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DISTRIBUTION SERVICES: INDIA AND THE GATS 2000 NEGOTIATIONS

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ABBREVIATIONS

ASIA	Ahmedabad South Indian Association
BEA	Bureau of Economic Analysis
C&G	City and Guilds
CEO	Chief Executive Officer
CII	Confederation of Indian Industries
CSO	Central Statistical Organisation
DIY	do-it-yourself
EC	European Commission
ECA	Essential Commodities Act
E-commerce	Electronic Commerce: The production, distribution, marketing, sale or delivery of goods and services by electronic means.
EDI	Electronic Data Transmission
EFTA	European Free Trade Association
EU	European Union
EUROSTAT	European Statistics
FDI	Foreign Direct Investment
FICCI	Federation of Indian Chambers of Commerce and Industry
FIPB	Foreign Investment Promotion Board
FMCG	Fast Moving Consumer Goods: FMGC refers to consumer non-durable goods required for daily or frequent use. Typically, a consumer buys these goods atleast once a month. This sector covers a wide gamut of products such as detergents, toilet soaps, shampoos, creams, powders, food products, confectioneries, beverages, and cigarettes.
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
ICICI	Industrial Credit and Investment Corporation of India
IFC	International Finance Corporation
IIM	Indian Institute of Management
IL&FS	Infrastructural Leasing and Financial Services
IT	Information Technology
JV	Joint Venture
LSRL	Large Scale Retail Store Law
MA	Market Access
MFN	Most Favoured Nation
MGI	McKinsey Global Institute
MNC	Multi National Corporation
NRF	National Retail Federation
NRI	Non Resident Indian
NT	National Treatment
OCB	Overseas Commercial Body

OECD	Organisation for Economic Co-operation and Development
OGL	Open General License
Organised Retailers	Defined as those companies engaged in retailing which have a network of retail outlets, compared to the stand alone format characterised by the traditional sector, and those who adopt professional management for day to day operations.
R&D	Research and Development
RBI	Reserve Bank of India
RPG	R P Goenka Group
SIDBI	Small Industries Development Bank of India
SME	Small and Medium Enterprises
SSE	Small Scale Enterprises
SSI	Small Scale Industry
UAE	United Arab Emirates
UK	United Kingdom
USA	United States of America
USITC	United States International Trade Commission
USTR	United States Trade Representative
WTO	World Trade Organisation

Foreword

This study examines India's potential for expanding trade in distribution services within the GATS framework. It is part of the Ministry of Commerce project "Trade in Services: Opportunities and Constraints".

In the Uruguay Round, India did not make any commitments in distribution services. As of now, India is a small player in the global market for distribution services. However, there is significant potential for expanding both exports and imports. The study provides an analysis of the costs and benefits of opening up the retail sector to foreign direct investment. It highlights the importance of regulatory, structural and other reforms that would enhance the efficiency, productivity and global competitiveness of the sector. It identifies markets of export interest to India, entry barriers in those markets and recommends that India should actively participate in the ongoing GATS negotiations and push for the removal of external barriers to trade.

I am confident that this paper will provide significant input to policy makers, industry associations and academicians working towards realising the potential of this sector.

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Introduction [*]

Distribution services sector provides the crucial link between producers and consumers and hence, the performance of this sector is vital to the functioning of a modern market economy. Since the distribution margin is a significant fraction of the price of final product, an efficient and competitive distribution system is likely to reduce distortions in the price structure. This sector plays an important role in providing consumers with a wide choice of goods and associated services and consequently, has a strong influence on consumer welfare. Distribution services also provide producers with the necessary information needed to cater to the pattern of consumer demand. Therefore, any inefficiency in this services sector is likely to lead to misallocation of resources and economic costs.

The scope for international trade in distribution services is rapidly increasing with the expansion of foreign direct investments (FDI) by multinationals and development of new technologies such as e-commerce. In order to improve the efficiency of distribution services through enhanced competition, many countries are in the process of deregulating and liberalising this services sector. Nevertheless, there are significant barriers to trade in this sector such as, citizenship and residency requirements for commercial presence, registration and licensing requirements for non-residents, economic needs tests for service suppliers, limitations on the purchase or rental of real estate, restrictions on equity holdings, discriminatory taxes and subsidies, etc. The primary aim of the Uruguay Round of multilateral negotiations was to remove some of these restrictions and enhance trade in distribution services by opening-up the markets worldwide. The main focus of the GATS (General Agreement on Trade in Services) 2000 negotiations is to continue the process of progressive liberalisation.

Distribution services sector contributes towards a significant portion of the Indian GDP (Gross Domestic Product). Retailing alone generates more than 10 per cent of India's GDP and employs around 6 per cent of the total work force. In spite of being the largest industry and second largest employer (after agriculture), distribution sector in India is highly unorganised and fragmented and suffers from poor access to capital, lack of management skills and unfavourable regulations. It is, therefore, important to identify the constraints and opportunities to trade in distribution services not only for the current round of GATS 2000 negotiations but also to enhance the efficiency and global competitiveness of the sector.

[*] I am grateful to Isher Judge Ahluwalia for giving me an opportunity to work in this area and for her encouragement and support. I am also grateful to BK Zutshi for his guidance and useful comments. This study was a part of the project sponsored by the Ministry of Commerce, Government of India. I am grateful to the Ministry for their comments. I am thankful to Asitava Sen and Maneesh Mohan of KSA Technopak for their help in collecting the statistical information. I would also like to thank Abhijit Sen Gupta and Ruchika Sachdeva for their efficient and prompt research assistance.

Coverage of the Sector

In the Services Sectoral Classification List (MTN.GNS/W/120), which was drawn up during the Uruguay Round of multilateral negotiations and was based on the United Nations Provisional Central Product Classifications, distribution services sector included four major services:

> ***Commission Agents' Services (CPC 621):*** Commission agents trade on behalf of others, i.e., they sell products that are supplied and usually owned by others to retailers, wholesalers or other individuals.
>
> ***Wholesale Trade Services (CPC 622):*** Wholesalers take title to products supplied by others and subsequently resell them to retailers, to industrial, commercial, institutional or other professional business users or to other wholesalers.
>
> ***Retailing Services (CPC 631,632,6111,6113,6121):*** Retailers sell goods and services primarily to individual consumers and households.
>
> ***Franchising Services (CPC 8929):*** Franchisers sell specific rights and privilege, for instance, the right to use a particular retail format or trademark.

Efficient operation of distribution services involve additional activities through the supply chain, such as inventory management; direct contracting for production of merchandise domestically and internationally; customs brokerage activities; consolidation and deconsolidation of merchandise; delivery and transportation services including postal services, storage services, garage services and fleet maintenance; installation and product services; sales promotion, marketing and advertising services, which themselves require access to other ancillary services, including telephone, television, radio and internet services.

This study focuses on retailing and wholesale trade services. This is mainly because these two sub-sectors constitute the major proportion of trade in distribution services and statistical information on them are available globally. On the other hand, it is extremely difficult to obtain any statistical information on the growth and developments in commission agents' services and hence, it is not covered in this paper.[1] In the recent years there has been a significant growth in franchising services. An attempt has been made to highlight the developments in this sub-sector.

Objectives and Structure

The study examines the prospects of liberalising trade in distribution services and its costs and benefits under the GATS framework. Other objectives of the study are: (a) to assess the opportunities available to and constraints faced by the Indian distribution services sector; (b) to recommend possible strategies for the Indian government in its

[1] However, commitments on Commission Agents' Services are discussed in Section 3.

negotiations in this sector at the WTO; and (c) to suggest various domestic reforms and measures that are required to strengthen the sector.

The study consists of five sections:

- Section 1 analyses the place of distribution services sector in the domestic and world economy – emphasising on the recent trends and developments in this sector.
- Section 2 discusses the domestic and external barriers to India's trade in distribution services.
- Section 3 focuses on the coverage of the sector under GATS, initial commitments made by India and other major trading partners in this sector.
- Section 4 analyses the scope for further liberalisation under the GATS 2000 negotiations, possible demands for liberalisation by India's trading partners in distribution services and India's response thereto. This section also identifies markets of export interest to India, entry barriers in those markets and the demands India should make on its trading partners in this regard.
- Section 5 discusses the regulatory and other reforms required in India to make this sector globally competitive and to meet the challenges and opportunities arising from trade liberalisation under the GATS.

1. Overview of the Distribution Services Sector

1.1 Distribution Services Sector in the World Economy

Distribution services sector accounts for a significant part of the economic activity of most WTO member countries. Share of enterprises in this sector in all enterprises ranges from slightly less than 20 per cent in the United States, Denmark and Iceland to 40 per cent in Greece and Portugal.[2] It is extremely difficult to analyse the growth in output and employment in distribution services since only a few countries have reliable data on wholesale and retail trade – the two main services under distribution. Moreover, statistical information collected and collated by various sources are often contradictory and mutually conflicting.

Retailing, with total sales of US$6.6 trillion in 1999, is the largest private industry in the world (Table A1 in Appendix A). Worldwide sales of retailing exceed that of financial services (US$5.1 trillion) and construction and engineering industries (US$3.2 trillions). On an average, distribution services sector accounts for more than 15 per cent of the GDP of developed and many developing countries with its contribution varying from around 17 per cent of the GDP in the USA, 14 per cent in Canada to over 20 per

2 WTO (1998). The large number of enterprises in distribution sector in some countries is due to the small-scale of retail enterprises of these countries.

cent in the European countries such as Poland, Norway, Greece, Sweden and Spain (Table A2, Appendix A). In strong market economies, such as the USA and West European countries, franchising constitutes a significant proportion of the distribution trade**.** In the USA, around fifty per cent of the retail trade in the year 2000 was through franchising, which generated US$1 trillion worth of business in gross sales.[3]

Distribution services sector is labour intensive and contributes substantially towards employment. For instance, in Korea this sector is the second largest employer after manufacturing and accounts for around 18 per cent of the total employment.[4] Worldwide, retailing accounts for a much greater share of employment than wholesale trade. Contribution of retailing to the total employment of selected countries is presented in Table A3 in Appendix A.[5] In terms of the composition of workforce, retail sector is characterised by relatively low-wage, low-skilled workers. Self-employees constitute a substantial proportion of total employment. In developing countries such as India, family workers constitute a major proportion of the workforce. In many developed countries (for example, the UK and Australia) there has been a steady increase in part-time employment in this sector. Also, this sector is characterised by high incidence of female employment. In many European countries almost fifty per cent of the workforce constitute of females.[6] With technological developments and increase in service orientation, there has been an increasing demand for higher-skilled workers in distribution services sector.

Distribution services sector is closely linked to other services sectors such as tourism and recreational and entertainment services. Entertainment companies such as Walt Disney and Sony are moving into retailing while retail developers (for example, mall developers) are adding entertainment options to attract customers in their new and existing developments. The growth in distribution sector also affects manufacturing industries such as food processing industry. Hence, any developments in distribution services will have implications in other sectors of the economy.

In the last two decades there has been substantial growth in the distribution services sector especially in countries such as the USA, Japan, Thailand, Korea, and Netherlands. In some countries such as the USA,[7] Canada and Denmark there has been more rapid growth in output in wholesale trade than in retail trade whereas the reverse is true for others such as Japan and Finland. There has been noticeable increase in labour productivity in many countries, especially in Japan.[8] Profits in retailing have been rising steadily and between 1994-99 retailing has generated an average shareholder returns of

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3 This information is provided by KSA Technopak.

4 Communication from the Republic of Korea, WTO (2001).

5 The largest retailer Wal-Mart provides for 1.3 million jobs and its annual employee turnover is similar to that of entire General Motors' workforce.

6 EC (1996).

7 In terms of real GDP, the share of wholesale trade in the US economy grew from 6.5 per cent in 1992 to 7.12 per cent in 1996 (OECD, 2000).

8 WTO (1998); Pilat (1997).

18 per cent which is more that that of banks (9 per cent), insurance (15.2 per cent) and consumer goods (11.2 per cent).[9]

The structure of distribution services sector in any country reflects its socio-demographic characteristic. The size and density of retail outlets are determined by demand related phenomena such as population density, level of urbanisation, participation rate of women in the labour force, access to cars, taste, personal consumption expenditure, etc. The structure also varies with the level of development of the country and speed of adaptation of new technology such as use of credit cards. In the early stages of development, bulk of the retail enterprises consists of a single shop or sole proprietorships. As the economy diversifies and per capita income increases, these traditional small shops are gradually replaced by larger enterprises. This, in turn, results in concentration and currently more than fifty Fortune 500 companies and around twenty-five Asian Top 200 companies are retailers. With increased sophistication of products, many smaller shops have re-emerged as a part of a larger chain of shops while others are cooperating in franchising agreements, often oriented towards more specialised segment of the market. With economic development there has been greater vertical integration of the distribution chain. This has reduced the role of traditional wholesalers since large retail chains are increasingly bypassing the wholesalers and dealing directly with the manufactures. This is particularly true in the case of food retailing. Improvements in information technology have contributed towards this trend by allowing the retailers to fine-tune their inventory needs and reducing the warehousing role of traditional wholesalers. Furthermore, large retail groups are presently integrating the wholesale and retail functions. Many large retailers have developed in-house product lines and brands and established their own regional distribution centres in order to improve the flow of goods. On the other hand, some wholesalers have moved away from traditional activities and diversified their operations by offering additional services and moving into specialised retailing markets.[10] For instance Promodes, a French wholesale firm, has expanded its activities to retailing through its own large-scale outlets (supermarkets or hypermarkets).

Vertical integration of the distribution chain has created the demand for specialised logistic services. Manufacturers and retailers are increasingly outsourcing the entire distribution process (including transportation, warehousing, etc.) to logistic service companies. Although reliable statistics on the share of supply chain logistic companies in the total distribution business are not available, around 70 per cent of the US Fortune 500 Companies outsource some or all of their logistic activities. The market for supply chain management technologies recorded a growth of 60 per cent in the second half of the 1990s (i.e., from US$744 million in 1995 to US$2.9 billion in 1998).[11]

Another significant trend in global retailing during the past decade has been the development of a multitude of new formats. These include mass merchandisers,

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9 McKinsey (2000).

10 Pilat (1997).

11 OECD (2000).

hypermarkets, warehouse clubs, category killers[12], discounters, convenience stores, etc. These formats provide a wide range of choice to consumers in a competitive environment. Over the last few decades global retailers have also entered into newer areas such as fuel retailing, car retailing, convenience services (laundry, photo processing, etc.) and personal financial services. Large retailers are now playing an important role in designing and branding new products.

In spite of their large size of operations, unlike manufacturers, most retailers prefer to operate in the domestic market. For example, as compared to Mobile, which operates in 140 countries, Seimens in 190 countries and Nestle in 80 countries, some of the world's largest retailers such as Carrefour and Metro AG operates in less than 30 countries. This localised nature of the industry is gradually changing with increased globalisation, convergence of taste and removal of trade barriers. Also, retailers facing low rates of profitability and growth at home are now targeting foreign markets. This is especially true for many western retailers who are facing a saturated domestic market and are now targeting Asian countries. For example, Carrefour have set up 22 hypermarkets in China in a time frame of less than four years while Ahold have set up 40 stores in Malaysia and Thailand. As a consequence, organised retailing has seen significant growth in the 1990s in Asian countries where there are few trade barriers on foreign investment. For example, organised retailing in Thailand has grown from 10 per cent in 1988 to 40 per cent in 1998. Similarly, in China the share of organised retailing increased from 10 per cent in 1990 to 19 per cent in 2000.[13]

In the recent past there has been a significant growth of franchising worldwide. In the USA around fifty per cent of the retail trade is through franchising. In 1997 franchising represented around 10 per cent of the total retail trade in the UK.[14] Franchising is often used as a mode to expand the market of a particular retail enterprise outside domestic economy since it allows firms to expand without investing their own capital, is based on local expertise and enables firms to circumvent local oppositions and regulations. In the 1990s, many Asian countries have opened up their markets to international franchisers. For example, Beijing (China) hosted its first international franchise exhibition in 1998. In Malaysia, in the year 2000, there were around 80 international franchisers out of a total of 102 franchised businesses. Since franchising is a low risk business it is gaining global popularity. Success rate in the Malaysian franchising business is almost 90 per cent, compared to 80 per cent failure rates of all new businesses.

Developments in information technology have increased the operational efficiency of this sector. Technological developments have allowed more efficient links between manufacturers, wholesalers and retailers, particularly in inventory management.

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12 A category killer is a retailer who deals with the entire depth of one or two merchandise categories. Some major international retailers using this format of retailing are Toys "R" Us (toys), Payless shoes (footwear) and Circuit City (electronics goods).

13 McKinsey (2000).

14 Business Standard, June 27, 1997.

Technological innovations such as scanning have increased labour efficiency and enabled enterprises to know more about consumer demand patterns. Large enterprises are not only the pioneers in adapting new technology; they are better able to profit from these technologies compared to smaller enterprises. For instance, Wal-Mart – the largest US retailer has invested significantly in technological developments. This has resulted in a saving of US$ one billion per year and enabled the firm to reduce its distribution costs to 3 per cent of sales whereas these costs amounts to 4.5 to 5 per cent of sales for its competitors.[15] Studies have shown that smaller stores have been relatively slower in adapting new technologies since they find it difficult to finance the large initial investments.[16] With the adaptation of newer technology, larger stores are able to implement some of the advantages of smaller stores such as timeliness and catering to individual tastes and needs.

Technological developments have led to the growth of different non-store formats such as direct selling, mail ordering, etc. The advent of Internet and electronic commerce (e-commerce) has brought about significant changes in the distribution sector and broadened the scope of operation of large retailers. Electronic commerce between business and consumers, such as on-line shopping, Internet shopping and on-line banking are rapidly developing. In many Scandinavian countries, e-commerce has substantially replaced financial and other retailing services. A breakup of Europe's e-commerce sale projections for the year 2005 is presented in Table A4 in Appendix A. The future projections (Figure A1 in Appendix A) indicates that a substantial part of shopping would be carried on-line by the year 2005. In 1998, on-line retailing accounted for less than one per cent of the total retail sales of the USA.[17] It is however, predicted that in case of some goods such as books, music, video and software there is likely to be a significant increase in distribution through the Internet in the next 10-15 years.[18] An advantages of e-commerce over the brick-and-mortar sales is that the entry barriers to e-commerce and costs of operations are low, and hence prices are likely to be lower than in standard shops. Also, firms offering electronic services can substantially reduce costs since they don't need physical outlets. Future development of e-commerce would depend on industry practices and regulations affecting consumer protection, privacy, transactions through credit cards, taxation and security, etc.

