Volume 15 Number 1, 2014/p.27-32 esteyjournal.com

The Estey Centre Journal of
International Law
and Trade Policy

Technical Annex

GATS and Retail Services: India Perspective

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This document is the technical annex to the full paper ""GATS and Retail Services: India Perspective" which is available separately.

Table A1 Countries Having Made Commitments in Distribution Services under GATS

Albania	Argentina	Armenia	Australia	Austria	Brazil	Bulgaria	Burundi
Cambodia	Canada	Cape Verde	China	Croatia	Czech Republic	Ecuador	Estonia
European Community	Finland	FYR Macedonia	Gambia	Georgia	Hong Kong	Hungary	Iceland
Japan	Jordan	Korea RP	Kuwait	Kyrgyz Republic	Latvia	Lesotho	Liechtenstein
Lithuania	Mexico	Moldova	Mongolia	Montenegro	Nepal	New Zealand	Norway
Oman	Panama	Peru	Poland	Romania	Russian Federation	Samoa	Saudi Arabia
Senegal	Slovak Republic	Slovenia	South Africa	Sweden	Switzerland	Chinese Taipei	Thailand
Tonga	Ukraine	USA	Vanuatu	Viet Nam			

Table A2 Illustrations of Specific Commitments in Distribution Services under GATS

Member country	Limitations on market access	Limitations on national treatment
China[1]	1. Unbound except for mail order. 2. None 3. Foreign service suppliers may supply services only in forms of joint ventures in five Special Economic Zones (Shenzhen, Zhuhai, Shantou, Xiamen and Hainan) and six cities (Beijing, Shanghai, Tianjin, Guangzhou, Dalian and Qingdao). In Beijing and Shanghai, a total of no more than four joint venture retailing enterprises are permitted respectively. In each of the other cities, no more than two joint venture retailing enterprises will be permitted. Two joint venture retailing enterprises among the four to be established in Beijing may set up their branches in the same city (i.e., Beijing). Upon China's accession to the WTO, Zhengzhou and Wuhan will be immediately open to joint venture retailing enterprises. Within two years after China's accession to the WTO, foreign majority control will be permitted in joint venture retailing enterprises and all provincial capitals, Chongqing and Ningbo will be open to joint venture retailing enterprises. Foreign service suppliers will be permitted to engage in the retailing of all products, except for the retailing of books, newspapers and magazines within one year after accession, the retailing of pharmaceutical products, pesticides, mulching films and processed oil within three years after accession and retailing of chemical fertilizers within five years after accession. None, within three years after accession, except for: retailing of chemical fertilizers, within five years after accession; and those chain stores which sell products of different types and brands from multiple suppliers with more than 30 outlets. For such chain stores with more than 30 outlets, foreign majority ownership will not be permitted if those chain stores distribute any of the following products: motor vehicles (for a period of five years after accession, at which time the equity limitation will have been eliminated), and products listed above and in Annex 2a of the Protocol of China's WTO Accession. The foreign chain store operators will have the freedom of choice of any partner, legally established in China according to China's laws and regulations. 4. Unbound except as indicated in horizontal commitments.	1. Unbound except for mail order. 2. None 3. None 4. Unbound except as indicated in Horizontal Commitments.
USA[2]	1. None 2. None 3. None 4. Unbound except as indicated in horizontal commitments.	1. None 2. None 3. None 4. None
Australia[3]	1. Unbound except for mail order. 2. None 3. None 4. Unbound except as indicated in horizontal commitments.	1. None 2. None 3. None 4. Unbound except as

		indicated in horizontal commitments.
Brazil[4]	1. Unbound 2. Unbound 3. None 4. Unbound except as indicated in horizontal commitments.	1. Unbound 2. Unbound 3. None 4. Unbound except as indicated in horizontal commitments.
Canada[5]	1. None, other than: itinerant sellers (Ontario and Québec): commercial presence required; direct sellers (Nova Scotia, British Columbia): services must be supplied through a commercial presence. 2. None 3. None 4. Unbound except as indicated in the horizontal section.	1. None, other than: distribution services: indirect tax measures that result in differences in treatment with respect to delivery by mail of goods in Canada; direct sellers (Newfoundland): residency requirement. 2. None 3. None 4. Unbound except as indicated in the horizontal section.

