

AN ANALYSIS OF FOREIGN DIRECT INVESTMENT IN INDIA

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I. INTRODUCTION

India being a signatory to World Trade Organisation's General Agreement on Trade in Services, which include wholesale and retailing services, had to open up the retail trade sector to foreign investment. There were initial reservations towards opening up of retail sector arising from fear of job losses, procurement from international market, competition and loss of entrepreneurial opportunities. However, the government in a series of moves has opened up the retail sector slowly to Foreign Direct Investment ("FDI"). In 1997, FDI in cash and carry (wholesale) with 100 percent ownership was allowed under the Government approval route. It was brought under the automatic route in 2006. 51 percent investment in a single brand retail outlet was also permitted in 2006. FDI in Multi-Brand retailing is prohibited in India.

Division of Retail Industry – Organised and Unorganised Retailing

Retailing is the largest private industry in India. It is mainly divided into: - 1) Organised and 2) Unorganised Retailing. Organised retailing refers to trading activities undertaken by licensed retailers, that is, those who are registered for sales tax, income tax, etc. These include the corporate-backed hypermarkets and retail chains, and also the privately owned large retail businesses. Unorganised retailing, on the other hand, refers to the traditional formats of low-cost retailing, for example, the local kirana

shops, owner manned general stores, paan/beedi shops, convenience stores, hand cart and pavement vendors, etc.

The Indian retail sector is highly fragmented with 97 per cent of its business being run by the unorganized retailers. The organized retail however is at a very nascent stage. The sector is the largest source of employment after agriculture, and has deep penetration into rural India generating more than 10 per cent of India's GDP. The performance of this sector has a strong influence on consumer welfare.

FDI Policy in India

FDI as defined in Dictionary of Economics (Graham Bannock et.al) is investment in a foreign country through the acquisition of a local company or the establishment there of an operation on a new (Greenfield) site. To put in simple words, FDI refers to capital inflows from abroad that is invested in or to enhance the production capacity of the economy. Foreign Investment in India is governed by the FDI policy announced by the Government of India and the provision of the Foreign Exchange Management Act (FEMA) 1999. The Reserve Bank of India ('RBI') in this regard had issued a notification, which contains the Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2000. This notification has been amended from time to time.

The Ministry of Commerce and Industry, Government of India is the nodal agency for

motoring and reviewing the FDI policy on continued basis and changes in sectoral policy/ sectoral equity cap. The FDI policy is notified through Press Notes by the Secretariat for Industrial Assistance (SIA), Department of Industrial Policy and Promotion (DIPP). The foreign investors are free to invest in India, except few sectors/activities, where prior approval from the RBI or FDI Policy with Regard to Retailing in India

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

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

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

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

FDI in Single Brand Retail

The Government has not categorically defined the meaning of “single brand” anywhere neither in any of its circulars nor any notifications. In single-brand retail, FDI up to 51 per cent is allowed, subject to Foreign Investment Promotion Board (FIPB) approval and subject to the conditions mentioned in Press Note 3 that (a) only single brand products would be sold (i.e., retail of goods of multi-brand even if produced by the same manufacturer would not be allowed), (b) products should be sold under the same brand internationally, (c) single brand product retail would only cover products which are branded during manufacturing and (d) any addition to

product categories to be sold under “single brand” would require fresh approval from the government.

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

Going a step further, we examine the concept of 'single brand' and the associated conditions: FDI in single brand retail implies that a retail store with foreign investment can only sell one brand. For example, if Adidas were to obtain permission to retail its flagship brand in India, those retail outlets could only sell products under the Adidas brand and not the Reebok brand, for which separate permission is required. If granted permission, Adidas could sell products under the Reebok brand in separate outlets.

FDI in Multi Brand Retail

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

Foreign Investor's Concern Regarding FDI Policy in India

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

Should a foreign investor tie up with an existing retailer or look to others not necessarily in the business but looking to diversify? An arrangement in the short to medium term may work wonders but what happens if the Government decides to further liberalize the regulations as it is currently contemplating? Will the foreign investor terminate the agreement with Indian partner and trade in market without him? Either way, the foreign investor must negotiate its joint venture agreements carefully, with an option for a buy-out of the Indian partner's share if and when the regulations so permit. They must also be aware of the regulation which states that once a foreign company enters into a technical or financial collaboration with an Indian partner, it cannot enter into another joint venture with another Indian

company or set up its own subsidiary in the same field without the first partner's consent if the joint venture agreement does not provide for a 'conflict of interest' clause. In effect, it means that foreign brand owners must be extremely careful whom they choose as partners and the brand they introduce in India. The first brand could also be their last if they do not negotiate the strategic arrangement diligently.

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

A number of concerns were expressed with regard to partial opening of the retail sector for FDI. The Hon'ble Department Related Parliamentary Standing Committee on Commerce, in its 90th Report, on 'Foreign and Domestic Investment in Retail Sector', laid in the Lok Sabha and the Rajya Sabha on 8 June, 2009, had made an in-depth study on the subject and identified a number of issues related to FDI in the retail sector. These included: It would lead to unfair competition and ultimately result in large-scale exit of domestic retailers, especially the small family managed outlets, leading to large scale displacement of persons employed in the retail sector. Further, as the manufacturing sector has not been growing fast enough, the persons displaced from the retail sector would not be absorbed there.