In order to optimise the efficiency of the distribution chain many large retailers are now dealing directly with the manufacturers, thereby eliminating the wholesalers. The average size of shops is increasing, both in terms of turn over and employment, and the density of retail outlets is declining. Moreover, many retailers have engaged in joint

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15 OECD (1997).

16 Pilat (1997). However, it should be noted that some basic technologies such as barcoding have diffused rapidly to the smaller stores since the rights of these innovations are not very secure.

17 USITC (2000).

18 Some brick-and-mortar retailers are already experiencing stiff competition from Internet retailers such as CDNow and Amazon.com.

ventures, strategic alliances and cooperation agreements.[19] For instance, Wal-Mart has purchased Asda, a British super market chain in June 1999. Concentration is also visible in the wholesaling sector.[20] For instance, in the US, while there has been an increase in the overall number of wholesaling firms, 50 per cent of wholesale trade revenue is earned by only one per cent of the wholesaling companies.[21] This process of consolidation has raised several competition policy-related concerns. Some have argued that consolidation would improve internal efficiency and reduce costs while others pointed out that it could lead to anti-competitive behaviour.

Trade in Distribution Services

Over the years, there has been an increase in international trade in distribution services. For instance, in many European countries foreign-owned enterprises account for a significant share of the total turnover of the wholesale and retail trade (Table A5 in Appendix A). In the initial stages, international trade in distribution services was primarily among the developed countries. Towards the later half of 1990s, firms from developed countries started expanding their operations in the developing markets.

International trade in distribution services is primarily through foreign direct investment/establishment of foreign affiliate, which is known as commercial presence, and the cross-border/cross-country movement of the services such as on-line sales, Internet sales, etc. The two major components of distribution services – wholesale trade and retailing are traded predominantly through establishment of foreign affiliates and temporary movement of service providers to serve clients in overseas markets. The temporary movement of persons may or may not be accompanied with the establishment of commercial presence. With developments in Internet and e-commerce there has been an increase in cross-border trade in wholesaling and retailing. Trade in franchising is usually undertaken on a cross-border basis and is measured by the exchange of royalties and fees, collected in return for granting rights to use a particular business format or trademark. Commission agent's services can be supplied through cross-border or commercial presence.

Most countries do not have data on trade in distribution services. The US is one of the few countries, which collects statistical information on trade through foreign affiliates. In the USA, wholesale trade is the largest single component of distribution services and accounts for a significant proportion of all services trade through affiliates. In 1997, sales of wholesale services by foreign-based affiliates of the US firms was US$14.8 billion, which represented 6 per cent of the total US sales of services through

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19 One of the reasons for this consolidation, especially in the case of grocery and departmental stores, is low-cost competition and stagnant market.

20 For instance, in 1999, Ingram Micro, a wholesale distributor of computer technology-based goods and services, purchased a majority share of Electronic Resource Ltd., a Singapore-based distributor.

21 As a result of consolidation, large wholesale distributors can reap the benefit of economy of scale and consequently, offer competitive prices. This helps them to enjoy a favourable competitive position in the global market (USITC (2000)).

affiliates. In the same year purchases of wholesale services from the US affiliates of foreign firms totaled around US$12 billion. Some important markets for the US sale of wholesaling services include Japan, Netherlands, Latin America, Canada, UK, Germany and France.[22]

The United Kingdom, Latin America and Australia are major markets for foreign based retailing affiliates of the US firms. Statistical information on trade to these countries shows that, in 1997, Australia-based retailing affiliates of the US firms accounted for US$173 millions in sales, followed by Latin American based affiliates (with US$154 millions in sales) and UK-based affiliates (with US$140 million in sales). This reflects a strong demand for US retailing in both developed and developing markets. In 1997, US purchased services worth US$503 million from US-based retail affiliates of foreign firms. On a bilateral basis, US-based retailing affiliates of the UK firms sold services worth US$78 million which was 16 per cent of the total US purchase from retail affiliates of foreign firms. Affiliates of Canadian firms sold services worth US$73 million (15 per cent of the total), and affiliates of Japanese firms accounted for sales worth US$69 million (14 per cent of the total).[23]

The US is the only country, which provides data on cross-border supply of franchising services, measured by the exchange of royalties and fees. In 1995, the US export of franchising services was US$324 million with Europe (the largest market) accounting for 48 per cent of the total export.[24] Developing countries such as Thailand and Indonesia are now becoming important markets for the US export of franchising services.

Barriers to Trade in Distribution Services

International trade in the two main components of distribution services – wholesaling and retailing – rely heavily on the freedom to establish a commercial presence in the foreign country. Hence, any barriers which limits the ability of firms to establish commercial presence and employ nationals from their home country will adversely affect trade in this service sector.

In many countries there are significant market access restrictions on foreign investments. These include limiting foreign equity ownership to specific levels, limitation on the purchase or rental of real estate, economic needs tests[25] for service suppliers,

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22 US manufacturers of professional and commercial equipment (such as computers, computer peripherals and medical equipment) have a strong competitive position in the global market and consequently foreign-based wholesaling affiliates of such firms have extensive international operation (USITC (2000)).

23 USITC (1999); BEA (1999).

24 WTO (1998).

25 Economic needs tests assess the impact of new market entrants on the indigenous industry. Such assessments may result in negative determinations if market entry is considered to have a detrimental effect on market structure, profitability, population density, geographic distribution, or job creation. The threshold for meeting these criteria are often subjective and may be decided on a case-by-case basis.

requirement to form a joint venture with local suppliers, etc. Other restrictions, which affect the operation of foreign firms, include restrictions on the number, size and location of outlets. In countries such as India and Philippines[26], foreign direct investment is not allowed in retailing. In Malaysia, foreign investments are subject to licensing and foreign equity limits. In Korea there are significant restrictions on land ownership, investment and store sizes.[27]

In contrast to the global trend towards liberalisation, many countries including many European countries have imposed more restrictive regimes in the 1990s. For instance, in 1996, Spain introduced legislation limiting large-scale outlets while Italy, Belgium and France enacted more strict rules for the establishment of larger stores in the second half of the 1990s.[28] Most restrictions on large outlets are based on the presumption that smaller outlets generate more employment than the larger ones. In countries such as Japan, restrictions on the establishment of outlets have led to distortions in the industry structure and kept the prices at a higher level. Although in Japan the Large Scale Retail Store Law (LSRL) has been replaced by Large Scale Retail Store Location Law (which regulates stores based on environmental consideration such as traffic, noise, parking and garbage removal) in 2000, both domestic and foreign retailers are experiencing difficulties in establishing large stores. Specific regulations on large retail outlets in OECD countries are presented in Table A6 in Appendix A.

Wholesale trade in foreign markets is affected by restrictions on the foreign provision of related services such as transportation, warehousing and express delivery. In addition, foreign wholesalers and retailers may be restricted from selling certain products, which are reserved for the state or state-controlled companies. Other barriers affecting distribution services are variable administrative fees, prolonged custom clearance procedure in goods (in countries such as India), practice of certification and testing of products (Korea), non-transparent labeling requirements, zoning and planning laws[29], restrictions on shop opening hours,[30] restrictions on pricing and promotions[31], restrictions on advertisement of specific good (for example, in India the advertisement of tobacco and

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26 Presently, foreign retailers do business in these countries through local franchise holders.

27 USITC (1997, 2001).

28 Pilat (1997).

29 Most countries regulate the siting of retail stores by local and urban planning (zoning) laws. Such regulations are closely related to land use policies and normally classify areas into certain uses. They are generally aimed at limiting the negative externalities of land use on urban development and environment. Among the OECD countries, the USA has more flexible zoning laws.

30 In the second half of the 1990s many countries such as Austria, Germany, Netherlands, Denmark and United Kingdom have liberalised the regulations on shop opening hours.

31 For example, Belgium has enacted a detailed regulation covering special promotions, sales, closing down sales, discount and free gifts; Italy strictly regulates closing down sales while in France retailers are obliged to indicate both the original and new prices in case of price reductions. These restrictions may reduce incentive to compete on price. They also may impede economies of scale that large retailers could obtain by engaging in a nation-wide promotion campaign.

alcohol is prohibited in satellite television), etc. Many of these regulations can restrict competition. Table A7 in Appendix A presents the various kinds of restrictions in the OECD countries.

Since distribution, especially retailing, is a labour-intensive sector international trade in this sector is adversely affected by the restrictions on the temporary movement of service providers. Nationality requirements for staff often prevent firms from minimising labour costs through international recruitment. Immigration requirements, visa restrictions, levies and charges for social security, etc. affect trade in distribution services. Some countries have imposed discriminatory taxes on foreign service providers. These restrictions can lead to an increase in cost, reduce efficiency and consumer welfare.

With the developments in Information Technology and growth of e-commerce, cross-border supply of distribution services is increasing. However, trade *via* this mode is affected by several restrictions. Some countries have imposed taxes on goods delivered by mail while in others foreign service providers are required to have a commercial presence for cross-border trade. Moreover, at present, there is no international law regulating e-commerce. In the absence of any legal framework, there is no formal recognition of electronic contract. The absence of legal framework also makes it difficult to ensure consumer protection and security of transactions through credit cards. EDI (electronic data interchange) invoices are legally recognised in some countries while in other they are not even used.

Realising that foreign investment can ease out the capital constraints, help to diffuse modern technology and management concepts, enhance competition and thereby increase the overall efficiency of this sector, many countries are in the process of opening up distribution services to foreign service providers. For example, Korea had a permit system which restricted floor space and the number of stores for foreign investment. This restriction was removed in January 1996. In 1998, Indonesia removed the restrictions on foreign direct investment in wholesale trade. The elimination of restrictions on foreign investment and liberalisation of rules related to shop opening hours and zoning restrictions has enhanced the competitiveness of this services sector, led to reduction in prices and increased employment. For instance, with liberalisation in the second half of the 1990s, prices decreased by 2 per cent in Netherlands and 0.6 per cent in Sweden while employment increased by 15,000 in Netherlands and 1.3 per cent (full-time equivalent) in Germany. [32]

The removal of regulatory barriers together with technological developments has led to the expansion of international trade in distribution services. However, there remains much scope for further liberalisation in this sector. The current round of GATS negotiations, which began in January 2000, is expected to play an important role in reducing some of these barriers and improving commitments in distribution services.

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[32] Pierre Sauve, OECD, 2002.

1.2 Distribution Services Sector in the Indian Economy

As in the case of most developed and developing countries, distribution services contribute towards a significant proportion of India's GDP, with retailing alone accounting for 10-11 per cent of the GDP. Retailing is the largest industry in India and the second largest employer after agriculture.[33] Unlike most other countries, Indian retail sector is highly fragmented and bulk of the business is in the unorganised sector. Organised retailing accounts for 80 per cent of all retail sales in the USA, 35 per cent in Korea, 20 per cent in China and only 2 per cent in India (Table A8 in Appendix A).

It is extremely difficult to obtain data on India's wholesale and retail trade. Moreover, the information from various sources is often mutually conflicting. The ORG Gfk survey[34] shows that in the year 2000 retail business was around Rs 400,000 crores while the Economic Times Retail 2000-2001 report have quoted that the total retail expenditure was between Rs 700,000 crores–Rs 800,000 crores. India with around 12 million retail outlets has the largest retail outlet density in the world.[35] Comparatively, the USA has only 0.9 million outlets catering to more than thirteen times the total retail market of India (Table A9 in Appendix A). Since most outlets are located in the unorganised sector, the average size of these is much smaller than that of other countries. Only 4 per cent of Indian retail outlets are larger than 500 square feet.[36] In 1998, Bata – India's largest retail chain – had a total turnover of US$140 million which was much smaller than that of the largest company of smaller nations such as Thailand (US$935 million) or S. Korea (US$810 million).[37]

Most Indian retail outlets are in the form of mom and pop stores offering limited choice to the consumers. These are low profitable outlets which survive on unpaid/cheap labour (mostly family members or children paid below minimum wages) and free land (unregistered kiosks or traditional property). The initial set-up cost/investment is low and largely financed by the unorganised sector. There is no organised system of evaluating the turnover of such outlets for tax purposes and hence, many of them avoid paying taxes. Even though these formats do not employ modern retail techniques and know-how, they have significant competitive advantage over organised sector in terms of low overheads and local market knowledge (which is accumulated through generation of experience in retail trade). Many of them offer services such as home delivery or sales on credit that would be uneconomical for the organised retailers.

As compared to developed countries, Indian distribution services sector is still in its nascent stage. In developed countries, distribution services accounts for around one-fourth of the total GDP while in India it is less than fifteen per cent. In developed

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33 In the mid-1990s, share of retail trade in the total employment was around 6–7 per cent.

34 This was presented at the CII seminar, Retail 2001.

35 There are around 5.5 outlets per thousand population (ORG Gfk survey findings).

36 ASSOCHAM, 2000.

37 See Table A10 in Appendix A.

countries retailing contributes towards 14–20 per cent of the total employment, in India it is only 6–7 per cent.[38] One of the reasons for lower contribution of the sector to GDP is that the sector is unorganised and highly fragmented with majority of outlets having very low profit margins.

The slow growth of organised formats and low level of modernisation is primarily due to significant restrictions on consumer goods and consumerism that existed prior to the liberalisation of the 1990s. During that period, rigid licensing policies and high tariffs on imported goods discouraged manufactures from investing in consumer goods industry. In the absence of a wide range of products, marketers' found it difficult to reap the benefits of economies of scale in sourcing. Restrictions on interstate movements of goods and stocks and the highly fragmented supply chain also limited the development of scale. Low levels of income of Indian consumers together with high tax regime and saving-biased government programmes prevented the development of large-scale outlets. Moreover, owing to strict control on radio and television media (such as restrictions on satellite/cable television), Indian consumers were less aware of the growing consumerism in the West and other parts of Asia.

Liberalisation of the 1990s brought about an evolution in the distribution sector. On the supply side, consumer goods industry saw significant growth with the reduction in custom duties and a shift from quota to tariff-based system. Entry barriers on multinationals were largely removed and many multinationals such as Sony, Kellogg's and Samsung entered the Indian market. A survey by the research group ORG found that in 19 consumer goods categories, 1,378 brands and 2,579 individual products entered the Indian market between 1990 and 1996.[39] With increase in product base, chain retailers now have better sourcing options and average margins. In fact, over the past decade India has strengthened its position as a sourcing hub for many large international apparel and home-furnishing retailers (for example, Pottery Barn, Crate and Barrel, Gap and Ralph Lauren). More recently, in February 2002, Wal-Mart, the world's largest retailer, opened a global sourcing office in Bangalore to facilitate the sourcing of products from India. Figure A2 in Appendix A present the organised retail formats in the pre-liberalisation and post-liberalisation period.

On the demand side, in the 1990s, there has been an increase in income levels of middle and higher income groups. Also, there has been a reduction in poverty levels. Growth in disposable income, in turn, generated demand for consumer goods leading to the penetration of higher-quality higher-priced products. The advent of cable television and overseas travel exposed Indian consumers to more affluent markets, changed their shopping habits and raised their aspirations and demands for shopping experiences similar to that of developed countries. Indian consumers have become more brand conscious. Increase in demand for branded products have led to expansion of specialised outlets of branded products such as Benetton, Lacoste and Levi's.

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38 This information is provided by KSA Technopak and ASSOCHAM, 2000.

39 McKinsey, 2000.

Socio-economic and demographic factors also contributed towards the development of modern distribution system. Since the late 1980s, there have been noticeable changes in the family structure, especially in urban areas, with nuclear families gradually replacing joint families. In these nuclear families, women play an active role in decision making. Education levels and labour market participation rates of women have increased overtime. Many consumer surveys show that Indian women are increasingly under time pressure to use convenience options such as supermarkets where they can purchase all their necessities under one roof. They have also become more demanding on store ambiance and quality of products.[40]

There has been a noticeable increase in demand for consumer goods in the rural areas. Indian rural market accounts for over one-third of the demand for many durable and non-durable products, and is growing at a faster pace than the urban market. In order to cater to this growing demand, manufactures are in the process of developing new products such as shampoo sachets.[41]

Growth of modern retail formats have encouraged a number of real estate companies and other corporates to invest in the development of malls (for example, Crossroads in Mumbai, Spencer's Plaza in Chennai and Ansal Plaza in Delhi). Big business houses like Tatas (Westside)[42], RPG (Food World and Music World), Piramals (Pyramids and Crossroads) and Rahejas (Shopper's Stop) have opened up retail chains in a number of Indian cities. Both Indian manufactures (for example, Titan, Madura Coats and Raymonds) and multinationals (for example, ITC) have expanded their operations into retailing in order to market their brands. Venture capitalists (for instance, ICICI and IL&FS) have shown interest in investing in retailing. As a consequence of these developments, there has been an increase in size of retail outlets, a profusion of brands and product options and increasing consumerism.

Growth of organised retailing is not evenly spread across the country. Organised retailing is largely concentrated in the urban areas. Southern cities of Chennai, Bangalore and Hyderabad have become the main retail hubs.[43] Several factors have contributed towards this uneven pattern of development – the primary being the lower real estate prices in the southern cities.[44] In the initial stage, most retailers started their operations in the larger cities. However, many of them are now exploring the possibilities of expanding their operations into smaller cities. For instance, Foodworld has opened outlets in Coimbatore and Pune, Pantaloon is planning to open outlets in Kanpur and Lucknow, and Nilgiris (a supermarket chain) has opened an outlet in Erode.

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40 See McKinsey, 2000 for details.

41 See, McKinsey, 2000.

42 Tata's are planning to expand the retail chain stores "Westside" from 7 in 2001 to 15 by the end of 2002 (The Times of India, August 29, 2001).

