot be provided without FDI. Moreover, the alleged benefits of ‘consumer choice’ are being inflated. Indeed, the availability of excessively wide choice makes it so complex and time-consuming for the consumer to decide that it leads to stronger loyalty to particular brands! Research reveals that an average grocery store in USA, offers 35,000 to 40,000 stock keeping units versus 12,000 to 15,000 thirty years ago. The suppliers offer about 20,000 new items each year; of which 1,000 are new efforts and the rest are line extensions. However, the top 5,000 items still account for about 90 percent of sales, as they did thirty years ago.

These are some of the reasons that transnational retail giants are interested in entering India. Thus it is principally external pressure that is compelling the Indian government to liberalize FDI in retail.

Possible impact on marginal producers and work force – the experiences of other countries: Proponents of FDI in retail trade claim that it will improve the incomes of small and marginal producers by doing away with middlemen whose margins constitute such a large percentage of the final product. Is this true? In fact, an important issue missing in the whole debate is the relation between FDI retail firms and numerous small and marginal producers, especially in the agrarian and handicraft/handloom sectors. Let us look at some previous research findings on this issue.

(i) How large is the share of Third World producers in the developed country retail price of their goods? A 1981 study by the U.N. provided some data. It showed that the Philippines suppliers of bananas to TNCs in 1974 received only 17 per cent of their retail price in the Japanese market. And Thai suppliers of fresh pineapples in 1978 earned only 35 per cent of the final consumer value of pineapples canned and marketed by US transnational corporation Dole. Of this 35 per cent, only 10 per cent was the share of the agriculturists, and the remaining 25 per cent was accounted for by processing, packaging, etc., which were predominantly carried out by subsidiaries of transnationals.

(ii) Similarly, the World Bank's *Global Economic Prospects and the Developing Countries 1994* noted: "The high cost of processing, packaging, advertising, marketing, and distribution means that the cost of the primary product as a share of the final product price is usually small: for raw cotton the growers' price represents about 4-8 per cent of the final product price; for tobacco this share is closer to 6 per cent. For bananas, producer countries obtain about 14 per cent of the retail price; for jute goods it is 11-24 per cent; for coffee, between 12 and 25 per cent; and for tea the growers' price is 47 per cent of the U.K. retail price for packeted tea but only 15 per cent of the U.S. retail price of tea bags." These figures seem too high. Michel Chossudovsky estimated around the same period that producer prices of coffee were only 4 per cent of the final retail price in North American markets.

(iii)The demands for 'just-in-time' delivery have typically cut production times in a few sectors by 30 per cent in five years. Coupled with smaller, less predictable orders and high airfreight costs for missed deadlines, the small producers are pushed to the walls. Moroccan factories producing for Spain's major department store. E1 Corte Ingles must turn orders round in less than seven days. "The shops always need to be full of new designs, we pull out all the stops to meet the deadline … our image is on the line" said one production planning manager. But the image they hide is of young women working up to 16 hours a day to meet those deadlines, underpaid by 40 per cent for their long overtime working.

Over the past twenty years, fresh produce and food service industries have headed towards global consolidation. In the food service industry, US-based Yum Brands has 33,000 restaurants – including Taco Bell, Pizza Hut, and KFC – in over 100 countries, and is especially focusing on expansion in China, Mexico, and South Korea. Supermarkets – grocery retailers with multiple stores – dominate food sales in rich countries and are rapidly expanding their global presence.

(iv)In the USA, by 1997, supermarkets and even bigger 'super-centers' owned by companies like Wal-Mart and Kroger controlled 92 per cent of fresh-produce retailing. In the UK, by 2003, just five supermarket chains controlled 70 per cent of the market.

Since supermarkets increasingly control food retailing, the world's farmers are competing for a place in their supply chains. It can be good business, especially for farmers selling top-quality and out-of-season produce. But fresh produce is a risky business. And the extreme imbalance in negotiating power between a handful of supermarkets and the world's farmers means that most of the gains from trade are captured at the top. Supermarkets are pushing price and payment risks onto farmers and growers, controlling packaging and delivery requirements, squeezing producers' margins, and focusing on technical, not ethical standards. The figure below captures the real picture. While the African producers as a whole get only 9 per cent of the retail price of an exported apple, the overseas retailers in UK corner a 42 per cent share.

Figure 1: Share of different parties in the final price of apples exported from South Africa to U.K. supermarkets

Sector	**% share of income**
Farm labour	5
Farm income	4
Supermarket	42
Importer's commission and duty	7
U.K. handling	7
Shipping	12
Transport and customs	6
Farm inputs and packaging	17

Source: Oxfam (2004)

Small suppliers, unorganized workers and consumers are the major losers as global retailers and brand owners consolidate their power through free movement of global capital. Changes in labour laws are brought about in line with the requirements of supply chain flexibility: easier hiring and firing, more short-term contracts, fewer benefits, and longer periods of overtime. The Indian Government is trying to bring about such changes, both directly and indirectly.

