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Abstract

GATS and Retail Services: India Perspective

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In the past five years, India has witnessed significant debate, brainstorming sessions and political drama over the issue of liberalizing retail services for foreign investors, particularly in the multi-brand sector. For the most part, the arguments have concerned the fate of local retailers, “kirana shops,” pursuant to permitting foreign direct investment (FDI) in this sector. While one school of experts has expressed apprehension about local retailers being eliminated from the market if such FDI is permitted, the other school has advocated that such FDI will, aside from boosting the economy and foreign exchange reserves, generate employment on a large scale. Balancing both of the foregoing concerns, the Indian government recently liberalized FDI in this sector up to 100 percent in single-brand retail and up to 51 percent in multi-brand retail services. Although this move has been appreciated by the industry and the investor class, such investments are subject to a significant number of restrictions in terms of minimum capitalization, local sourcing of materials, prior approval and other such requirements.

Needless to say, India, being a sovereign nation, has the authority to impose such investment restrictions at the municipal level. Having said that, given the unification of the world economy through globalization, it would be inadequate and myopic to confine the assessment of such restrictions to the municipal level. The justifiability of such restrictions needs to be assessed at the global level against the country’s international commitments, more specifically commitments under the World Trade Organization (WTO), considering that WTO membership comes as a package of obligations across different areas, namely trade in goods, trade in services and trade-related investments. While much has been deliberated with regard to the merits and

demerits of India's restrictions on FDI in retail services from the perspectives both of economics and of India's municipal laws, the question of whether such restrictions are sustainable against the radar of the WTO has been overlooked on most debate platforms.

Therefore, this article attempts to assess India's FDI norms in the retail trade sector vis-à-vis its commitments, if any, under the General Agreement on Trade in Services (GATS) within the auspices of the WTO. Further, this article reviews the commitments made by a few other countries in retail services and the nature of the limitations imposed by such countries. Also, this article suggests a way forward for India, factoring in the various trade barriers applicable to retail trade services, whereby the country might harmonize its municipal investment restrictions with future commitments under GATS.

Keywords: distribution services, foreign direct investment, GATS, India, retail trade services