43 In Chennai 20 per cent of the branded food and durable market is through organised retailing (McKinsey, 2000).

44 This is discussed in detail in Section 2.

Global consultancies such as KSA Technopak and McKinsey have made various projections on the growth of retailing in India. KSA Technopak projected that organised retailing would grow steadily at a rate of 6 per cent with the size of the industry increasing from Rs 5,500 crores to around Rs 35,000 crores by the end of 2005 (Figure A3 in Appendix A). On the other hand, McKinsey predicted that if retail trade grows at the current rate, sales are likely to touch US$300 billion by 2010 with 6–7 per cent of these flowing through organised channel (US$18–20 billion). The McKinsey study further predicts that if the second phase of India's economic reforms are successfully implemented, per capita income grows at a rate of 9–10 per cent, retailing is recognised as an industry and existing domestic constraints (such as, supply chain bottlenecks, high real estate price, multiple taxation, etc.) are removed, retailing in India would grow to US$450–500 billion (organised retailing would account for 20–25 per cent) by the year 2010. It is also predicted by both the studies that in the next 10 years organised retailing would enter semi-urban/rural markets.

With the growth in organised retailing and vertical integration of the distribution chain, retailers play a crucial role in designing and branding new products, which would match consumer preferences. Consequently, manufacturers have to gear their production to specific demands of retailers. This trend is noticeable in many developed as well as developing countries (for example, Brazil) where the balance of power has shifted in favour of the retailers. Unlike these countries, the distribution structure in India is in favour of manufacturers who have a stronger market position than retailers. Over the years, Indian manufacturers have built a massive distribution network so that they can increase their penetration in the completely fragmented and widely dispersed retail trade. For example, Hindustan Lever Ltd., the largest FMCG company in India, has a reach of over 3 million outlets, making wholesale and distribution trade a lucrative and thriving business. This trend is likely to change with the growth of organised retailing.

In order to protect themselves from the stiff competition of the organised sector and increase their negotiating powers over the manufacturers/distributors, many small retailers are forming co-operatives. This has started in a big way in Mumbai.[45] Growth of organised retailing would also lead to value migration from wholesale trade to retail trade. With greater vertical integration of the distribution chain it is likely that large retail chains would bypass the wholesalers and source directly from the manufactures.

In the recent years, there has been growth in organised wholesale trading. This is primarily because of the liberal foreign investment policy (discussed in sub-section 1.2b) in case of wholesale trading. FDI up to 100 per cent is allowed in cash and carry wholesale trading. The Great Wholesaling Club Ltd. (a joint venture between Dairy Firm International and Spencer & Co.) in Hyderabad is one of the first examples of FDI in wholesaling. Among the domestic organised retailers, Pantaloon is planning to set up "Big Bazaar", an organised cash and carry operation, in the non-food segment. It is likely that, in future, these organised wholesale retailers would predominantly serve small unorganised retailers, who would achieve competitive advantage by being served by the

[45] CII 2001, Org Gfk Report.

organised cash and carry operators. However, the biggest challenge would be to compete with the existing wholesale traders, who are more flexible in sourcing at the right price and right time, therefore being able to achieve arbitrage advantage. The only way in which organised cash and carry operators can compete with the unorganised traders is by sourcing directly from manufacturers.

Since as per the existing policy FDI is not allowed in retailing while franchises are allowed to set up businesses on a case-by-case basis, many foreign retailers (Mc Donald's, Nike, Levi's, Domino's, etc.) have entered the Indian market through this route. As compared to other services sectors such as IT and education, the penetration of franchising in retailing and its success rate [46] is much lower[47].

Indian distribution services sector is characterised by the presence of a large number of intermediaries resulting in fragmented supply chain. The growth of organised sector would require new supply structures based on customised product and service offerings and a supply chain controlled through the Internet. A well-developed supply chain would reduce the role of intermediaries in the distribution chain. In the near future, Indian distribution services sector would have to adapt itself to fulfilling demands for increased services, consumer convenience and lend itself amenable to rapid consolidation across the supply chain.

In line with global developments, several non-store formats[48] have evolved in India. The size and growth of on-line sales in India is presented in Figure A4 in Appendix A. In order to widen their reach and increase sales, many retail chain (for example, Fab Mart and Music World) have adopted e-retailing while others (DELL, a leading computer manufacturer), are selling directly through the Internet. Although the number of Internet users in India is growing, only a small section of them use these new modes for shopping. A study conducted by KSA Technopak (presented in Figure A5 in Appendix A) showed that although the majority of Indian respondents were aware of non-store formats (such as television shopping, Internet shopping and mail order), only a few used these formats and even fewer were satisfied with their experiences. The study found that this was mainly because of the poor delivery mechanism and issues related to security in purchase through non-store formats. Moreover, in India, there are no well-established indigenous brands that can be marketed and sold through the Internet. Absence of an established cataloguing business also reduces the potential of selling goods such as apparel on the net. It is worth noting that in the near future organised retailers in India would have to

[46] In India, franchising has been more successful in the case of (a) branded apparel business where, on an average, the penetration of franchise business is between 20–25 per cent of the total, and (b) greeting cards (around 30 per cent of the total).

[47] Two main reasons for the slow growth of franchising in India are the multiple tax regime and high real estate costs.

[48] Non-store formats involve innovative marketing techniques. Eureka Forbes was one of the pioneers in adapting a non-store format which involved door-to-door selling. Companies such as Amway and Oriflame are also directly selling their products to the Indian consumers. Other forms of non-store formats include catalogue retailing, direct mailing, electronic retailing, vending machine, etc.

offer their products on the Internet in order to ensure customer loyalty although some products such as garments, where the customer would want to see and feel the product before purchasing, would continue to be sold through brick-and-mortar.

Success of organised retailing in India would depend on the ability of retailers to widen their customer base. This has already started in a big way and large retailers (for example, Shopper's Stop, Music World, etc.) have taken direct marketing initiatives such as loyalty programmes. The success would also depend on the ability of retailers to efficiently manage the supply chain and increase operational efficiency (determined by inventory turnover, turn over per square foot, etc.) through sales economies, optimal space management and serviceability. Although distribution services is largely owned and managed by the private sector, the government through appropriate policy initiatives can play a crucial role in the growth and development of this services sector.

1.2.a Impact of Organised Retailing on the Economy

Liberalisation of the economy in the last decade initiated structural changes in the distribution services sector and led to the growth of organised formats. It is now widely debated whether organised retailing would benefit the Indian economy in the long run. It is often argued that the large organised retailers would squeeze out the small unorganised sector and since the unorganised sector is labour intensive this will have a negative impact on employment. A study published by Mintel/AC Neilson in August 2000 on Food Retailing in the UK showed that there were 56,862 independent retailers in 1981. This number declined steadily with the development of larger outlets reaching 32,600 in 1993 and 25,800 in 1999. The study concluded that between 1993 and 1999 the number of independent retailers declined by 21 per cent while number of multiple retailers increased by 18.5 per cent. Indian Small-Scale Industry Association pointed out that organised retailing would have a negative impact on growth and employment in small-scale industries since organised retailers have well-established sourcing machineries and would not source products from small-scale units.[49]

On the other hand, proponents of organised retailing have argued that the share of employment in retail distribution to total employment is much higher in countries (such as the USA (17 per cent) and Brazil (15 per cent)) with modern retail formats than India (6–7 per cent). Indian distribution sector has traditionally been an employer of relatively low-skilled workers, mostly family labours or child labours. Since the productivity of these workers are lower and there has been no private or public investment towards their training or skill upgradation, average take-home salaries of the workers are lower compared to that of other industries. Moreover, the unorganised sector does not offer job securities and most employers do not provide compensations such as retirement benefits, sickness benefits, etc. A study conducted by KSA Technopak on the comparative levels of employment in the organised and unorganised sectors revealed that although there could be a reduction in direct employment with the growth of organised formats, the

[49] The Economic Times, 5/7/01.

quality of employment and productivity of workers would significantly improve. Moreover, organised retailing would generate indirect employment through support services such as, security, maintenance, grading, packing, sorting, labeling, etc. If one takes into account both the direct and indirect employment, organised retailing would create more and better-paid, better-quality jobs. The study also found that in the organised sector the share of compensation to employees in total value added is between 40–50 per cent as compared to less than 20 per cent for the unorganised sector. Another study[50] predicted that modern retail formats would be able to quadruple the level of labour productivity even at the current level of skills.

Many organised retailers have taken initiatives in developing in-house training facilities to upgrade the skill levels of the workers. For instance, the RPG group has a in-house retail institute which has trained over 1500 customer sale personnel; the Narsee Monjee Institute runs courses on retail management; and the RPG group together with IIM-Ahmedabad are planning to launch a centre for retail management. Thus, growth of the organised sector would improve the skill levels of workforce and consequently, their earnings would also increase.

Contrary to the argument presented by Small-Scale Industry Association, it has been pointed out that with the removal of quantitative restrictions on import items reserved for small-scale industries in April 2001, both organised and unorganised retailers can now freely import items which were earlier reserved for the small-scale units.

Organised formats have the potential of kick-starting an economy and benefit all sections of the society – customers, suppliers/manufactures, government and the workforce. In many countries such as, Dubai and Singapore, retailing has contributed substantially to the growth and development of the national economy. In fact, the economies of these countries thrive on retail trade. Highly developed retail formats in countries such as Singapore, Hong Kong, Malaysia and Dubai have made them important shopping destinations and boosted the tourism industry. For the past seven years, Dubai has been organising shopping festival and this has drawn 5 million tourists and generated US$10 million retail expenditure. On an average, a tourist in India spends less than 20 per cent of the travel budget on shopping where as in Singapore and Hong Kong it is more than 50 per cent.[51] India received only 0.38 per cent of the world's 625 million tourists during 1998 and they spent 0.71 per cent of the total tourist spending of US$445 billion. Even smaller countries such as Thailand receive more than three times the number of tourists coming to India. It is argued that a highly developed retail format would not only increase the foreign exchange earnings per tourist but would also boost the Indian tourism industry.

Organised retailing provides consumers with better shopping experiences and increases their access to a wide range of products. Supermarkets allow consumers to

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50 McKinsey 2000.

51 FICCI, 2001.

interface more directly with the products, read labels, compare prices, avail of promotion and offers, etc.

In many countries (for example, the UK) organised retailing has helped to check the inflationary trends. In developed countries such as the UK and the USA stiff competition in organised sector has brought down the prices overtime.

Organised retailing in India would encourage the growth of ancillary industries such as food processing industries and services such as cold storage services. Modern formats would also improve the efficiency of the logistic chain. Since the unorganised sector has a high propensity to evade taxes, the growth of organised formats would increase government's revenue and put a check to the unfair trade practices of the unorganised sector.

It is highly unlikely that organised retailing would wipe out small retailers. Small outlets have a number of operational advantages such as low overheads, proximity to the consumers, local knowledge of consumer demands and can provide personalised services such as purchase on credit which would be economically difficult for the organised sector to offer. Competition from large retailers will force the smaller players to improve their quality standards. Even in countries with well-developed modern formats (for example, Brazil, Thailand, Poland, etc.) share of the organised sector is less than 50 per cent. As is evident from the experiences of other countries multiple supply chains and multi-format retailing would continue to co-exist in India. With the development of modern formats, small retailers are likely to reposition themselves to meet more focused needs.

1.2.b Foreign Direct Investment Policy in Distribution Services

Among the four sub-groups of distribution services – commission agents' services, wholesale trade services, retailing services and franchising services – FDI is not allowed in retailing while it is only allowed in some specific sectors in case of franchising. FDI policy is more liberal for wholesale trade services and commission agents' services. Proposals for establishing commercial presence in wholesale trade, retail trade and franchising services are examined by the Foreign Investment Promotion Board (FIPB) on a case-by-case basis. FDI inflows related to commission agents' services are examined and approved by the Reserve Bank of India (RBI).

FIPB approves up to 100 per cent foreign equity for firms engaged in exports, bulk imports with export/ex-bonded warehouse sales, cash and carry wholesale trading and imports of goods or services provided that 75 per cent is for procurement and sales of goods and services among companies of the same group and not for third party use or onward transfer/distribution/sale. Foreign companies who wish to market manufactured products on behalf of their joint ventures in which they have equity participation in India are permitted to trade products at a wholesale level. Up to 100 per cent foreign equity is allowed for companies engaged in trading of hi-tech item/items requiring specialised after sale services, trading of items for social sector, trading of hi-tech, medical and diagnostic items. Such approvals are also applicable for trading of items sourced from the small-scale sector which, based on technology provided and laid down quality specification, a company can market under its brand name. FDI up to 100 per cent is also permitted for e-commerce activities subject to the condition that such companies would divest 26 per cent of their equity in favour of the Indian public in 5 years, if these companies are listed in other parts of the world. Such companies would engage only in B2B e-commerce and not in retail trade. Under the present policy, FDI up to 50 per cent is automatically approved when the undertaking concerned is an export house, trading house, super trading house or star trading house registered under the provisions of the Export Import Policy.

Dividend repatriation is only allowed for trading when equivalent amount is earned through exports. IFC (International Finance Corporation) and other multilateral agencies are exempt from this.

Although FDI in retailing in not allowed per say, foreign retailers can operate in India through

- joint ventures, where the Indian partner is a export house (such as Total Health Care)
- franchising/local manufacturing/sourcing from small-scale sector (for example, Concorde, McDonald's)
- cash and carry operations (for example, Giant in Hyderabad).

1.2.c Should FDI be allowed in Retailing?

Under the current government policy, FDI is not allowed in retailing. However, with liberalisation of the economy and ensuing developments in organised retailing many foreign retailers (for example, Metros and Carrefour) have shown interest in operating in India. On the domestic front, there are concerns about opening up the retail sector to foreign investors. Proponents of FDI have argued that organised retailing require huge investments for fast expansion and FDI would ease the capital constraints. Against this argument, others have pointed out that the capital requirement in retail trade is much smaller compared to manufacturing since a large component of the business, the working capital, is substantially financed by vendors. In the year 2000, the largest Indian retailer – Foodworld – had a total investment of around Rs 330.50 crores[52] for 39 stores (at an average on less than Rs 85 lakh per store).[53] Since Indian retailing is growing towards an organised format on its own and the fixed capital requirement is small and can be financed by Indian business houses; there is no need to open up the sector for foreign investments.

It is worth noting that the growth of organised retailing in India is much slower compared to countries with liberal foreign investment policies. For instance, over a ten-year period, the share of organised retailing in total retailing have grown from 10 per cent to 40 per cent in Thailand and Brazil and to 20 per cent in China. On the other hand,

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52 This included head office and other support facilities.

53 The Economic Times, 5/7/01.

between the five-year period (1995-2000), organised retailing could capture only 2 per cent of the Indian market. One of the main reasons for the success of organised retailing in other South Asian countries such as Singapore, Hong Kong and Thailand is their more liberal FDI policy. In Thailand, seven out of top ten retailers have foreign equity. A similar picture is seen in countries such as China, Brazil and Poland.

The largest Indian retailer, Foodworld, has a total sale of US$30 million. This is less than one-sixth of the sale of a single Carrefour hypermarket. The gross margins of organised retailers in India are much lower than that of their global counterparts. On an average, an Indian retailer earns a gross margin of 18 per cent, compared to over 25 per cent overseas.[54] In retailing, sales are driven by expansion and the profits of retailers are directly correlated with their abilities to open new outlets. Partnership with foreign retailers would help the existing players to expand rapidly and increase their profit margins.

The inflow of FDI will enable Indian retailers to access global best practices and technical know-how, making them more efficient and globally competitive. Competition (and in some cases collaborations) will force the domestic players to expand their scale of operations, improve productivity and invest in the store infrastructure and training. Superior training facilities offered by the global retail chains will improve the quality of employment and raise labour productivity to international standards.

Owing to the slow growth of organised formats, many Indian products (such as gold and diamond jewelleries) are presently being bought and sold over distributions services centre located outside India (for instance, the Middle East). Hence, Indian retailers are unable to reap the benefit of value migration that is happening globally in favour of retailing from manufacturing.

Indian Small-Scale Industry Association argues that global retailers have well organised sourcing channels and they would not source products out of Indian small-scale units. However, the available data shows that most existing foreign retailers/franchisees are sourcing products from Indian industries (imports constitute only 5–10 per cent). It is likely that in the long run the pattern of imports of foreign retailers would not be much different from that of the existing organised retailers. Moreover, competition from foreign brands would force the Indian SMEs (small and medium enterprises) to adapt global quality standards and product ideas. It would also enable them to showcase their products to foreign retailers. As the vendors' processes and sourcing standards of the larger retail chains becomes standardised throughout the world, Indian suppliers would gain an automatic share of global trade through an established presence and closer links forged with the global chains.

Entry of foreign investors would help to increase the efficiency of supply chain. Even before starting its operation in India, McDonald's made significant investments in the supply network and has already developed an efficient supply chain.

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54 McKinsey, 2000.

Entry of foreign retailers would give Indian consumers access to a wide range of products and improve the quality of services offered (these includes consistency, standardisation, branding (including private labels), pricing, pre sale activities, after sale support, etc.).

Some critics have argued that foreign retailers may use developing countries such as India as dumping grounds for substandard/outdated products. However, past experience[55] have shown that Indian consumers are extremely conscious of quality and value-for-money. In order to gain customer loyalty, retailers (both Indian and foreign) will have to be extremely efficient in their operations, innovative in their promotions and branding and have to develop superior cost structures to offer quality products at low prices.

FDI in retailing would expedite the process of development of modern formats in India, bring in technical know-how, reduce inefficiency in the supply chain, increase productivity, help to achieve international quality standards and improve the quality of employment and services offered to consumers. On the whole, entry of foreign investor would enable the sector to be globally competitive and create opportunities for expansion of India's trade in these services.

1.2d India's Trade in Distribution Services

Indian distribution services sector is still in its developmental stage and it would take at least 6–8 years for the sector to become globally competitive and consider cross-border expansion. At present, organised retailing caters to a small section of urban upper and middle class population. It would take sometime for the modern formats to enter semi-urban/rural markets. Globally, retailers first cater to the domestic market and only consider cross border expansions when the domestic market is saturated. If a similar trend is followed in India, the current export possibilities in this sector are extremely limited.