Pressure to ensure irreversibility of opening up to FDI in retail

It may be imagined that, if the entry of transnationals in retail trade leads to harmful consequences, the government can restrict and regulate their activities, or even remove them altogether. However, TNCs in services are striving to bring in changes in the General Agreement on Trade in Services (GATS) to ensure that their entry is irreversible and ever-expanding. For example, major associations of global retailers like the FTA (Foreign Trade Association) and European Services Forum (ESF), of which global retail firms such as Metro, Ahold and Marks & Spencer are members, have taken renewed initiatives to introduce a separate agreement under the World Trade Organization (WTO) on trade and investment to safeguard their overseas investments. In a position paper on trade and investment in April 2003, the European Services Forum demanded a comprehensive WTO agreement on rules for investment. According to that document (ESF, 2003), a WTO agreement on investment should be legally binding and based on the fundamental legal principles of most favoured nation and of national treatment (i.e. non-discrimination). It should contain the following:

- A stand-still against the introduction of new barriers on investment;
- Post-investment protection;
- Protection of all material and intellectual property of the company;
- Effective protection against direct expropriation as well as against indirect expropriation through discriminatory treatment;
- A mechanism for compensation in the case of expropriation;
- Independent and binding disputes settlement mechanisms;
- The right of the company to determine its own ownership structure and provisions on legal, regulatory and administrative transparency;
- Scheduling of concrete and specific commitments by WTO members to further open their markets to foreign direct investment.

FDI in Single Brand Retail:

The Government has not categorically defined the meaning of “Single Brand” anywhere neither in any of its circulars nor any notifications. In single-brand retail, FDI up to 51 per cent is allowed, subject to Foreign Investment Promotion Board (FIPB) approval and subject to the conditions that (a) only single brand products would be sold (i.e., retail of goods of multi-brand even if produced by the same manufacturer would not be allowed), (b) products should be sold under the same brand internationally, (c) single-brand product retail would only cover products which are branded during manufacturing and (d) any addition to product categories to be sold under "single-brand" would require fresh approval from the government.

While the phrase 'single brand' has not been defined, it implies that foreign companies would be allowed to sell goods sold internationally under a 'single brand', viz., Reebok, Nokia, Adidas. Retailing of goods of multiple brands, even if such products were produced by the same manufacturer, would not be allowed.

Going a step further, we examine the concept of 'single brand' and the associated conditions:

FDI in 'Single brand' retail implies that a retail store with foreign investment can only sell one brand. For example, if Adidas were to obtain permission to retail its flagship brand in India, those retail outlets could only sell products under the Adidas brand and not the Reebok brand, for which separate permission is required. If granted permission, Adidas could sell products under the Reebok brand in separate outlets.

FDI in Multi Brand Retail:

The government has also not defined the term Multi Brand. FDI in Multi Brand retail implies that a retail store with a foreign investment can sell multiple brands under one roof.

In July 2010, Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce circulated a discussion paper on allowing FDI in multi-brand retail. The paper doesn't suggest any upper limit on FDI in multi-brand retail. If implemented, it would open the doors for global retail giants to enter and establish their footprints on the retail landscape of India. Opening up FDI in multi-brand retail will mean that global retailers including Wal-Mart, Carrefour and Tesco can open stores offering a range of household items and grocery directly to consumers in the same way as the ubiquitous '*kirana*' store.

Foreign Investor's Concern Regarding FDI Policy in India:

For those brands which adopt the franchising route as a matter of policy, the current FDI Policy will not make any difference. They would have preferred that the Government liberalize rules for maximizing their royalty and franchise fees. They must still rely on innovative structuring of franchise arrangements to maximize their returns. Consumer durable majors such as LG and Samsung, which have exclusive franchisee owned stores, are unlikely to shift from the preferred route right away. For those companies which choose to adopt the route of 51% partnership, they must tie up with a local partner. The key is finding a partner which is reliable and who can also teach a trick or two about the domestic market and the Indian consumer. Currently, the organized retail sector is dominated by the likes of large business groups which decided to diversify into retail to cash in on the boom in the sector – corporates such as Tata through its brand Westside, RPG Group through Foodworld, Pantaloon of the Raheja Group and Shopper's Stop.