Table A3 Share and Growth of India's Trade Services Sector (%)

2000-01	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
13.3	15.1	15.4	15.4	15.3	15.1	15.7	16.6
(5.0)	(11.6)	(10.8)	(9.8)	(6.7)	(8.5)	(11.5)	(6.5)

Table A4 Trend of Sales, Profits and Expenditure in India's Retail Sector

Retail Trading in India								
Sales			Profit after tax			Expenditure		
2011-12	2012-13*	2013-14*	2011-12	2012-13*	2013-14*	2011-12	2012-13*	2013-14*
-10.3	10.6	12.3	24.9	169.6	-59.4	-2.5	7.8	12.3

* Forecast
Source: CMIE Industry Analysis (compiled by Exim Bank of India).

Table A5 Comparison of Permissible FDI in India's Retail Sector Prior to 2012,[6] and Pursuant to the Major Liberalization in 2012

Retail services	**Prior to 2012**	**2012 onwards**
Cash & carry	100% under automatic route	100% under automatic route
Single-brand retailing	51% under approval route, subject to: (a) Products to be sold should be of a "single brand" only. (b) Products should be sold under the same brand internationally, i.e., products should be sold under the same brand in one or more countries other than India. (c) "Single brand"–product retail trading would cover only products which are branded during manufacturing. (d) The foreign investor should be the owner of the brand.	100%, with up to 49% under automatic route, and beyond 49% under approval route,[7] subject to: (a) Products to be sold should be of a "single brand" only. (b) Products should be sold under the same brand internationally, i.e., products should be sold under the same brand in one or more countries other than India. (c) "Single brand"–product retail trading would cover only products which are branded during manufacturing. (d) A non-resident entity or entities, whether owner of the brand or otherwise, shall be permitted to undertake single brand–product retail trading in the country for the specific brand through a legally tenable agreement with the brand owner for undertaking single brand–product retail trading of the specific brand for which approval is being sought. The onus for ensuring compliance with this condition shall rest with the Indian entity carrying out single brand–product retail trading in India. The investing entity shall provide evidence to this effect at the time of seeking approval, including a copy of the

		licensing/franchise/sub-licence agreement, specifically indicating compliance with the above condition. The requisite evidence should be filed with the RBI for automatic route and SIA/FIPB for cases involving approval. (e) With respect to proposals involving FDI beyond 51%, sourcing of 30% of the value of goods purchased will be done from India, preferably from MSMEs, village and cottage industries, artisans and craftsmen, in all sectors. The quantum of domestic sourcing will be self-certified by the company, to be subsequently checked, by statutory auditors, from the duly certified accounts which the company will be required to maintain. This procurement requirement would have to be met, in the first instance, as an average of five years' total value of the goods purchased, beginning 1st April of the year during which the first tranche of FDI is received. Thereafter, it would have to be met on an annual basis. For the purpose of ascertaining the sourcing requirement, the relevant entity would be the company incorporated in India which is the recipient of FDI for the purpose of carrying out single brand–product retail trading. (f) Retail trading, in any form, by means of e-commerce, would not be permissible, for companies with FDI, engaged in the activity of single brand–retail trading.
Multi-brand retailing[8]	Prohibited	51% under approval route, subject to: (a) Fresh agricultural produce, including fruits, vegetables, flowers, grains, pulses, fresh poultry, fishery and meat products, may be unbranded. (b) Minimum amount to be brought in, as FDI, by the foreign investor would be US$100 million. (c) At least 50% of total FDI brought in the first tranche of US$100 million shall be invested in "backend infrastructure" within three years, where "backend infrastructure" will include capital expenditure on all activities, excluding that on front-end units; for instance, backend infrastructure will include investment made toward processing, manufacturing, distribution, design improvement, quality control, packaging, logistics, storage, warehouse, agriculture market produce infrastructure,