Indian retailers are still at a learning stage where they are slowly arriving at successful business models, as far as the domestic market is concerned. Many of them are facing infrastructural, regulatory and financial constraints, which are discussed in details in Section 2. Failure rates are very high[56]. Since retailing is not open to FDI, it has restricted the availability of funds and inflow of global technical know-how and skills, thereby slowing down the process of expansion. India's future export potential in distribution services would depend on the speed of adaptation of organised formats and its expansion. Due to the large size of the Indian economy and growing consumerism, many foreign players have shown interest in investing in distribution services sector. Hence, there is significant scope for expanding India's imports of distribution services. Since the foreign investment policy is fairly liberal for franchising services, wholesale

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55 Studies conducted by ORG Marg.

56 For example, domestic retailers such as Nanz and global retailers such as Mexx have not been successful in setting up profitable operations.

trading and commission agents' services, India should open up retailing for FDI in order to expedite the process of development of modern formats.

With the growth in organised retailing, Indian companies can consider exporting distribution services. In the initial stage, Indian companies may explore the possibilities of opening affiliates/chain stores in countries/cities with large NRI/South Asian populations. Indian companies can also establish their networks abroad through franchising. For this, the Indian retailers have to first develop strong brands (such as Tanishq in jewelleries) and adapt innovative methods to market these brands. Once the brands have a strong domestic market, companies should explore the possibilities of exporting through franchising.

Given India's competence in information technology, there are excellent prospects for expansion of e-commerce.[57] However, the development of e-commerce depends on several factors such as availability of technical and legal infrastructure, liability of the end consumers, security related to credit card payments and consumer protection.

With respect to e-commerce, in the recent past, Government of India has passed the Information Technology Act. India is the twelfth country in the world to have a comprehensive legislation on e-commerce. This Act also effects consequential amendments in the Indian Penal Code, The Indian Evidence Act, 1872 and the RBI Act 1934 to bring them in line with the requirement of digital transactions. A national controller has been appointed for enforcing the Act. This controller will regulate the certifying authorities that will issue digital signatures and the systems for authentication.

Although India is a labour intensive country, as of now, it does not have much potential in exporting manpower in distribution services. This is because the workforce employed in distribution services sector is largely unskilled or semi-skilled and is unexposed to global formats and service standards. There is a shortage of skilled manpower in the organised sector and India can only consider exporting once the domestic demand is met. India's future export possibilities would depend on the level of training available in the country and the growth in productivity and efficiency of the workforce. Once the organised sector is fully developed, India with a large supply of low-cost manpower can consider export of consultancy services, managers of malls and retail outlets and sales personnel.

On the whole, India's export possibilities in distribution services are, at present, very limited. However, there is substantial scope for increasing trade – both exports and imports and this would increase the productivity and efficiency of the sector and the economy as a whole.

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57 India is one of the few markets in which organised retailing and e-retailing have made simultaneous entry.

2. Domestic and External Constraints

As noted in the preceding section, India is a marginal player in the global trade of distribution services and our export possibilities in this sector are extremely limited. This section outlines the main domestic and external constraints contributing to the poor performance and low global competitiveness of this sector. These include structural, regulatory and financial constraints.

2.1 Domestic Constraints

Indian distribution services sector is highly unorganised and fragmented and is marked by the presence of a large number of low-profitable small outlets which survive on low-skilled, low-paid labours. As discussed in the previous section, the growth of organised formats is much slower compared to other developing countries. Owing to restrictions on FDI, none of the World's Top 20 retailers operate in India.

Infrastructural bottlenecks in the form of lack of access to quality transport, storage facilities, etc. is leading to low productivity and poor performance of the distribution sector. In case of wholesale trading, warehouses/godowns/mandis are often located inside the cities while transport in most cities fall under the no entry zones, leading to delays in bulk breaking and reconsolidating. There is a shortage of warehousing facilities, cold storage and large-scale processing units. Moreover, the existing godowns do not meet quality standards (some of them are infested with vermins leading to loss of food grains).[58]

The supply chain is highly fragmented and is marked by the existence of a large number of intermediaries. In case of logistic services, India is still in the second and third party logistic provider mode while fourth party logistic models have become global standards for logistic providers. Studies[59] have shown that organised retailing in India, especially in the area of grains, spices and fresh products, is growing at a much slower rate than in other developing nations owing to the inefficient distribution network and poor storage facilities. This has also resulted in significant wastage of goods (wastage is as high as 20 per cent across the supply chain[60]). Due to the presence of several intermediaries, retailers cannot reap the benefits of economies of scale in sourcing.

Expansion of organised retailing is highly correlated with the availability of supporting infrastructure such as approach roads, parking facilities, public transport facilities, electricity supply and communication system. In many developed and developing countries large shopping malls/hypermarkets are often located outside the cities. In India, lack of quality urban infrastructure in terms of roads, railways and bus transport discourages the development of shopping malls/hypermarkets in the outskirts of cities. Shortage of electricity and frequent power cuts hampers the efficient operation of

58 This information is provided by KSA Technopak.

59 See McKinsey 2000 for details.

60 www.retailyatra.com.

the existing outlets and imposes restriction on shop opening timings[61]. In order to overcome the accessibility problems, many organised retailers are forced to open their outlets close to residential areas. In such cases, retailers not only have to pay a high real estate price they also encounter problems associated with the availability of space such as adequate parking space.

Real estate cost in India is very high[62], especially in the two metros – Mumbai and Delhi. Mumbai's real estate cost is often compared to that of Tokyo's. One of the reasons for high rates of failure of organised retailing in Mumbai and Delhi and development of southern cities such as Chennai and Bangalore as retail hubs is that the real estate prices are much lower in the later. India's first supermarket chain Nanz, which started its operation in Delhi, failed owing to the high real estate prices[63] while RPG's Food World is successfully operating in Chennai, Pune, Hyderabad and Bangalore where real estate prices are almost a quarter of that of Delhi. High real estate prices is also one of the main reasons for the slow growth of franchising.

In developed countries, mall developers usually rent/offer space to supermarket chains at half the going rates. Supermarkets generate traffic and this enables the mall developers to sell rest of the space at premium rates. Research shows[64] that this has not happened in India. Indian supermarket operators have to buy/lease real estate at the existing rates. Owing to high establishment costs organised retailers are not able to offer price advantages to the consumers.

Restrictive zoning legislation limits the availability of land for retail/commercial purposes. These laws vary across states. While laws related to land conversions for commercial uses are very restrictive in Delhi, they are more flexible in some southern states for example, Tamil Nadu. Non availability of government land together with fragmented private holdings make it difficult for retailers to acquire large plots of land. Indian property market is not transparent and is marked by the lack of clear ownership/titles. Also, there is a lack of proper planning in setting up retail establishments. Illegal constructions of shops have led to the problems of parking and electricity in many retail locations. Until recently, restrictions on ownership of real estate by foreigners (except NRIs and OCBs) have inhibited the development of world class infrastructure. All these factors have restricted the acquisition of land for retailing and franchising.

Since retailing is not regarded as an industry, very few banks are willing to invest in this sector. Uncertainties related to lack of ownership of land, vendor owned and fashion driven inventory, etc. make it difficult for retailers to access bank loans in the absence of collaterals. As retailing has a long gestation period, venture capitalists have

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61 For example, if shops are opened after a certain time they have to use generators.

62 Although there has been a decline in the real estate prices in the mid-1990s, it is still very high, especially in the metros.

63 Other important reason for the failure of Nanz is the inefficient supply chain management.

64 For details, see, Roy and Das Munshi, 1997.

not shown interest in funding this sector. Reserve Bank of India also imposes some restrictions on loans advanced to traders on the basis of sensitivity of the commodities handled.

There are significant restrictions on the trade of some commodities. For example, liquor trade is highly regulated, with each state having its own policy with respect to production, distribution and taxation. Liquor trade is licensed and in some states restricted to government/government appointed dealers.

A large section of the Indian consumers have low levels of income and conservative shopping habits[65] and this, to some extent, have slowed down the process of transformation from unorganised to organised formats.

Although, since mid-1990s, there has been a proliferation of brands, the number of brands available is still a mere fraction of that available in rest of the world. Hence, it would be difficult for big chains stores such as Wal-Mart or Carrefour to fill a 100,000 square feet stores with sufficient unique brands. Expansion of supermarkets depends on their ability to offer a wide range of brands under one roof. With fewer brands, Indian supermarkets are not able to enjoy an advantage over small retailers since the latter are able to deliver all the brands desired by the consumers.

Indian distribution sector has traditionally been an employer of relatively low skilled workers. Labour productivity in India ranges from a sixth to one half of the US average. The organised retailers are finding it difficult to recruit trained manpower. In order to overcome this difficulty, many of them (for example, RPG Group, Shopper's Stop, Ebony, etc.) have set-up in-house training facilities. Nevertheless, the overall quality of workforce is below international standards and in the coming years there will be an urgent need to train mall managers and retail personnel to support the growth of modern formats. With the current restrictions on FDI in retailing, Indian companies are finding it difficult to access the superior training facilities available with the large international players.

In India, there are no rules regulating franchising and hence it is extremely difficult for the government to monitor the franchise business.

Distribution services sector is subject to a plethora of laws/regulations at central, state and local/municipal levels. Some of the laws affecting the sector are presented in Table A11 in Appendix A.[66] Unlike developed countries, India does not have any specific

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65 For example, in many households shopping is done by servants on a daily basis.

66 Each retail outlet has to get itself registered under the Shops and Establishments Act of that particular state where it is located. The issuing authority of this certificate is the inspector of the local self-government. This certificate is valid up to the end of the year for which it is granted and has to be renewed before it expires. Each retail outlet has to obtain a no objection certificate from the municipal body. In case the retail outlet stocks food and beverages, it has to get clearance from the Medical Health Officer under the Prevention of Food and Adulteration Act of the state where it is located. Retail outlets have to take a State Sales Tax Registration and Central Sales Tax Registration wherever applicable. For protection of the

legislation controlling distribution trade and there is no nodal ministry to control and guide the operation of this sector. This has resulted in red tapism and delays owing to multiple clearance procedure.

Indian trade, at operating level, is subject to laws related to hoarding of essential commodities or the laws relating to specific commodities, such as drugs and pharmaceuticals. Some of these regulations are mutually conflicting. For example, labeling is covered under both Weights and Measures (Packaged and Commodities) Rules (1977) and Prevention of Food Adulteration Act (1955). Again, in the Essential Commodities Act (1955) the term "essential" is not clearly defined. Furthermore, there are several items, currently in the list of "essential" commodities, such as industrial raw materials, which are of no direct interest to the consumers.

There are significant restrictions on interstate movement of food grains. The labour laws are not friendly, especially in relation to part-time employment. Urban land ceiling regulations, restrictions on shop opening timings, requirements for the shops to close once a week – affects the performance of the retailers. Distribution services sector is a major source for collecting indirect taxes. There is no uniform tax structure and there are multiple layers of taxes. In addition to the central levies, each state/local municipal bodies levy its own sales tax/octroi[67] on the movement of goods from one state to another.

Owing to complexities in the regulation and tax collecting procedures, unorganised sector has a high propensity to evade taxes. This not only reduces the government's revenue but also provides them with a competitive edge over the organised sector. For example, in the case of DIY (do-it-yourself) commodities the evasion starts at the manufacturing level, where many small-scale units avoid paying income taxes and are usually exempted from excise duties. At the retail end, small traders avoid paying local sales tax and income tax. The price difference between non-tax paying unorganised sector and tax paying organised sector could be as high as 32 per cent.[68]

India has a huge potential for development of e-commerce and NASSCOM had predicted that by end of the year 2001 there would be over 1.5 million Internet subscribers and 5 million Internet users. Some of the major constraints in the development of e-commerce are the lack of proper legal support for electronic transactions[69], inadequate technical infrastructure (telecommunication infrastructure),

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brand name or trademark, it has to be registered under the Trade and Merchandise Act, 1958. Retailers have to obtain license from the Registrar of Weights and Measures.

67 Sales taxes are levied by the state governments and vary from state to state. The municipal bodies in some cities such as Kolkata and Mumbai levy octroi duties. Municipal corporations charge this duty on the invoice value of goods transferred between states across city limits. For example, in Mumbai this duty is as high as 4.5 per cent of the value of goods.

68 McKinsey 2000.

69 As discussed in the later section of the report there is no international law governing e-commerce.

security (such as, fraudulent credit card payments), etc.[70] Since regulations governing commercial operations are mostly local or national in scope, growth of e-commerce will increasingly call into question the ability of public authorities to impose their prerogatives on national markets and international trade.

Growth of e-commerce as a new service offering depends on its acceptability and use among the consumers and traders. This, in turn, depends on several issues related to transactions made on the Internet and liability of the end consumers. At present, there are few laws protecting the end consumers. A major criticism of the Information Technology Act is that it does not have any clause ensuring security and protection of the on-line consumers. Legal opinions vary and some experts believe that the existing Consumer Protection Act (1986) is quite comprehensive and can be extended to cover on-line transactions.

2.2 External Constraints

As discussed in the previous section of the report, Indian distribution services sector mainly caters to the domestic market and the export possibilities are, at present, very limited. Since the organised format is still in its nascent stage, Indian distributors do not have the requisite strength or competitive edge to establish their presence overseas. Hence, at this stage, it is extremely difficult to identify the constraints that the distributors may face if they want to establish a presence abroad.

In future, if Indian companies want to expand their sales in international markets they would face stiff competition from the existing players. Globally, the distribution sector is marked by the presence of large players and a high degree of concentration. Scale of operation of Indian retailers is much smaller *vis-à-vis* other regional or global players. Already retailers from Far East and South East Asia are exploring the South Asian and Middle East markets. For example, Giordano has established commercial presence in Middle East and Pakistan.[71]

For commercial presence, Indian companies are likely to face market access and national treatment limitations such as restrictions on foreign equity ownership to specific levels, limitations on the type of legal entity required (such as the requirement to incorporate locally), limitations/restrictions on the ownership of specific assets (such as real estate), restrictions on the scope/size of operations (restrictions on the number and location of outlets), economic needs tests and requirements to form joint ventures with the local suppliers, etc.

Trade in distribution services is significantly constrained by the presence of state monopoly in certain product categories. Many countries, including some developed countries such as Japan, Korea, Australia, Canada, do not allow foreigners to participate

70 India Electronic Commerce Survey Report, 1998 (KPMG).

71 This information is provided by KSA Technopak.

in the distribution of agricultural raw materials, cereals, fresh food products, beverages, fishery products, etc. Prohibitions on the establishment of a commercial presence by intermediaries or distributors of these products prevent countries such as India from implementing comprehensive export strategies, from promoting their exports adequately and from establishing networks or alliances to gain access to external markets.

Currently, there is a shortage of trained manpower in distribution services and hence, the possibilities for exporting manpower are very limited. With the development of organised sector and improvement in the training facilities it is likely that India, with an abundant supply of low-cost manpower, can export such services. However, there are significant non-tariff barriers on the cross-border movement of trained retail personnel, mall managers, consultants', etc. Restrictions such as nationality requirements for staffs prevent exporters from utilising comparatively low-cost Indian labours. Residency requirements, strict eligibility condition for application of work permits/visas, cumbersome procedure for actual application and processing of these work permits/visas, limitation on the length of stay and transferability of employment in the overseas market act as significant barriers to temporary movement of service personnel. Many developed countries (for example, the USA) have quantitative limits on the number of entries. Apart from these, there are entry barriers in the form of economic needs tests, local market tests and management tests.

Unlike other services sectors such as software or health, the workforce in distribution services is less specialised. Since a large section of the workforce in developed countries constitutes of part-time employees and females, it is highly unlikely that in the near future these countries would face shortage of such labours. Nevertheless, India has the potential of exporting trained manpower to South Asian countries and the Middle East. If Indian companies want to establish their presence abroad, they are likely to be affected by the restrictions on temporary movement of service providers.

There are various restrictions on the consumption of distribution services in a foreign country. For example, it is difficult to obtain visas to travel to countries such as Pakistan and Sri Lanka. These are mainly for security reasons. After the attack on World Trade Centre on September 11, 2001, the US has also imposed strict conditions for travel visas. Moreover, there are limitations on the amount of foreign exchange the travellers can carry and spend on shopping.

India, with a strong IT base has a huge potential of developing e-commerce. However, since there is no international laws regulating e-commerce, the growth of international trade *via* this mode is severely constrained in the absence of an international legal framework.

3. GATS and Distribution Services

As noted in the Section 1, there has been a distinct move towards liberalisation and private participation in distribution services both globally and in India, and many countries (such as Korea, Indonesia, etc.) have unilaterally opened up this services sector for foreign participation. The Uruguay Round of multilateral negotiations on distribution services was the first attempt to consolidate this globalisation trend and advance the process of progressive liberalisation.

This section will present a brief overview of GATS, the commitments made by different member countries in distribution services in the Uruguay Round and the implications of such commitments.

3.1 A Brief Overview of GATS

The General Agreement on Trade in Services (GATS), established in the Uruguay Round (1986-1994) of the WTO negotiations, is the first ever set of multilateral, legally enforceable rules governing trade in services. The main aim of GATS is to progressively liberalise trade and investment in services through periodic round of negotiations.

Under GATS, services are traded in four different modes:

- Cross-border supply or Mode 1 refers to delivery of services across countries such as e-retailing, e-commerce.
- Consumption abroad or Mode 2 refers to the physical movement of the consumer of the service to the location where the service is provided and consumed.
- Commercial presence or Mode 3 refers to the establishment of foreign affiliates and subsidiaries of foreign service companies. It is analogous to foreign direct investment in services.
- Movement of natural persons or Mode 4 refers to the temporary movement of service providers to provide services to clients in overseas markets.

The GATS Agreement enforces two types of general obligations on the part of the signatories.

- Most Favoured Nation Treatment: Under the MFN treatment a country is obliged to provide a treatment to a country, which is no less favourable than the treatment it provides to any other country (i.e., if a GATS member country offers certain privilege to any other country, whether it be a member or not, it has to extend the same treatment to all GATS member countries). However, GATS allows member countries to undertake exemptions to this clause, in initial commitments, subject to review.