An arrangement in the short to medium term may work wonders but what happens if the Government decides to further liberalize the regulations as it is currently contemplating? Will the foreign investor terminate the agreement with Indian partner and trade in market without him? Either way, the foreign investor must negotiate its joint venture agreements carefully, with an option for a buy-out of the Indian partner's share if and when regulations so permit. They must also be aware of the regulation which states that once a foreign company enters into a technical or financial collaboration with an Indian partner, it cannot enter into another joint venture with another Indian company or set up its own subsidiary in the 'same' field' without the first partner's consent if the joint venture agreement does not provide for a 'conflict of interest' clause. In effect, it means that foreign brand owners must be extremely careful whom they choose as partners and the brand they introduce in India. The first brand could also be their last if they do not negotiate the strategic arrangement diligently.

Concerns for the Government for only Partially Allowing FDI in Retail Sector:

A number of concerns were expressed with regard to partial opening of the retail sector for FDI. The Hon'ble Department Related Parliamentary Standing Committee on Commerce, in its 90th Report, on 'Foreign and Domestic Investment in Retail Sector', laid in the Lok Sabha and the Rajya Sabha on 8 June, 2009, had made an in-depth study on the subject and identified a number of issues related to FDI in the retail sector. These included:

It would lead to unfair competition and ultimately result in large-scale exit of domestic retailers, especially the small family managed outlets, leading to large scale displacement of persons employed in the retail sector. Further, as the manufacturing sector has not been growing fast enough, the persons displaced from the retail sector would not be absorbed there.

Another concern is that the Indian retail sector, particularly organized retail, is still under-developed and in a nascent stage and that, therefore, it is important that the domestic retail sector is allowed to grow and consolidate first, before opening this sector to foreign investors.

Antagonists of FDI in retail sector oppose the same on various grounds, like, that the entry of large global retailers such as Wal-Mart would kill local shops and millions of jobs, since the unorganized retail sector employs an enormous percentage of Indian population after the agriculture sector; secondly that the global retailers would conspire and exercise monopolistic power to raise prices and monopolistic (big buying) power to reduce the prices received by the suppliers; thirdly, it would lead to asymmetrical growth in cities, causing discontent and social tension elsewhere. Hence, both the consumers and the suppliers would lose, while the profit margins of such retail chains would go up.

Rationale behind Allowing FDI in Retail Sector:

FDI can be a powerful catalyst to spur competition in the retail industry, due to the current scenario of low competition and poor productivity.

The policy of single-brand retail was adopted to allow Indian consumers access to foreign brands. Since Indians spend a lot of money shopping abroad, this policy enables them to spend the same money on the same goods in India. FDI in single-brand retailing was permitted in 2006, up to 51 per cent of ownership. Between then and May 2010, a total of 94 proposals have been received. Of these, 57 proposals have been approved. An FDI inflow of US$196.46 million under the category of single brand retailing was received between April 2006 and September 2010, comprising 0.16 per cent of the total FDI inflows during the period. Retail stocks rose by as much as 5%. Shares of Pantaloon Retail (India) Ltd ended 4.84% up at Rs 441 on the Bombay Stock Exchange. Shares of Shopper's Stop Ltd rose 2.02% and Trent Ltd, 3.19%. The exchange's key index rose 173.04 points, or 0.99%, to 17,614.48. But this is very less as compared to what it would have been had FDI upto 100% been allowed in India for single brand.

The policy of allowing 100% FDI in single brand retail can benefit both the foreign retailer and the Indian partner – foreign players get local market knowledge, while Indian companies can access global best management practices, designs and technological knowhow. By partially opening this sector, the government was able to reduce the pressure from its trading partners in bilateral/ multilateral negotiations and could demonstrate India's intentions in liberalizing this sector in a phased manner.

Permitting foreign investment in food-based retailing is likely to ensure adequate flow of capital into the country & its productive use, in a manner likely to promote the welfare of all sections of society, particularly farmers and consumers. It would also help bring about improvements in farmer income & agricultural growth and assist in lowering consumer prices inflation.

Apart from this, by allowing FDI in retail trade, India will significantly flourish in terms of quality standards and consumer expectations, since the inflow of FDI in retail sector is bound to pull up the quality standards and cost-competitiveness of Indian producers in all the segments. It is therefore obvious that we should not only permit but encourage FDI in retail trade.

Lastly, it is to be noted that the Indian Council of Research in International Economic Relations (ICRIER), a premier economic think tank of the country, which was appointed to look into the impact of BIG capital in the retail sector, has projected the worth of Indian retail sector to reach $496 billion by 2011-12 and ICRIER has also come to conclusion that investment of 'big' money (large corporate and FDI) in the retail sector would in the long run not harm interests of small, traditional, retailers.

Industrial organizations such as CII, FICCI, US-India Business Council (USIBC), the American Chamber of Commerce in India, The Retail Association of India (RAI) and Shopping Centers Association of India (a 44 member association of Indian multi-brand retailers and shopping malls) favour a phased approach toward liberalizing FDI in multi-brand retailing, and most of them agree with considering a cap of 49-51 per cent to start with.