Another concern is that the Indian retail sector, particularly organized retail, is still under-developed and in a nascent stage and that, therefore, it is important that the domestic retail sector is allowed to grow and consolidate first, before opening this sector to foreign investors. Antagonists of FDI in retail sector oppose the same on various grounds, like, that the entry of large global retailers such as Wal-Mart would kill local shops and millions of jobs, since the unorganized retail sector employs an enormous percentage of Indian population after the agriculture

sector; secondly that the global retailers would conspire and exercise monopolistic power to raise prices and monopolistic (big buying) power to reduce the prices received by the suppliers; thirdly, it would lead to asymmetrical growth in cities, causing discontent and social tension elsewhere. Hence, both the consumers and the suppliers would lose, while the profit margins of such retail chains would go up.

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

FDI in multi brand retailing must be dealt cautiously as it has direct impact on a large chunk of population. Left alone foreign capital will seek ways through which it can only multiply itself, and unthinking application of capital for profit, given our peculiar socio-economic conditions, may spell doom and deepen the gap between the rich and the poor. Thus the proliferation of foreign capital into multi brand retailing needs to be anchored in such a way that it results in a win-win situation for India. This can be done by integrating into the rules and regulations for FDI in multi brand retailing certain inbuilt safety valves. For example, FDI in multi brand retailing can be allowed in a calibrated manner with social safeguards so that the effect of possible labor dislocation can be analyzed and policy fine tuned accordingly. To ensure that the foreign investors make a genuine contribution to the development of infrastructure and logistics, it can be stipulated that a percentage of FDI should be spent towards building up of back end infrastructure, logistics or agro processing units. Reconstituting the poverty stricken and stagnating rural sphere into a forward moving and prosperous rural sphere can be one of the justifications for introducing FDI in multi brand retailing. To actualize this goal it can be stipulated that at least 50% of the jobs in the retail

outlet should be reserved for rural youth and that a certain amount of farm produce is procured from the poor farmers.

Similarly, to develop our small and medium enterprise (“SME”), it can also be stipulated that a minimum percentage of manufactured products be sourced from the SME sector in India. PDS is still in many ways the life line of the people living below the poverty line. To ensure that the system is not weakened the government may reserve the right to procure a certain amount of food grains for replenishing the buffer. To protect the interest of small retailers the government may also put in place an exclusive regulatory framework. It will ensure that the retailing giants do not resort to predatory pricing or acquire monopolistic tendencies. Besides, the government and RBI need to evolve suitable policies to enable the retailers in the unorganized sector to expand and improve their efficiencies. If Government is allowing FDI, it must do it in a calibrated fashion because it is politically sensitive and link it (with) up some caveat from creating some back-end infrastructure.

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

- Preparation of a legal and regulatory framework and enforcement mechanism to ensure that large retailers are not able to dislocate small retailers by unfair means.
- Extension of institutional credit, at lower rates, by public sector banks, to help improve efficiencies of small retailers; undertaking of proactive programme for assisting small retailers to upgrade themselves.

- Enactment of a National Shopping Mall Regulation Act to regulate the fiscal and social aspects of the entire retail sector.

- Formulation of a Model Central Law regarding FDI of Retail Sector.

II. CONCLUSION

Many of the foreign brands would come to India if FDI in multi brand retail is permitted which can be a blessing in disguise for the economy. The government has added an element of social benefit to its latest plan for calibrated opening of the multi brand retail sector to FDI. Only those foreign retailers who first invest in the back-end supply chain and infrastructure would be allowed to set up multi brand retail outlets in the country. The idea is that the firms must have already created jobs for rural India before they venture into multi-brand retailing.

It can be said that the advantages of allowing unrestrained FDI in the retail sector evidently outweigh the disadvantages attached to it and the same can be deduced from the examples of successful experiments in countries like Thailand and China; where too the issue of allowing FDI in the retail sector was first met with incessant protests, but later turned out to be one of the most promising political and economical decisions of their governments and led not only to the commendable rise in the level of employment but also led to the enormous development of their country's GDP.

Moreover, in the fierce battle between the advocates and antagonist of unrestrained FDI flows in the Indian retail sector, the interests of the consumers have been blatantly and utterly disregarded. Therefore, one of the arguments which need to be considered and addressed while deliberating upon the captioned issue is the interests

of consumers at large in relation to the interests of retailers.

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

The Industrial policy 1991 had crafted a trajectory of change whereby every sectors of Indian economy at one point of time or the other would be embraced by liberalization, privatization and globalization. FDI in multi-brand retailing and lifting the current cap of 51% on single brand retail is in that sense a steady progression of that trajectory. But the government has by far cushioned the adverse impact of the change that has ensued in the wake of the implementation of Industrial Policy 1991 through safety nets and social safeguards. But the change that the movement of retailing sector into the FDI regime would bring about will require more involved and informed support from the government. One hopes that the government would stand up to its responsibility, because what is at stake is the stability of the vital pillars of the economy- retailing, agriculture, and manufacturing. In short, the socio economic equilibrium of the entire country.

III. REFERENCE

- 1) Hummels, D., J. Ishii and K.M. Yi, 2001. "The nature and growth of vertical specialization in world Trade", *Journal of International Economics*, vol. 54, pp.75-96.

- 2) Krugman, P., 1995. "Growing world trade: causes and consequences", Brookings Papers on Economic Activity, No. 1, pp. 327-362.
- 3) Gereffi, G., 1999. "International trade and industrial upgrading in the apparel commodity chain," Journal of International Economics, vol. 48, pp. 37-70.
- 4) Markusen, J., 1997. "Trade versus investment liberalization", Working Paper No. 6231, NBER.
- 5) Reimer, J., 2002. "Estimating the poverty impacts of trade liberalization", Policy research working paper No. 2790, the World Bank.