- Transparency: This clause requires every country to publish all measures of general applications that affect the operation of the Agreement. This clause is extremely important for traders doing business in a foreign country, as they are often not aware of the laws and regulations of the other country.

Under GATS, for each of the above-mentioned modes of supply of services, a country can negotiate and make commitments to liberalise market access and national treatment for specific sectors in the sectoral schedules of commitments and across sectors in the horizontal schedule of commitments. The former is applicable to a particular sector while the latter relates to all sectors and could override, compliment or qualify the sectoral commitments. In its schedule of commitments a country can impose restrictions on market access and/or national treatment. A country is said to have imposed a market access restriction if it does not allow (or partially allow with some restrictions) foreign service providers to enter and operate in its market. A national treatment restriction exists when foreign service providers are allowed to enter the market but are treated less favourably than domestic suppliers of the same services. GATS also allow a country to impose additional restrictions. A country is said to have made "full" commitment in a particular mode of supply of services if there are no restrictions on market access or national treatment. A country is said to have made "partial" commitment if the commitment is subject to some restrictions on market access or national treatment. If the country does not make any commitment to liberalise the sector and retains the right to impose restrictions in the future then it is said to have made an "unbound" commitment.

3.2 Analysis of Commitments made in the Uruguay Round

This section will discuss the nature of commitments made by the WTO member countries in distribution services. Emphasis is placed on the restrictions imposed by different countries on market access and national treatment in the four modes of supply of services – cross-border supply, consumption abroad, commercial presence and movement of natural persons.

In the Uruguay Round, commitments under distribution services were classified under four major sub-sectors – commission agents' services, wholesale trade services, retailing services and franchising services. The commitments not covered under these sub-sectors were classified as 'others'. In that Round, 36 WTO members undertook commitments in at least one of the sub-sectors. As shown in Table B1 in Appendix B, most members made commitments in wholesale trade (34) and retailing (33) services while a smaller number undertook commitments in commission agents' services (23) and franchising (21). Although as compared to some other services, only a few countries have made commitments in distribution services, those who have accounts for over 90 per cent of the GDP of all WTO members.

Overall, the commitments in this sector in the Uruguay Round were fairly restrictive both in terms of sectoral coverage and modes of delivery. India along with a large number of countries such as Bangladesh, Chile, Egypt, Indonesia, Malaysia, Pakistan, Philippines, Singapore and Sri Lanka did not offer any commitments.[72] The nature of commitments show that many developing countries in the Asia/Pacific region

[72] Among the important developing countries, Argentina, Brazil, Kuwait, Panama, Peru, etc. scheduled commitments in distribution services.

have not scheduled commitments in distribution services. Even countries with very liberal foreign investment regime such as Singapore have not scheduled any commitments. Thailand only scheduled commitments in commission agents' services. Although in Hong Kong the wholesale market is open to foreign investors, the country did not make any commitments in this sub-sector. Lack of commitments implies that, in future, these countries may impose additional restrictions on foreign service providers without penalty. Moreover, the failure to offer commitments deprive the trading partners of any knowledge of trade barriers that may exist in these countries. One of the reasons for the low level of commitments from the Asian and Pacific countries is that, compared to other services sectors, developed countries gave relatively low priority to distribution services and negotiators, especially the US negotiators, were more interested in obtaining commitments from the OECD countries and transitional economies of Central Europe.[73] Both paucity of commitments and narrow scope of the schedules explain that the sector was not high on the agenda of the services negotiations.

A number of countries have excluded selected products from their schedules of commitments from some or all of the sub-sectors in distribution services. The most commonly excluded products include arms, ammunition and explosives; pharmaceutical, medical and orthopaedic goods; agricultural raw materials and live animals; food, beverages and tobacco; precious metals and motor vehicles. The list of products excluded by various countries is presented in Table B2 in Appendix B. While some of these products such as firearms have been excluded for national security related reasons, others have been reserved for state monopoly. State monopolies or exclusive trading rights directly affect market access opportunities for foreign service providers. This limits the product mix and thus creates additional restrains on firms operating in distribution services. Also, owing to such exclusion it is extremely difficult to evaluate the existing barriers on the trade of such products. Moreover, some members have excluded distribution services at public wholesale markets or commodity exchange markets, while others have excluded goods subject to import authorisation from the scope of their commitments.

A mode-wise analysis of commitments show that for all the sub-sectors, almost all countries have left Mode 4 (i.e., movement of natural persons) unbound except as indicated in their horizontal commitments. Analysis of commitments in the other three modes – cross-border supply, consumption abroad and commercial presence - are presented in Tables B3 and B4 in Appendix B. Tables B3 and B4 show that only a few countries such as the USA and Argentina have made liberal commitments in the three modes.

Commitments made by member countries in the four sub-sectors are discussed below:

Commission Agents' Services: Commission agents' services are mainly supplied through cross-border supply (Mode 1) and commercial presence (Mode 3). Among the member

73 See USTIC and USTR reports for details.

countries, Australia, Austria, Canada, European Community, Japan, Korea, Switzerland, Thailand and USA have undertaken commitments in this sector. Commitments are fairly liberal and only a few countries have imposed restrictions on trade *via* Mode 1 and 3. Iceland has left Mode 1 (cross-border supply) unbound while France has restricted foreign traders and brokers from operating in markets that are of national interests. All member countries have imposed restrictions on trade *via* Mode 4 or movement of natural persons, except as indicated in their horizontal commitments. France has imposed additional nationality requirements on movement of natural persons for traders, commissioners and brokers working in 20 markets of national interest.

Wholesale Trade and Retailing Services: Commercial presence or Mode 3 is the predominant mode of supply of wholesale trade and retailing services although this is likely to change with the development of Internet and e-commerce. Since the boundary between these two sub-sectors is disappearing and commitments are very similar, the commitments in wholesale trade and retailing are not analysed separately. Hong Kong is the only country that has scheduled commitments in retail trade but not in wholesale trade, while the reverse is true for Ecuador and Panama.

Member countries such as Argentina, Austria, Switzerland and Iceland have fully liberalised trade *via* Mode 1 (cross-border supply) in both the sub-sectors while Australia has left retailing services unbound except for mail orders. Some developing countries, for example Brazil, have left Mode 1 unbound. Among the developed countries, Canada and EU have undertaken partial commitments in this mode.

Almost all member countries (except a few for example, Kuwait, Peru, Brazil and Korea) have fully liberalised trade through Mode 2 i.e., consumption abroad.

Although some countries, such as Argentina, Australia, Brazil, Hungary and South Africa, have undertaken full commitments in commercial presence (Mode 3), others have imposed significant restriction on trade *via* this mode. For example, in Korea, Bulgaria and European Community provisions of some services are subject to economic needs tests. In Bulgaria, licenses are required for specialised wholesale trade and retailing, while Poland requires licenses for establishment of wholesale trade in imported consumer goods. In British Columbia (Canada), mobile fish buyers licenses are not issued to foreigners. The most common barriers to trade in this mode are limitations on purchase of real estates, restrictions on equity holdings, product exclusions owing to state monopolies or national interest, etc.

Mode 4 is the most restricted mode and member countries have shown willingness to open up the sector only to the extent committed in their horizontal schedules.

Franchising Services: Franchising services are usually undertaken on a cross-border basis. Twenty-one members (including European Community as one) have scheduled commitments in franchising services. Overall, commitments are fairly liberal in this sub-sector. Almost all the countries with the exception of Brazil and Canada have made full commitments to liberalise cross-border trade. In Brazil, the franchisee contracts have to be in conformity with the domestic regulations for payment of royalties and in Canada (Alberta) the foreign service suppliers are required to designate a place within Alberta where they can be served legal documents. With the exception of Brazil, most countries have undertaken full commitments in trade *via* Mode 2. Most member countries, with the exception of few such as Korea and Canada (Alberta), have not imposed any restrictions on commercial presence. Korea's schedule stated that for a joint venture or a 100 per cent foreign ownership, foreign service providers can open a maximum of 20 shops with floor space of less than 3,000m^2 per shop. The Korean schedule stated that this restriction would be removed by January 1, 1996. As in the case of other sub-sectors, trade *via* Mode 4 is very restrictive.

In addition to commitments in the four major subsectors, Iceland and Canada have scheduled additional commitments in the sub-sector 'others'. In this sub-sector, Canada scheduled commitments in retail sales of motor fuel while Iceland has not clarified the nature of services covered by this sub-sector.

Only two WTO members – Liechtenstein and Switzerland have listed MFN exemptions which apply specifically to distribution services. Both these countries have reserved the right to grant work permits to employees of locally established enterprises, engaged in commerce in goods, of member countries of the Convention establishing the European Free Trade Association (EFTA). The intended duration of the exemptions is indefinite and the exemptions have been justified as "flanking measures" to the provision on free trade in goods under the EFTA Agreement. It is possible that other, more general MFN exemptions also have an impact on trade in distribution services. Venezuela has undertaken MFN exemptions in the distribution and marketing of petroleum and petroleum products in order to retain the right to offer preferential treatment to countries such as Germany, France, Brazil, Central African Republic and Caribbean countries with which it has bilateral agreements.

Analyses of the limitations on market access and national treatment under various modes show that some countries have imposed market access limitations on cross-border supply. For instance, in Canada commercial presence is required for the wholesale trading of amusement machines in Quebec and motor vehicles in Sasktchewan. For retail trade through Mode 1, commercial presence is required for direct sellers in Nova Scotia and British Columbia (Canada). In Brazil, for cross-border trade in franchising, franchise contracts have to be in conformity with the Industrial Property Code to be eligible for royalty payments. Some members such as Australia, EC and the Slovak Republic have limited the scope of their cross-border commitments in retailing only to mail order services. The most visible national treatment limitations on cross-border supply included registration and licensing for non-residents, residency requirements, and differential indirect tax treatment for delivery of goods by mail. These limitations are found in the Canadian schedule and are applicable in specific provinces or at the country-level.

Many countries have imposed specific market access restrictions on commercial presence. The most frequently observed limitation is economic needs test. Several countries in Europe (for instance, Belgium, Denmark and France) have this restriction. In some countries, it is applied for particular products such as pharmaceuticals,[74] motor fuel, used cars, etc., while others have imposed it for particular type of sales outlets (department stores[75] or temporary stores or larger outlets[76]). Unlike the commitments in other services sectors, many countries have specified the criteria for the economic needs tests. However, it is difficult to say whether such specifications would increase transparency and reduce administrative discretion. Some countries such as Italy, Portugal and Spain have imposed residency requirements for providing wholesale trade services and commission agents' services. Bulgaria requires licenses for specialised wholesale trading and retailing while Poland has imposed licensing of establishments for wholesale trade in imported consumer goods.[77] All these restrictions limit the operation of foreign service suppliers. Most WTO members have not imposed any national treatment restrictions. Almost all countries have excluded Mode 4 (i.e., movement of natural persons) from their schedules of commitments.

Horizontal limitations also affect trade *via* Mode 3 and Mode 4. Some horizontal restrictions which adversely affect trade in distribution services include approval requirements, economic needs tests, limitations on the purchase or rental of real estates, restrictions on equity holdings, residency requirements for directors, taxes and subsidies, etc. In the Uruguay Round, horizontal commitments on movement of natural persons were mostly limited to business visitors and certain categories of intra-corporate transferees, such as managers, executives and specialists. Moreover, the limited commitments to liberalise the movement of high-skilled workers were often accompanied by quotas and limitations on the length of stay of foreign nationals. None of the countries have made commitments to liberalise the movement of relatively low-skilled workers, which accounts for the bulk of employment in the retail sector.

On the whole, commitments in distribution services were very limited and there is considerable scope for further liberalisation and improved commitments in this sector.

4. Strategies for Current Negotiations

It is evident from the preceding section that there are significant restrictions on trade in distribution services and there is a need to broaden the commitments in this sector. This section will present India's possible negotiating strategies for liberalising trade in distribution services during the GATS 2000 negotiations. This section will also

74 France has reserved the right to apply economic needs tests prior to permitting market access to pharmaceutical wholesalers.

75 For example, Belgium and Denmark for new department stores.

76 For example, France.

77 A licensing requirement must be scheduled either if it is used to implement a quantitative restriction (i.e., a market access restriction within the scope of Article XVI), or if it discriminates between national and foreign suppliers (i.e., inconsistent with the national treatment obligation in Article XVII).

discuss the nature of commitments that India should demand from her trading partners as well as what India may be prepared to commit in this sector.

In the Uruguay Round, India did not make any commitments in distribution services. Under the current government policy, foreign service providers are not allowed to invest in retailing while there are some sectoral caps on FDI through franchising. The FDI policy is more liberal for wholesale trade and commission agents' services. Traders have to obtain licenses for trading in certain commodities such as arms and ammunition, liquor/alcoholic drinks, etc. Some international studies[78] evaluating the extent of government restrictions on distribution services in various countries found that India is one of the most restrictive economies. The US industry sources[79] have pointed out that the restriction on foreign investment in retail trade is the single most restrictive non-tariff barrier. Given India's huge consumer base and rising per capita income many global retailers have shown interest in operating in India. Some of them have already started business through local franchise holders. In the on-going round of negotiations, it is likely that India would receive pressure, especially from developed countries such as the USA and EU, to offer commitments in distribution services and open up retail trade for foreign investment.

Since India has already liberalised wholesale trade, franchising services and commission agents' services, India can offer to bind the existing regime. The costs and benefits of opening up of retailing to FDI is already discussed in Section 1.2c. It is suggested that it is in India's own interest to open up the sector to foreign players and therefore, India should be prepared to make a binding commitment under Mode 3.

For retailing, India can offer partial commitments in Mode 3 with some restrictions on market access. Various suggestions have been made by the industry regarding the nature of market access restrictions that India should impose. One group pointed out that India could impose a foreign equity ceiling. This measure has been implemented even in countries with well-developed retail formats (for example, Thailand). However, opinions vary as to what should be the ideal limit on foreign equity.[80] Other have pointed out that India may allow wholly owned foreign subsidiaries in retailing provided the companies undertake a 50 per cent export obligation. However, in the past, export obligations have not been successful in the goods sector. It is, therefore, doubtful whether it can be successfully implemented in the services sector. Government may explore the possibilities of allowing FDI with some conditionalities such as provision of a lock-in period, a minimum capitalisation and a net worth criteria for foreign applicant companies.[81] Foreign investors may be obliged to invest in the

78 For example see Kalirajan, 2000 and USITC 2000.

79 USITC, 2000 and 1997.

80 It should be borne in mind that foreign investors would be interested in investing in India only if the share of foreign equity is 51 per cent or more.

81 These were suggested by respondents in a FICCI survey (The Economic Times, March 23, 2002).

development of supply infrastructure or source part of their products from the small-scale units.[82]

It is often argued that permitting FDI in retailing will wipe out the small retailers. In the initial stage, government can protect the smaller players through a regulated FDI policy. For example, in France the Raffarin Bill (1996) seeks to protect small shop owners by requiring government approval for any store, whether domestic or foreign, larger than 300 square metres as well as any extension beyond this limit. Thus, for each new large store that opens the possible threats to small retailers can be scrutinised on a case-by-case basis, rather than banning them altogether.

Industry sources have suggested that India can explore the possibilities of restricting FDI in retailing to specific locations such as the major metros. A similar strategy has been adopted in China. China opened up its retail sector to FDI in 1992 on an experimental basis wherein foreign retail chains were permitted to set up stores in six major cities and five Special Economic Zones. There were restrictions on the total number of joint ventures in each city. The Chinese "Schedule of Specific Commitments"[83] states that upon China's accession to the WTO, joint ventures in retailing would be allowed in Zhengzhou and Wuhan and within two years of China's accession, foreign majority control will be permitted in joint venture retailing enterprises and all provincial capitals.

Organised sector representatives have argued that, if the government opens up retail trade to foreign players with limitations on market access it would not only facilitate the inflow of technical know-how, finance and skills but also allow the domestic players to grow and participate in the global retailing business. It is important to note that whatever negotiating stand the government takes in this regard will have to be supported by appropriate domestic reforms.

Currently, India's export possibilities in distribution services are very limited and it would take at least 6 to 8 years for the industry to become globally competitive and consider cross-border expansion. In future, with the development of organised formats, Indian companies may explore the possibilities of opening affiliates/retail chains in countries with similar taste (such as Pakistan, Bangladesh, Singapore, Malaysia, Sri Lanka and Middle East) and countries with large NRI population (such as the USA, the UK, Australia, Canada). In the Uruguay Round, the USA has offered liberal commitments in commercial presence, while the commitments of EU, Canada, etc. are subject to some market access and national treatment restrictions. India should negotiate with the latter group of countries for removal of these restrictions. Many of India's important trading partners such as Pakistan, Bangladesh, Sri Lanka and the UAE did not schedule any commitments in the Uruguay Round. India can negotiate with these countries to schedule commitments in the current round. It is worth noting that many developing countries (for example, Singapore, Indonesia and Malaysia) are becoming

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82 This has been pointed out by KSA Technopak.

83 GATS/SC/135 (February 14, 2002).

important markets for international branded distribution services (such as Levi Strauss, Toy "R" Us, Marks and Spencer). Hence, it is likely that negotiators from developed countries (especially the US and EU) would take the initiative to put pressure on these countries to schedule commitments in this services sector.

Since India's IT sector is highly developed and is of international standards, India has a comparative advantage in trade *via* Mode 1 i.e., cross-border supply. In the on-going round of negotiations, India should push its trading partners for full commitments in this mode. On its part, India should be willing to undertake full commitments in cross-border supply. However, as discussed in Section 2, the development of e-commerce is constrained by the lack of international regulations governing such trade. In order to improve e-commerce security and the confidence of traders using it, legal issues such as encryption, electronic authentication, electronic payment of taxes and tariffs, protection of personal data, intellectual property and liability, electronic contracts, commercial communications and the domain name system needs to be regulated on a world-wide basis where a minimum set of requirement is acceptable to all countries. India needs to negotiate with other WTO members on how issues related to e-commerce can be addressed by the multilateral trading agenda.