The international retail players such as Walmart, Carrefour, Metro, IKEA, and TESCO share the same view and insist on a clear path towards 100 per cent opening up in near future. Large multinational retailers such as US-based Walmart, Germany's Metro AG and Woolworths Ltd, the largest Australian retailer that operates in wholesale cash-and-carry ventures in India, have been demanding liberalisation of FDI rules on multi-brand retail for some time.

Thus, as a matter of fact FDI in the buzzing Indian retail sector should not just be freely allowed but per contra should be significantly encouraged. Allowing FDI in multi brand retail can bring about Supply Chain Improvement, Investment in Technology, Manpower and Skill development, Tourism Development, Greater Sourcing From India, Up gradation in Agriculture, Efficient Small and Medium Scale Industries, Growth in market size and Benefits to government through greater GDP, tax income and employment generation.

Prerequisites before allowing FDI in Multi Brand Retail and Lifting Cap of Single Brand Retail:

FDI in multi-brand retailing must be dealt cautiously as it has direct impact on a large chunk of population. Left alone foreign capital will seek ways through which it can only multiply itself, and unthinking application of capital for profit, given our peculiar socio-economic conditions, may spell doom and deepen the gap between the rich and the poor. Thus the proliferation of foreign capital into multi-brand retailing needs to be anchored in such a way that it results in a win-win situation for India. This can be done by integrating into the rules and regulations for FDI in multi-brand retailing certain inbuilt safety valves. For example FDI in multi –brand retailing can be allowed in a calibrated manner with social safeguards so that the effect of possible labor dislocation can be analyzed and policy fine tuned accordingly. To ensure that the foreign investors make a genuine contribution to the development of infrastructure and logistics, it can be stipulated that a percentage of FDI should be spent towards building up of back end infrastructure, logistics or agro processing units. Reconstituting the poverty stricken and stagnating rural sphere into a forward moving and prosperous rural sphere can be one of the justifications for introducing FDI in multi-brand retailing. To actualize this goal it can be stipulated that at least 50% of the jobs in the retail outlet should be reserved for rural youth and that a certain amount of farm produce be procured from the poor farmers. Similarly to develop our small and medium enterprise (SME), it can also be stipulated that a minimum percentage of manufactured products be sourced from the SME sector in India. PDS is still in many ways the life line of the people living below the poverty line. To ensure that the system is not weakened the government may reserve the right to procure a certain amount of food grains for replenishing the buffer. To protect the interest of small retailers the government may also put in place an exclusive regulatory framework. It will ensure that the retailing giants do resort to predatory pricing or acquire monopolistic tendencies. Besides, the government and RBI need to evolve suitable policies to enable the retailers in the unorganized sector to expand and improve their efficiencies. If Government is allowing FDI, it must do it in a calibrated fashion because it is politically sensitive and link it (with) up some caveat from creating some back-end infrastructure.

Further, To take care of the concerns of the Government before allowing 100% FDI in Single Brand Retail and Multi- Brand Retail, the following recommendations are being proposed :-

1. Preparation of a legal and regulatory framework and enforcement mechanism to ensure that large retailers are not able to dislocate small retailers by unfair means.
2. Extension of institutional credit, at lower rates, by public sector banks, to help improve efficiencies of small retailers; undertaking of proactive programme for assisting small retailers to upgrade themselves.
3. Enactment of a National Shopping Mall Regulation Act to regulate the fiscal and social aspects of the entire retail sector.
4. Formulation of a Model Central Law regarding FDI of Retail Sector.

Conclusion:

In light of the above, it can be safely concluded that allowing healthy FDI in the retail sector would not only lead to a substantial surge in the country's GDP and overall economic development, but would also help in integrating the Indian retail market with that of the global retail market in addition to providing not just employment but a better paying employment, which the unorganized sector (kirana and other small time retailing shops) have undoubtedly failed to provide to the masses employed in them.Many of the foreign brands would come to India if FDI in multi brand retail is permitted which can be a blessing in disguise for the economy. The government has added an element of social benefit to its latest plan for calibrated opening of the multi-brand retail sector to foreign direct investment (FDI). Only those foreign retailers who first invest in the back-end supply chain and infrastructure would be allowed to set up multi brand retail outlets in the country. The idea is that the firms must have already created jobs for rural India before they venture into multi-brand retailing.

It is also pertinent to note here that it can be safely contended that with the possible advent of unrestrained FDI flows in retail market, the interests of the retailers constituting the unorganized retail sector will not be gravely undermined, since nobody can force a consumer to visit a mega shopping complex or a small retailer/sabji mandi. Consumers will shop in accordance with their utmost convenience, where ever they get the lowest price, max variety, and a good consumer experience.

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