In future, with developments in training facilities India can export retail personnel, consultants, mall managers, etc. However, at present, these labours have very little mobility in foreign markets and in the previous round none of the WTO member countries have made commitments to liberalise the movement of these labours. India should push for more liberal access to lower skilled workers such as retail personnel in the markets of developed countries, South Asian countries and the Middle East.

Consumption abroad or Mode 2 is not an important mode for supply of distribution services. In the Uruguay Round developed countries of export interest to India (such as EU, USA, Canada, and Australia) have not imposed any restrictions while many developing countries such as Singapore and Malaysia did not undertake commitments in this mode. India should negotiate with the latter to open up Mode 2. On its part, India can offer commitments in Mode 2 subject to the existing foreign exchange restrictions.

Domestic regulations such as zoning restrictions, licensing requirements, limits on store sizes and opening hours can hinder operations and act as significant barriers to trade in distribution services. The GATS represents an effective framework of rules to deal with quantitative restrictions and discriminatory measures. However, GATS (Article VI) has been less effective in dealing with domestic legislation. Such regulations are often non-transparent and can restrict trade in distribution services. In the GATS 2000 negotiations, India should push for increased transparency in the domestic regulations. In this regard, India can emphasise on the need to deepen GATS disciplines (Article VI) dealing with origin-neutral domestic regulations.

Increasing vertical integration in the distribution chain raises certain policy-related concerns as to whether such integration inhibits entry and competition. Anti-competitive behaviour of certain firms may reduce the likely gains from vertical integration. An important issue for discussion in the current round of negotiations is whether vertical integration leading to anti-competitive practices can create barriers to trade in distribution services and if so, how can such anti-competitive practices be best addressed. During the current round of negotiations, anti-competitive practices can be addressed under Article IX of the GATS Agreement which deals with business practices or it can be negotiated as a reference paper under Article XVIII if there are any issues which are specific to the distribution services sector.

In the previous round, a large number of developed countries have excluded selected products from their schedule of commitments. Some of these products have been excluded because of their sensitivity nature and national interest while others have been reserved for state monopoly. The exclusion of products such as agricultural raw materials, food and beverages affects developing countries such as India. Furthermore, some members have excluded certain products (many of these are agricultural products) subject to import permits or licenses from the scope of commitments. Prohibitions on the establishment of a commercial presence by intermediaries or distributors of agricultural products prevent developing countries from (i) implementing comprehensive export strategies for products and services of interest to them, (ii) promoting their export adequately, and (iii) establishing alliances and networks to gain access to external markets. In the on-going round of negotiations, India can point out that the list of excluded products should be re-examined and kept to a bare minimum. In particular, limitations on trade in agricultural products, pharmaceuticals and luxury goods should be confined to those which are strictly necessary for public health.

On the whole, although India's trade potential in distribution services is limited India should offer commitments in this sector, especially in Mode 3. A more liberal foreign investment policy together with appropriate domestic reforms will introduce competitiveness in the domestic industry and increase India's future trade potential in this sector.

5. Reforms and Suggestions

Indian distribution services sector is highly fragmented and is characterised by the presence of a large number of small players. Organised formats are slowly evolving and currently only 2 per cent of the Indian retail trade is in the organised sector. In the recent years there has been a noticeable growth in franchising services. As discussed earlier, organised formats enable the retailers and distributors to enjoy economies of scale; provide consumers with a wide range of choice, low prices, pleasant shopping environment and convenience; provide efficient after sales services; and improve productivity, working conditions and skill levels of the work force. It also increases government's revenue by reducing the possibilities of tax evasion. Competition from the organised retailers would force the local traditional stores to improve their service quality and store standards. Inspite of the aforementioned benefits, the growth in organised formats in India has been much slower as compared to other countries and the development of the sector is severely constrained by the presence of several infrastructural and regulatory constraints.

This section will discuss the regulatory and other reforms that are required to expedite the growth in distribution services, increase India's trade potential and global competitiveness in this sector and enable the country to meet the challenges and opportunities arising from trade liberalisation under the GATS. Since distribution services sector is largely concentrated in private hands, the government and private sector have to work in close co-ordination to improve the productivity and efficiency of this sector. Any initiative to liberalise trade through multilateral negotiations can only be successful if it is supported by appropriate domestic reforms.

5.1 What Should the Private Sector do?

Since the Indian distribution sector is evolving and organised retailers and wholesalers are still in their learning stage, they need to invest in R&D. Before venturing into newer areas, retailers and wholesalers should have the full knowledge of profiles of consumers, their shopping behaviour,[84] operation of the distribution chain and infrastructural facilities that are available. Without such knowledge, failure rates are likely to be high.

Currently, there is a shortage of skilled workforce in distribution services and there are very few retail-oriented education courses.[85] In order to increase the productivity and efficiency of labour employed in this sector, private players have to invest in training. Many large private retailers have already started in-house training courses. For instance, the RPG group has an in-house retail-training institute, which has trained over 1500 customer sale personnel. There is an urgent need to set up more such institutes offering training courses in distribution services. In this respect, the private sector needs to work closely with the government.

In order to succeed in a competitive business environment, organised sector will have to invest in the supply network. In a complex manufacturing and distribution network, all nodes of the supply chain must be efficient and rapidly responsive in eliminating delays and wastage, improving production efficiency and alien supply capabilities with demand requirements. Organised retailers have to collaborate with their trading partners to eliminate all non-value-adding activities throughout the supply chain. In order to strengthen the supply network and improve communications and logistics, distributors and retailers need to computerise the distribution network and invest in technologies such as bar coding and EDI. One of the reasons for the success of RPG Foodworld is its efficient management of the supply chain. Even before starting its operations in India, McDonald's had invested in the development of supply network.

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84 This can be obtained through market studies of consumer demand patterns.

85 The Retail Academy, which is located in Ahmedabad, is one of the few institutes offering retail-oriented educational courses. This Academy was set up under the aegis of ASIA (Ahmedabad South Indian Association) and is affiliated to City and Guilds (C&G), UK.

Development of organised formats also requires investment in infrastructure such as warehouses, parking facilities, cold storage facilities and food processing industries.

As of now investment in retailing is considered to be risky and hence banks and financial institutions are hesitant to invest in this sector. In order to gain investor's confidence the domestic organised retailers should have transparent accounting practices, similar to those followed by large global players and implement international working conditions and business ethics.

Previous studies[86] have shown that Indian consumers are extremely value conscious and are not willing to pay more for superior shopping environment. Studies have also shown that air-conditioning, shopping ambience, etc. are necessary but not sufficient to attract customers. To attract customers, retailers should be innovative in their promotions and branding and develop a structure to offer quality products at lower prices. Although brand awareness among Indian consumer is rising, manufactures and retailers have not been able to develop a strong brand even in products that are exported. Indian distribution sector needs to focus on the development of branded products and the marketing of such products. Organised retailers should invest in the development of private labels and position it appropriately along with international branded products. Since private labels are generally less expensive than international brands, they would enable the retailer to widen its customer base. In order to widen their reach, organised retailers should try and increase their presence in smaller cities and semi-urban/rural markets. They should also explore the options of positioning their products in the international market through joint ventures, franchising, etc.

There is a need for a common representative body for the industry in line with the National Retail Federation (NRF) of the USA. At present, although various industry associations have come forward to analyse the requirements of distribution sector, these associations have not been very proactive in implementing new business practices and influencing the government's decision making process. In developed countries, retail federations have played a crucial role in designing a detailed set of standards for various categories of stores. In India, there are no clear-cut standards. The common representative body should work closely with the government for developing quality standards.

5.2 What Should the Government do?

Government, through its regulatory authorities, plays a significant role in the growth and development of distribution services. Indian distribution services sector suffers from a multi-layered regulatory process and the laws pertaining to this sector are regulated by various ministries at central, state and local levels. In the absence of a single window clearance, retailers have to obtain around 12 to 15 clearances each from different departments/agencies/ministries for commencing operation. This results in delays and red tapism. In order to reduce bureaucratic hurdles there is an urgent need to implement a

86 See, McKinsey (2000) for details.

single window clearance scheme. The government should provide a broad policy framework and all decision making related to distribution services should be vested with a single ministry. The Ministry of Consumer Affairs can be the nodal ministry for distribution. The government also needs to ensure that there is healthy competition and that the organised formats do not indulge in anti-competitive practices.

Distribution services sector is subject to several laws which are often mutually conflicting and confusing. These laws need to be revised and if necessary amended. Some suggestions on the amendment of specific laws are presented in Appendix C.

Multiple sales taxes and local levies increases the price of final products, makes tax collection cumbersome, causes harassment to traders and increases the propensity to evade taxes. There is an urgent need to reformat the tax structure. Sales taxes and local levies should be replaced by an uniform value added tax (VAT). In order to implement VAT, an Empowered Committee of State Finance Ministers has been set up. The committee had earlier decided that VAT would be implemented by April 1, 2002. However, due to various reasons such as required amendments in the Central Sales Tax Act, issues related to transfer of service tax to State List and compensation packages for states who are loosing out due to shift over to VAT, the implementation of VAT has been deferred till April 1, 2003. Both the central and state governments will have to work in close co-ordination to meet this deadline. The state governments will have to initiate appropriate legislative reforms towards this end. Industry associations have suggested that all local levies such as sales taxes, octroi, entry taxes and central sales taxes should be merged with the proposed VAT and retail trade should not be subject to any kind of licensing except registration with Sales Tax and Income Tax Authorities.

In order to facilitate the operation of the supply chain and reduce logistic bottlenecks, restrictions on interstate movement of food grains and octroi charges should be removed.[87]

The USA is the only country which has a comprehensive legislation regulating the operation of franchise. Indian government should also frame similar legislation. At present, in the absence of any legislation it is extremely difficult to control the operations of franchise business.

The government, through appropriate policies, can provide incentives for investment in infrastructural facilities such as approach roads, public transport, power supply, etc. which directly affects the smooth operation of distribution services sector.

Real estate costs in India, especially in the metros, are very high. Moreover, restrictive zoning legislation limits the availability of land for retail/wholesale purposes. The Rent Control Act should be appropriately modified so that rents are linked to the market value of the property. Government should also amend the Urban Land Ceiling and Regulation Act to make property available for retail/wholesale use at concessional rates.

[87] Movement of goods within the country should be on a common market concept whereby there are no restrictions on the interstate movements.

The zoning laws should be more flexible. Local authorities/municipalities should identify land for development of retail outlets and incorporate shopping centres/retail mall space in their city/township plans.

On the store operational side, there are several regulatory constraints, such as restrictions on store opening timings, requirement for stores to close once a week, etc. These are mostly implemented by the state/local governments and vary across states. For example, in some southern states such as Chennai and Bangalore shops can remain open on all seven days of the week while in Delhi they will have to be closed once a week. Most small shops can evade these restrictions. Moreover, such restrictions make it difficult to employ part-time employees. In the past, many OECD countries had similar restrictions on the operations of shops[88] which are gradually being liberalised. India should also remove these restrictions. To increase the productivity and operational efficiency, government should make the necessary amendments in the labour laws, especially those related to part-time employment.

Industry associations have suggested that the government should provide industry status to the retailing sector. Organised retailers have pointed out that this would give them easier access to credits from financial institutions and banks. Considering the risk involved in retailing only few banks/financial institutions are currently willing to invest in this sector. The industry associations have suggested that the government should set up a separate bank, in the line of Small Industries Development Bank of India (SIDBI), to meet the varying financial requirements of distribution sector.

In order to ease the financial constraints, bring in technical know-how, increase efficiency and productivity, improve the quality of workforce and achieve international quality standards; the government should seriously consider allowing FDI in retailing. It has been discussed earlier in the report that the restriction on FDI is the single most important factor for the slow growth of retailing in India. At present, franchising is the only possible option for foreign retailers to enter the Indian market. Inspite of its various advantages, franchisor often finds it difficult to oversee its franchisee outlets. Consequently, maintaining high levels of standards and quality of services as well as brand equity of its products is extremely difficult in case of franchising. For these reasons, major global retailers such as Wal-Mart, Sears, etc. have not shown interest in operating through franchised outlets. If global players such as Wal-Mart start their operation in India, they would invest in the supply chain and this would increase the efficiency of the whole distribution network.

In future, Internet is going to change the way in which people would do shopping – both nationally and internationally. India has already passed an Information Technology Act to regulate e-commerce. However, this Act needs to be suitably modified to include clauses ensuring security and protection of on-line consumers. In the current round of GATS negotiations e-commerce would be included in the multilateral trading

[88] As discussed in Section 1.

agenda. India should work closely with other member countries in framing an international regulation governing trade through Mode 1.

Summary and Conclusion

Although distribution services sector contributes towards a significant portion of Indian GDP and employment, the sector is largely unorganised and suffers from poor access to capital, lack of management skills, fragmented supply chain and unfavourable regulations. Since FDI is not allowed in retailing it has further slowed down the process of development of the organised sector.

The study provides an in-depth analysis of the costs and benefits of opening up of retailing to FDI. It concludes that foreign investments would expedite the development of modern formats and create opportunities for future expansion of trade in distribution services. Entry of foreign players would not be an immediate threat to the existing players. On the other hand, growth of the organised sector would provide consumers with a wider choice of commodities and enable the growth of inter-linked services sectors such as tourism. Modern formats would lead to the development of supply networks and logistic services, thereby increasing the overall efficiency of the sector.

It is often argued that the entry of foreign players would wipe out the existing domestic players and hence have a detrimental impact on employment. Government can regulate the operation of foreign investors through various policy measures such as foreign equity ceiling or restricting FDI to specific locations. The sole purpose of such restrictions should be to balance the mutually conflicting objectives of protecting the domestic players and facilitating the inflow of technical know-how, finance and skills.

In the Uruguay Round, India did not make any commitments in distribution services. It is recommended that India should actively participate in the GATS 2000 negotiations and offer to bind the existing regime for wholesale trading services, franchising and commission agents' services. An offer consistent with the existing policies would improve India's bargaining position during the negotiations. India should also offer to open up retailing services for foreign direct investment and initiate appropriate domestic reforms to support such commitments. During the negotiations, India should exert pressure on its trading partners for binding commitments in this services sector.

Although India's current export possibilities in this sector are very limited, India has the potential of expanding trade (both exports and imports) in distribution services. The study recommends various regulatory, structural and other reforms, which if implemented, would enhance the efficiency, productivity and global competitiveness of this sector.

Appendix A

Table A1

Retail: The World's Largest Private Industry

Sector	Sales (US $ Trillion)
Retail	**6.6**
Financial Services	5.1
Construction/Engineering	3.2
Packaged Goods	2.0
Chemicals	1.4
Energy	1.2
Electronics	1.1
Automotive	1.0
Telecom	0.8
Pharmaceuticals; Diagnostics	0.3

Source: Euromoniter and Various Industry Publications like European Chemical Industry; Automotive News; Wall Street Journal; Reporter; Chemical Market IDATE; Global Vantage

Table A2

Share of Wholesale and Retail Trade in GDP for Some Selected Countries (Including Restaurants and Hotels)

Country	**Share in Value Added(%)**
Australia	13.4
Austria	17.6
Belgium	14.1
Canada	14.0[a]
Czech Republic	15.0
Denmark	15.3
Finland	12.4
France	13.8
Germany	12.1
Greece	22.2
Hungary	13.8
Iceland	14.0[a]
India	**10-11**[g]
Ireland	12.9
Italy	17.4
Japan	11.8[b,c]
Korea	11.2
Luxembourg	13.5
Mexico	20.0[b]
Netherlands	15.4
New Zealand	17.3[e]
Norway	22.9[d]
Poland	22.1
Portugal	18.9
Slovak Republic	26.7[d]
Spain	28.4[d]
Sweden	20.1[b,d]
Switzerland	15.7[d]
Turkey	19.7
United Kingdom	14.9
United States	17.0[a]

Source: OECD website http: www.oecd.org/std/nahome.htm

Note: a--1997; b--1998; c--Restaurants and hotels not included; d--Transportation storage and communication included; e--1995; f--1996; g--Figure is only for the share of retail trade in India's GDP for the year 1997, Source: CSO

Table A3

Share of Retailing in Total Employment in Selected Countries

Country	Share of Retail in Total Employment (%)
China	6
India	**6-7**
Poland	12
Brazil	15
USA	17
Korea	18[a]

Source: CSO India; MGI study, 2000.
Note: [a] The figure is taken from the Communication of Republic of Korea, WTO (2001).

Table A4

Europe's E-Commerce Sales Projection for 2005

Sector	E-Commerce Sales (in million Euro)
Travel, Tourism	17.6
PC	10.5
Food	9.6
Software	3.9
Clothing	3.9
Books	3.1
Music	1.6
Consumer Electronics	1.1
Videos	0.5
Toys	0.5
Others	11.7

Source: Jupiter, KSA Technopak

Table A5

Turnover in Wholesale and Retail Sector in Selected EU Countries (in million ECU)

Country	Year	Total	Percentage of Total			
			National	Non-National		
				Total	Intra EU	Extra EU
Denmark	1994	9078.1	80.9	19.1	9.8	9.3
Spain [1]	1992	22037.4	92.5	7.5	6.3	1.2
France	1994	647139.0	87.1	12.9	8.3	4.6
Ireland	1994	12890.9	72.4	27.6	22.6	5.0
Italy [2]	1994	110290.2	64.4	35.6	22.4	13.2
Netherlands	1994	142504.4	68.4	31.6	10.6	21.0
Finland [3]	1995	42179.5	80.0	20.0	11.5	8.5
Sweden	1995	114261.0	79.9	20.1	9.7	10.4
United Kingdom	1994	709000.0	81.3	18.7	5.3	13.5

Source: Eurostat (1997).

Note: [1] On the basis of first foreign owner rather than ultimate beneficial owner.
[2] Includes data for hotels and restaurants.
[3] Excludes repair services.

Table A6

Retail Distribution: Specific Regulations on Large Outlets, 1998

Country	**Compliance with regulation especially designed for large outlets**	**Laws and regulation became stricter in last 5 years**	**Laws or regulations are enforced**	**Existing outlets that want to expand their sale surface are subject to the same procedures as new large outlets**
Australia	No	---	---	---
Austria	Yes	Yes	Nationally and Locally	Yes
Belgium	Yes	Yes	Nationally and Locally	Yes
Canada	No	---	---	---
Czech Republic	No	---	---	---
Denmark	Yes	Yes	Nationally and Locally	Yes
Finland	Yes	Yes	Nationally	---
France	Yes	Yes	Locally	---
Germany	Yes	No	Locally	Yes
Greece	Yes	Yes	Locally	Yes
Hungary	Yes	Yes	Nationally	Yes
Ireland	Yes (only food)	Yes	Locally	Yes
Italy	Yes	No	Nationally and Locally	Yes
Japan	Yes	No	Nationally	Yes
Korea	Yes	No	Nationally	No
Mexico	Yes	Yes	Locally	Yes
Netherlands	No	---	---	---
Norway	Yes	Yes	Nationally	Yes
Poland	---	---	---	---
Portugal	Yes	Yes	Nationally and Locally	Yes
Spain	Yes	Yes	Nationally and Locally	Yes
Sweden	No	---	---	---
Switzerland	Yes	Yes	Nationally and Locally	Yes
Turkey	Yes	No	Locally	Yes
United Kingdom	Yes	Yes	Locally	Yes
European Union	Yes	No	Nationally and Locally	Yes

Source: OECD International Regulation Database.

Table A7

Retail Distribution: Detailed Indicators[1], 1998

Country	Registration in commercial register	Protection of existing firms	Licenses or permits needed to engage in commercial activity	Licenses or permits needed for outlet sitting	Specific Regulatio n of large outlet	Price controls	Regulation concerning shop opening hours	Limitations on promotions	Public ownership
Australia	0.0	1.5	2.0	0.0	0.0	0.0	5.5	1.2	Yes
Austria	6.0	3.0	6.0	4.0	5.0	0.0	5.5	0.0	Yes
Belgium	0.0	3.0	3.0	4.0	4.0	4.0	6.0	6.0	No
Canada	0.0	0.0	2.0	2.0	0.0	3.0	3.5	0.0	No
Czech Republic	1.5	0.0	2.0	2.0	0.0	1.0	0.0	0.0	No
Denmark	0.0	6.0	---	6.0	4.0	1.0	5.5	4.8	No
Finland	0.0	4.5	6.0	0.0	3.0	1.0	5.5	6.0	Yes
France	3.0	6.0	6.0	4.0	6.0	3.0	5.5	4.8	No
Germany	0.0	0.0	0.0	6.0	4.0	0.0	5.5	6.0	No
Greece	---	3.0	6.0	---	6.0	2.0	3.5	2.4	No
Hungary	4.5	0.0	2.0	2.0	1.0	2.4	0.0	0.0	Yes
Iceland	0.0	4.5	4.0	2.0	---	1.0	3.5	2.4	Yes
Ireland	0.0	3.0	0.0	0.0	3.0	2.0	0.0	4.8	No
Italy	0.0	6.0	4.0	4.0	4.0	2.0	3.5	4.8	No
Japan	6.0	3.0	---	---	6.0	1.5	5.5	---	No
Korea	3.0	0.0	0.0	---	3.0	1.0	0.0	4.8	No
Luxembourg	---	---	---	---	---	---	---	---	---
Mexico	0.0	3.0	4.0	4.0	1.0	3.0	0.0	3.6	No
Netherlands	0.0	3.0	2.0	---	0.0	0.0	5.5	---	No

Country	Registration in commercial register	Protection of existing firms	Licenses or permits needed to engage in commercial activity	Licenses or permits needed for outlet sitting	Specific Regulatio n of large outlet	Price controls	Regulation concerning shop opening hours	Limitations on promotions	Public ownership
Norway	0.0	4.5	0.0	0.0	3.0	2.0	5.5	1.2	No
New Zealand	---	---	---	---	---	0.0	0.0	---	No
Poland	4.5	3.0	6.0	0.0	6.0	1.0	0.0	---	Yes
Portugal	3.0	0.0	2.0	2.0	4.0	3.0	4.0	3.6	No
Spain	0.0	3.0	2.0	2.0	3.0	3.0	4.0	6.0	Yes
Sweden	0.0	6.0	3.0	4.0	0.0	0.0	0.0	1.2	Yes
Switzerland	0.0	1.5	2.0	0.0	1.0	0.0	3.5	0.0	No
Turkey	1.5	3.0	6.0	2.0	---	2.0	3.5	---	No
United Kingdom	0.0	6.0	2.0	---	4.0	1.0	3.5	0.0	No
United States	---	---	---	---	---	---	---	---	No

Source: OECD International Regulation Database
Note: [1] The scale of indicators is 0-6 from least to most restrictive.

Table A8

Organised Retailing as a Percentage of Total Retailing in Selected Countries

Country	Current share of organised retailing (in percentage)
USA	80
Western European Countries	70
Argentina	40
Brazil	40
Thailand	40
Korea	35
Taiwan	35
China	20
Malaysia	20
Poland	20
India	**02**

Source: Extracted from McKinsey, 2000 and CII, 2001.

Table A9

Number of Retail Outlets in Selected Countries

Country	Number of Outlets ('000)
India	**12,000**
Mexico	1,179
Brazil	1,071
USA	905
Argentina	324
Malaysia	190
HongKong	44

Source: Euromoniter

Table A10

Size of Largest Retail Company in Selected Countries

Country	Size of Largest Company (US $)
USA	165,000
France	24,500
UK	25,505
China	737
India	**140**
Taiwan	1600
South Korea	810
Thailand	935

Source: McKinsey, 2000

Table A11

Regulations Governing the Distribution Services Sector

Essential Commodities Act, 1955: This Act gives power to the Central Government to control production, supply, distribution, etc. essential commodities, for maintaining or increasing supplies, and for securing their equitable distribution and availability at fair prices.

Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980: This Act was enacted by the State Governments to prevent unethical trade practices such as hoarding and black-marketing and to detain persons whose activities are found to be prejudicial to the maintenance of supplies of commodities essential to the community.

Indian Sales of Goods Act, 1930: Under the Indian Sales of Goods Act a contract of "sales" of goods involves a "transfer " of, or an agreement to "transfer", the property in goods, for a "price" which means "money consideration".

Standard and Weights Measures Act, 1976 and Standard and Weights Measure (Packaged Commodities) Rules, 1977: These two Acts regulate the goods sold or distributed by weights, measure or number and labeling.

Consumer Protection Act, 1986: This Act seeks to provide for better protection of the interests of consumers, and for this purpose, to make provision for the establishment of Consumer Councils and other authorities for the settlement of consumer disputes and for matters connected therewith.

Monopolies and Restrictive Trade Practices Act, 1969: This Act ensures that the operation of the economic system does not result in the concentration of economic power and therefore provides for the control of monopolies and for the prohibition of monopolistic and restrictive trade practices.

Trade and Merchandise Mark Act, 1958: This Act provides for the registration and better protection of trademarks and for the prevention of use of fraudulent marks on merchandise.

Hire Purchase Act, 1972: This Act defines and regulates the rights and duties of parties in hire-purchase agreements and related matters.

Prevention of Food Adulteration Act, 1955: This Act is the basic statute intended to protect the common consumers against supply of adulterated food. It specifies different standards on various articles of food.

Agricultural Produce Grading and Marking Act, 1937: This Act empowers the Central Government to prescribe grade standards indicating the quality of articles included in the schedule and specify grade designation marks to represent particular grades or qualities. This Act provides for the grading and marketing of agricultural produce.

Dangerous Drugs Act, 1930: This Act vests power in the hands of the Central Government to control over certain operations relating to dangerous drugs and to increase and render the penalties for offences relating to such operations. The objective of this Act is to suppress contraband traffic in and abuse of dangerous drugs especially those derived from opium, Indian hemp and coca leaves. This Act is a prohibiting and controlling Act with regards to dangerous drugs.

Drugs and Cosmetics Act, 1940: This Act regulates the import, manufacture, distribution and sale of drugs.

Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954: This Act extends to whole of India except the state of Jammu and Kashmir. The Act, subject to its other provisions, prohibits advertisement of drugs suggesting:

(a) the procurement of miscarriage in woman;
(b) the prevention of conception in women;
(c) the inaintenance or improvement of the capacity of a human being for sexual pleasure;
(d) the correction of menstrual disorders in women;
(e) the diagnosis, cure, mitigation, treatment or prevention of any venereal disease, and
(f) any advertisement that directly or indirectly gives a false impression regarding the character of the drug, or makes a false claim for the drug or is otherwise false or misleading in material particulars.

Bureau of India Standards Act, 1986: This is to provide for the establishment of a Bureau for the harmonious development of the activities of standardisation, marking and quality certification of goods and for matters connected therewith or incidental thereto.

Shops and Establishments Act, 1954: This act protects the interest of shops and related establishments. It regulates the working hours, leaves, holidays and other service conditions of the employees.

Urban Land Ceiling and Regulation Act, 1976: The main features of this Act are:

a) Imposition of a ceiling on both ownership and possession of vacant land in urban agglomerate, the ceiling being on a grade basis according to the classification of the agglomeration.
b) Acquisition of the excess vacant land by the state government with the power to dispose off the vacant land to sub-serve the common good.
c) Payment of an amount for the acquisition of the excess vacant land, in cash and in bonds.
d) Granting exemptions in respect of certain categories of vacant land.

e) Regulating the transfer of vacant land with ceiling limit.
f) Regulating the transfer of urban or urbanisable land with any building (whether constructed before or after the commencement of the Act), for a period of ten years from the commencement of the Act or the construction of the building whichever is latter.
g) Restricting the plinth area for the construction of future residential buildings.

Rent Control Act, 1991: This was enacted to make better provisions for the control of rented premises.

Zoning Laws: Zoning laws are mainly issued by local governments to control the physical development of land and the kind of uses to which each individual property may be put. Zoning laws typically specify the areas in which residential, industrial, recreational or commercial activities may take place. Besides restricting the uses that can be made of the land and buildings, zoning law may also regulate the dimensional requirements for plots and buildings on property located within the town, the density of development, and whether one can have pigeons, dogs, sheep or llamas. Some zoning ordinances also regulate the extraction of natural resources from land within the zoned area, others provide space for hospitals, parks, schools, and open space and still others protect places of historical significance within the community.

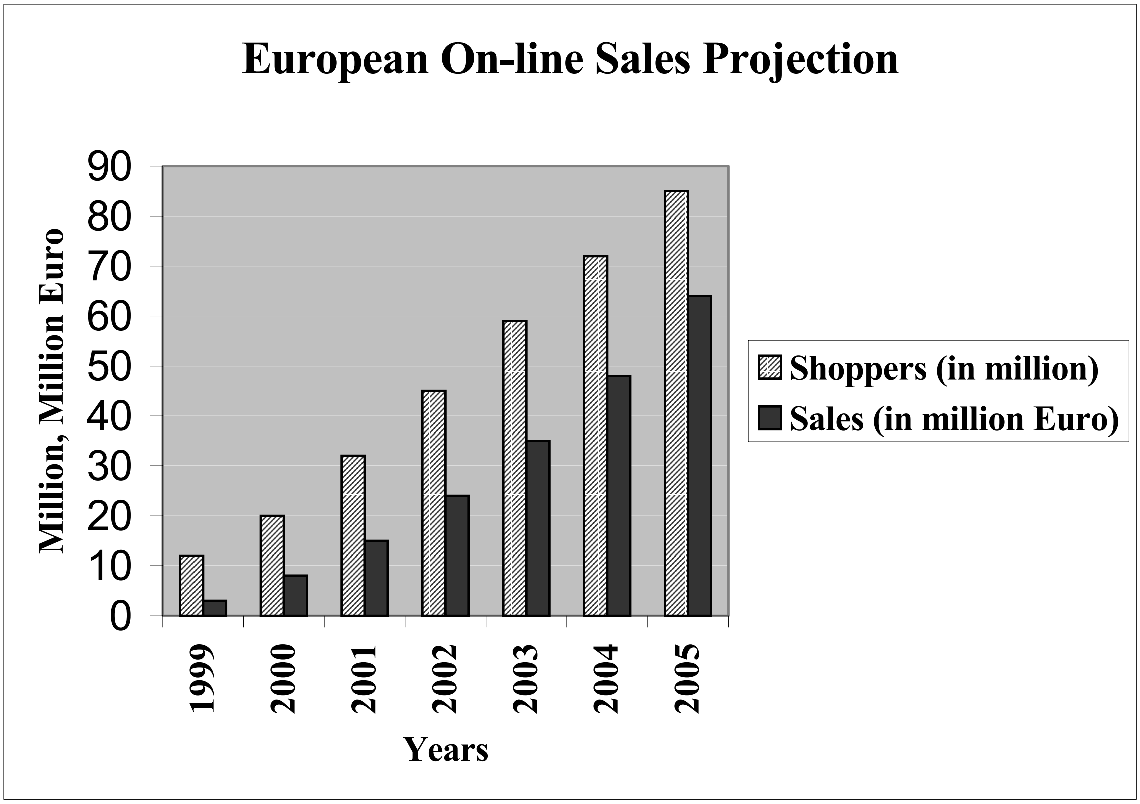
Child Labour (Prohibition and Regulation) Act, 1986: An Act to prohibit the engagement of children in certain employment and to regulate the conditions of work for children in certain other employment.

The Payment of Gratuity Act, 1972: An Act to provide for a scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental thereto.

Payment of Bonus Act, 1965: An Act to provide for the payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity and for matters connected therewith.

Minimum Wages Act, 1948: An Act to provide for fixing minimum rates of wages in certain employment.

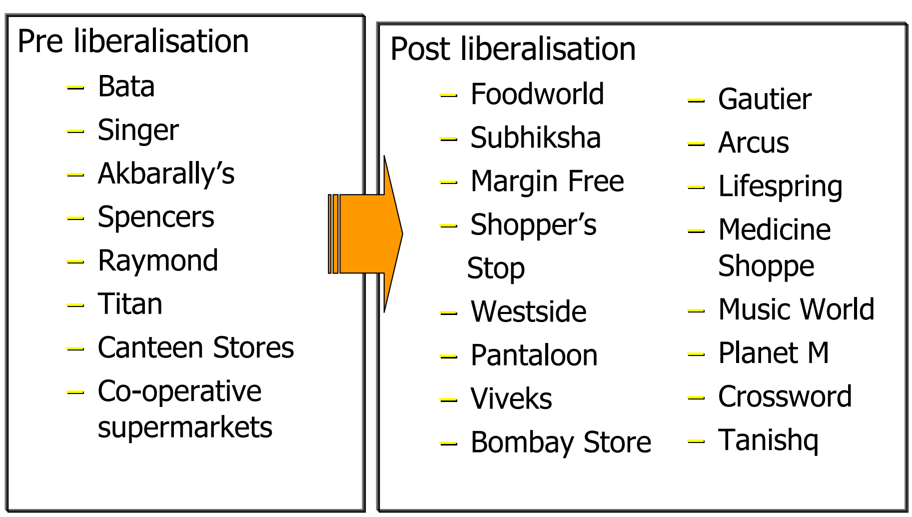
Figure A1



Source: Jupiter, KSA Technopak

Figure A2

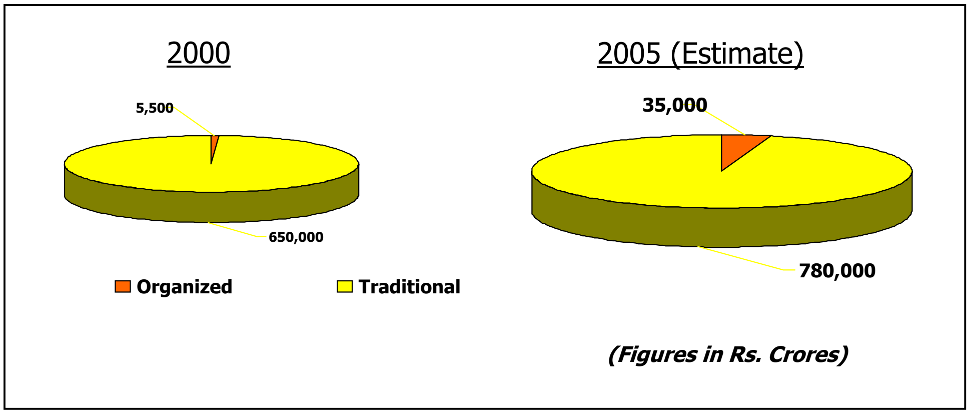
Organised Retailing in the Pre and Post Liberalisation Period



Source: KSA Technopak

Figure A3

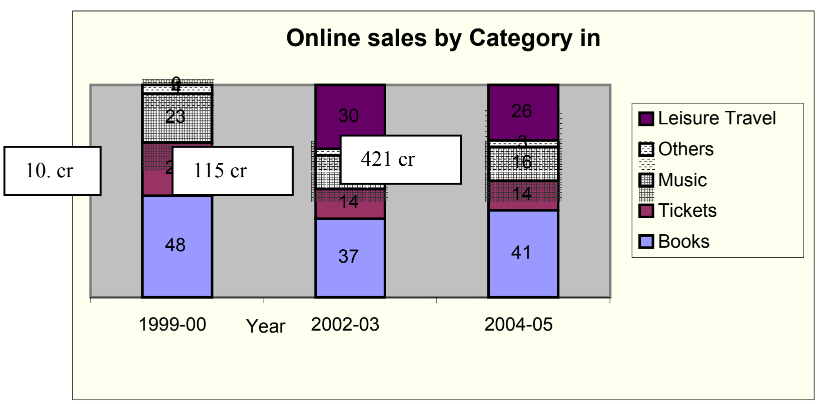
Growth Projections of Organised Retailing in India
(Value-based on retail prices)



Source: KSA Technopak

Figure A4

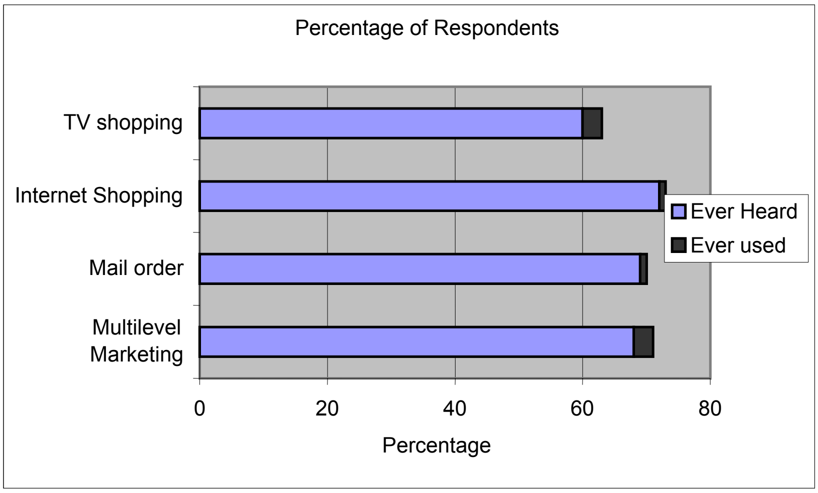
E-commerce Sales in India (% break-up)



Source: Cris-infac Report: "Retail E-commerce Market in India

Figure A5

Awareness of Non-store Formats among Indians



Source: Consumer Outlook 2001, KSA Technopak

Appendix B

Table B1

Summary of Specific Commitments in Distribution Services

Countries	Commission Agent's Services	Wholesale Trade Services	Retailing Services	Franchising	Others	Total
Argentina		X	X	X		3
Australia	X	X	X	X		4
Austria	X	X	X	X		4
Brazil		X	X	X		3
Bulgaria	X	X	X	X		4
Burundi	X	X	X			3
Canada	X	X	X	X	X	5
Czech Republic		X	X	X		3
Ecuador		X				1
European Community	X	X	X	X		4
Finland	X	X	X	X		4
Gambia	X	X	X	X		4
Hong Kong			X			1
Hungary		X	X	X		3
Iceland	X	X	X	X	X	5
Japan	X	X	X	X		4
Korea, Republic of	X	X	X	X		4
Kuwait	X	X	X			3
Lesotho		X	X	X		3
Liechtenstein	X	X	X	X		4
Mexico		X	X			2
Mongolia		X	X			2
New Zealand	X	X	X			3
Norway		X	X	X		3
Panama	X	X		X		3
Peru		X	X			2
Poland		X	X			2
Romania	X	X	X			3
Senegal		X	X			2
Slovak Republic		X	X	X		3
Slovenia	X	X	X	X		4
South Africa		X	X	X		3
Sweden	X	X	X			3
Switzerland	X	X	X	X		4
Thailand	X					1
USA	X	X	X	X		4
Total	**21**	**34**	**33**	**23**	**2**	**113**

Source **:**WTO Background Note by Secretariat on Distribution Services

Table B2
Products Excluded from Commitments in Distribution Services, by Selected Countries

Distribution Services	**Country**	**Products Excluded or 'Unbound Commitment'**
All Distribution Services	Austria	Firearms, explosives, military equipment, tobacco, pharmaceuticals, medical and surgical equipment and supplies, and toxic substances.
	Bulgaria	Tobacco and tobacco products, alcoholic beverages, pharmaceutical, medical and orthopaedic goods; weapons, munitions and military equipment, precious metal, precious stones and articles thereof, petroleum and petroleum products.
	European Community	Arms, chemical products, explosives and precious metals.
	Czech Republic	Arms, ammunition, explosives and chemical products, drugs and precious metals.
	Finland	Firearms, alcoholic beverages and pharmaceutical products.
	Iceland	Alcoholic beverages, tobacco and pharmaceutical products.
	Japan	Petroleum services and products, rice, tobacco, salt, alcoholic beverages, and fresh food traded at public wholesale markets.
	Korea	Firearms, explosives and swords; works of arts and antiques; and establishment and operation of, and distribution services at wholesale markets for agricultural, fishery and livestock products.
	Liechtenstein	Goods subject to import authorisation, pharmaceutical products, toxics, explosives, weapons and ammunition, and precious metals.
	Romania	Arms, ammunition, explosives, narcotics and medicines containing narcotics, tobacco products and paper for cigarettes, alcohol and spirits.
	Slovak Republic	Arms, ammunition, explosives, some chemical products, drugs, and precious metals.
	Slovenia	Pyrotechnical goods, ignitable articles and blasting devices, firearms, ammunition and military equipment, toxic substances, and certain medical substances.

Distribution Services	Country	Products Excluded or 'Unbound Commitment'
	Sweden	Alcoholic beverage, pharmaceutical products and arms.
Commission Agents' Services	Canada	Food, beverages, pharmaceuticals, and medical goods.
	Switzerland	Goods subject to import authorisation, pharmaceutical products, toxics, explosives, weapons and ammunition, and precious metals.
Wholesale Trade Services	Australia	Agricultural raw materials, live animals, food, beverages and tobacco.
	Austria	Pyrotechnical goods, ignitable items and exploding devices, firearms, ammunition and military equipment, tobacco products, pharmaceutical products, medical and surgical devices, toxic substances and objects for medical use.
	Brazil	Solid, liquid and gaseous fuels and related products.
	Bulgaria	Grain, oilseeds and oleaginous fruits, seeds and animal feed, intermediate products other than agricultural, waste and scrap and materials for recycling. Services supplied at commodity exchange markets operated on a permanent basis.
	Canada	Agriculture and live animals, fishery products, alcoholic beverages, records, tapes; publications, pharmaceuticals, medical goods, surgical and orthopaedic instrument and devices.
	Italy	Tobacco (state monopoly).
	Japan	Petroleum, petroleum products, rice, tobacco, salt, alcoholic beverages, and those supplied at public wholesale market (i.e. a market established under a national or local government approval).
	Korea	Grains, raw milk, red ginseng, farinaceous products, and fertilizers.

Distribution Services	Country	Products Excluded or ‘Unbound Commitment’
	Mexico	Petroleum based fuels, coal and firearms, cartridges and ammunition.
	New Zealand	Agricultural raw materials and live animals, food, beverages and tobacco, and services related to wool and animal hair.
	Norway	Alcohol, arms, pharmaceutical, fish and grain.
	Peru	Waste and scrap materials for recycling, machinery, equipment and supplies.
	Poland	Beverages, tobacco products, pharmaceutical and medical goods, surgical and orthopaedic instruments and devices.
	Portugal	Tobacco (state monopoly).
	Spain	Tobacco (state monopoly).
	Switzerland	Goods subject to import authorisation, pharmaceutical products, toxics, explosives, weapons and ammunition, and precious metals.
	USA	Alcoholic beverages, firearms and military equipment.
Retail Trade Services	Australia	Motor vehicles, parts and accessories of motor vehicles, motorcycles and snowmobiles and related parts and accessories, pharmaceutical, medical and orthopaedic goods.
	Bulgaria	Beverages not consumed on spot.
	Canada	Alcoholic beverages, records, tapes, publications, and medical goods.
	France	Tobacco (state monopoly).
	Italy	Tobacco (state monopoly).

Distribution Services	Country	Products Excluded or 'Unbound Commitment'
	Ireland	Alcoholic beverages.
	Korea	Animal feed and livestock, dairy products and eggs, meat and meat products, bread and flour confectionery, sugar confectionery, beverages not consumed on the spot and tobacco products.
	Mexico	Combustible liquid gas, non-petroleum based fuels, paraffin, gasoline, diesel fuel, firearms, and ammunition.
	New Zealand	Retail sales of motor fuel.
	Norway	Pharmaceutical products, alcohol and arms.
	Peru	Non food products, motor vehicles, parts and accessories of motor vehicles, motor cycles and snow mobiles and related parts and accessories.
	Poland	Beverages not consumed on the spot, tobacco products, pharmaceutical, medical and orthopaedic goods, motor vehicles, parts and accessories of motor vehicles, motor cycles and snowmobiles and related parts and accessories.
	Senegal	Motor vehicles, parts and accessories of motor vehicles, motorcycles and snow mobiles and related parts and accessories.
	Spain	Tobacco (state monopoly).
	Slovenia	Pharmaceutical, medical and orthopaedic goods.
	Sweden	Alcoholic beverages and pharmaceuticals products.
	Switzerland	Goods subject to import authorisation, pharmaceutical products, toxics, explosives, weapons and ammunition, and precious metals.
	USA	Alcoholic beverages, firearms, and military equipment.

Source: World Trade Organization, and Schedules of Specific Commitments.

Table B3
Numerical Summary of Commitments in Modes 1, 2 and 3 in Distribution Services
(Number of Members and % Share of GDP)

Sector	**Members with commitments (% share of GDP of all Members)**	**Members with full commitments on modes 1, 2 & 3**	**Cross-border supply (Mode 1)**			**Consumption abroad (Mode 2)**			**Commercial presence (Mode 3)**		
			Full	Limited	Unbound	Full	Limited	Unbound	Full	Limited	Unbound
Commission Agents	21 (86%)	2 (0.04%)	3 (0.04%)	14 (97%)	3 + 1 (3%)	3 (0.04%)	16 (98%)	1 + 1 (2%)	2 (0.04%)	19 (99.96%)	0 (0%)
Wholesale Trade	34 (92%)	4 (0.06%)	9 (2%)	19 (93%)	5 + 1 (5%)	11 (35%)	18 (60%)	3 + 1 (5%)	5 (0.1%)	29 (99.9%)	0 (0%)
Retailing	33 (92%)	1 (0.004%)	6 (2%)	19 (92%)	7 + 1 (6%)	7 (2%)	22 (93%)	4 + 1 (5%)	1 (0.004%)	30 (99.98%)	1 + 1 (0.02%)
Franchising	23 (89%)	1 (0.03%)	10 (4%)	13 (96%)	0 (0%)	10 (5%)	11 (92%)	1 + 1 (3%)	1 (0.03%)	20 (99.9%)	1 + 1 (0.06%)

Source: WTO Background Note by Secretariat on Distribution Services.
Note: Full: complete sectoral coverage, no market access or national treatment limitations;
Limited: incomplete sectoral coverage or market access/national treatment limitations;
Unbound: both market access and national treatment unbound or market access unbound.
Unless otherwise indicated (as in the second column), percentages for each subsector are calculated as a share of GDP of all Members with commitments in the sector.

Table B4

Numerical Analysis of the Limitations Maintained by Members in Distribution Services (Number of Members and % Share of GDP)

Sector	Limitations on sectoral coverage applying to modes 1, 2 & 3	Cross-border supply (Mode 1)			Consumption abroad (Mode 2)			Commercial presence (Mode 3)		
		Only horizontal limitation	Sector-specific limitation		Only horizontal limitation	Sector-specific limitation		Only horizontal limitation	Sector-specific limitation	
			MA	NT		MA	NT		MA	NT
Commission Agents	14 (46%)	1 (31%)	1 (6.8%)	0 (0%)	2 (2.1%)	0 (0%)	0 (0%)	3 (31%)	1 (1.3%)	1 (0.7%)
Wholesale Trade	23 (98%)	0 (0%)	3 (38.5%)	1 (2.4%)	1 (0.05%)	1 (29%)	0 (0%)	7 (3.1%)	8 (48.5%)	1 (0.05%)
Retailing	24 (98%)	1 (0.2%)	4 (36%)	3 (35%)	2 (0.3%)	0 (0%)	1 (0.6%)	7 (2%)	8 (21.9%)	1 (0.6%)
Franchising	11 (60%)	4 (33%)	4 (6%)	1 (3%)	4 (32%)	0 (0%)	0 (0%)	11 (39%)	4 (4%)	0 (0%)

Source: WTO Background Note by Secretariat on Distribution Services.

Note: Some members have maintained limitations on sectoral coverage as well as horizontal and sector-specific limitations. The figures in the rows do not, therefore, add up to the number of Members with limitations. Percentages for each subsector are calculated as a share of GDP of all Members with commitments in the sector.

Appendix C

Recommendation for Government Policy Initiatives[89]

1 Amendments to the Essential Commodities Act (ECA)

Amendments to ECA should incorporate the following:

- The term "essential" should be clearly defined. In the existing Act there is no such definition. Further the essentiality norm should be laid down in clear terms to avoid any ambiguity and misinterpretations.
- The list of essential commodities should be made more realistic and reflect correctly the demand/supply position especially in relation to the requirement of the masses. There are several items, currently in the list which are of no direct interest to the common man. The list therefore, should be reviewed and the following should be kept out of the purview of ECA :
    - Industrial raw materials which are of no direct relevance to the masses.
    - Commodities having large export potential. This is necessary to supply and impart competitiveness, which is crucial in international marketing, and to harness export potential to augment foreign exchange earnings.
    - Commodities in which imports are fully allowed under OGL.
    - Commodities in which the nation has become self-sufficient on a sustained basis.
    - Commodities, which are not traded as essential for state-owned enterprises, and privately run enterprises should be eliminated for the purposes of any commodity declared essential under ECA.
- With a view to bringing about coherence and co-ordination and enforcing a single concept, Ministry of Consumer Affairs should be made the nodal agency to decide the inclusion/deletion of the items from the list. Departments/ministries concerned may only suggest their views in relation to the items falling under their purview.
- The provision relating to stock limits in the Act should be reviewed from time to time so as to liberalise and enlarge the limit in the context of the commodities concerned.
- The seizure of stocks should be resorted to in the extreme cases and not on minor/technical grounds. It must be recognised that many traders especially those operating in remote villages are not fully conversant with the intricacies of ECA. The seized stock, wherever it so happens, should be released against Bank Guarantee to mitigate the chances of wastage/pilferage or loss of valuable commodity apart from financial loss to the trader concerned.
- The penalty provisions should be suitably amended. Offenses like adulteration, hoarding, black-marketing which are criminal in nature should be dealt with sternly. But for other economic offences, especially those, which are of minor/technical nature, the penalty provisions should be different and should be dealt with Departmentally and provisions be made for compounding of such offences. In any case, the well-established judicial process should be adhered to. Principles of natural justice should be upheld.

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[89] This is taken from FICCI, 1999.

- A mandatory provision should be incorporated in the ECA making it compulsory for a company or firm to nominate the concerned Director in-charge of the day-to-day operations to be held viable for any alleged violation of the provisions of ECA.
- Advisory committees with representatives of trade and industry as well as consumer organisations should be set up under the ECA to review the provisions of the Act periodically.

2 Amendments to Standards of Weights & Measures Act and Packaged Commodity Rules

The recommendations of the Expert Committee set up by the Ministry of Food & Consumer Affairs should be incorporated. In particular, the following provisions need a re-look and amendment:

- The definition of the term **‘**packaged commodity’ has a very wide notation. Definition of term ‘*label*’ should also be amended so as to exclude any information written in ink by traders, especially petty traders in rural areas.
- Specific guidelines with regard to compounding of offences should be framed so that the current practice of levying fine on each partner for the same offence is discontinued.
- Primary responsibility to satisfy the provisions of the Act is on the Manufacturer/Packer. Transparent guidelines, free from any ambiguity, should be issued for their effective compliance and to eliminate unnecessary harassment of the traders.
- Rule 6 (i) (a) has been amended to incorporate the provision that the name and address of the manufacturer or where the manufacturer is not the packer, the name and address of the manufacturer and packer shall appear on the packaged commodities. This would lead to a number of problems for the manufacturers who get their commodities packed by other agencies. The main Act needs to be amended as per the suggestion of the Expert Group. The name and address of the manufacturer or packer should appear on the packaged commodities.
- Rule 5 states that commodities listed in the Third Schedule are to be sold in specific pack sizes. This Rule should be amended to allow greater choice of pack sizes to the consumers.
- *Wholesale Pack* has been defined as ‘ a package containing more than 10 articles and of value of sale price above Rs 100 ’, vide GSR Notification dated 20.08.99. This has led to treatment of packages containing number of small value items like confectionery, as *Multi-piece Pack*. The definition should be amended so that *Wholesale Pack* means a package containing more than 10 articles or of value of sale price above Rs 100.
- Rule 33 of Weights and Measures (Packaged Commodities) Rules, requires that all imported packed commodities or commodities imported from other countries and packed in India, have to comply with the provisions of these Rules. But this Rule is being violated by a number of imported products. A level playing field for Indian manufactured product *vis-à-vis* their foreign equivalents should be provided.

3 Agriculture Produce Market Act and Rules Thereunder

The required amendments are:

- Guidelines should be issued to ensure uniformity in the definition of the term *'retail sale'*. Current provision delegates the discretion of defining *'retail sale'* to the Market Commodities. This gives rise to a lot of ambiguity because of the lack of uniformity in the definition from one market to another.
- Definition of the term *'agriculture commodity'* should be amended to exclude manufactured or processed articles.
- Provisions should be laid down to allow only single point collection of market cess. Existing provisions lead to cascading effect wherein fee is collected at each and every stage of transaction, even in the same area.
- Representation given to traders in the market committees should be adequately expanded and provisions should be amended to allow nominations of traders to the posts of Chairman/Vice-Chairman.
- In case of exports, market fee is collected and refunded at a later date. This blocks the working capital of the exporters. Provisions should be amended so that cess is collected for commodities meant for exports.

4 Prevention of Food Adulteration Act

The Act must be suitably amended to include the following:

- Definition of the term *'Sub-Standard'* should be included in the Act to include food articles, which are of a low standard but not adulterated or harmful.
- Test results of the Public Analyst and the Local (Health) Authority should be uniform and results of one should be accepted by another. Results of private laboratories of repute should also be accepted by Local (Health) Authority. Part of the sample drawn by the Food Inspector should also be given to the vendor on demand for self-testing.
- Only those directly responsible for adulteration or sub-standard food articles should be held responsible and not retailers, who only sell given products.
- The Penal clause should be relaxed while dealing with minor/technical offences.
- The tolerance limit under this Act, about the presence of moisture, purity, etc., on account of changes in climate conditions in soil, need to be re-determined in line with the reality of the situation. Similarly, sub-standard materials which have their own market should not be bracketed with adulterated substances. A clear definition and transparent guidelines should be evolved to distinguish adulterated stuff from sub-standard materials.

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