		etc. Expenditure on land cost and rentals, if any, will not be counted for purposes of backend infrastructure. Subsequent investment in backend infrastructure would be made by the retailer as needed, depending on its business requirements. (d) At least 30% of the value of procurement of manufactured/processed products purchased shall be sourced from Indian “micro, small and medium industries” which have a total investment in plant & machinery not exceeding US$2 million. This valuation refers to the value at the time of installation, without providing for depreciation. The “small industry” status would be reckoned only at the time of first engagement with the retailer, and such industry shall continue to qualify so for this purpose even if it outgrows the investment limit of US$2 million during the course of its relationship with the retailer. This procurement requirement would have to be met, in the first instance, as an average of five years’ total value of the manufactured/processed products purchased, beginning 1st April of the year during which the first tranche of FDI is received. Thereafter, it would have to be met on an annual basis. (e) Self-certification by the company, to ensure compliance of the conditions at serial nos. (ii), (iii) and (iv) above, which could be cross-checked, as and when required. Accordingly, the investors shall maintain accounts, duly certified by statutory auditors. (f) Retail sales outlets may be set up only in cities with a population of more than 10 lakh as per 2011 Census, or any other city as per decision of respective state government, and may also cover an area of 10 kms around the municipal/urban agglomeration limits of such cities; retail locations will be restricted to conforming areas as per the master/zonal plans of the concerned cities, and provision will be made for requisite facilities such as transport connectivity and parking. (g) Government will have the first right to procurement of agricultural products. (h) The above policy is an enabling policy only and the state governments/union territories would be free to take their own decisions in regard to implementation of

		the policy. Therefore, retail sales outlets may be set up in those states/union territories which have agreed, or agree in future, to allow FDI under this policy. The establishment of the retail sales outlets will be in compliance with applicable state/union territory laws regulations, such as the Shops and Establishments Act, etc. (i) Retail trading, in any form, by means of e-commerce, would not be permissible, for companies with FDI, engaged in the activity of multi-brand retail trading. (j) Applications would be processed in the Department of Industrial Policy & Promotion, to determine whether the proposed investment satisfies the notified guidelines, before being considered by the FIPB for government approval.
E-commerce activities	100% under automatic route, only in B2B e-commerce, and not in retail trading.	100% under automatic route, only in B2B e-commerce, and not in retail trading.

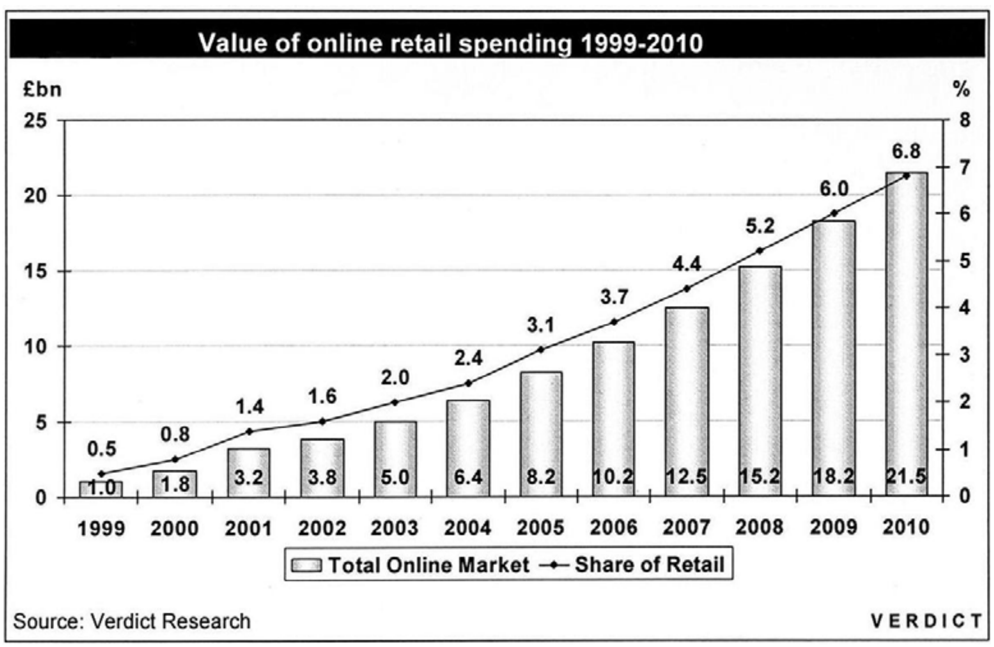

Figure A1 Value of online retail spending in UK during the period 1999-2010.

Endnotes

1. <http://tsdb.wto.org/simplesearch.aspx?id=121&sc=4>, accessed 20 August 2013.
2. <http://tsdb.wto.org/simplesearch.aspx?id=115&sc=4>, accessed 20 August 2013.
3. <http://tsdb.wto.org/simplesearch.aspx?id=210&sc=4>, accessed 20 August 2013.
4. <http://tsdb.wto.org/simplesearch.aspx?id=94&sc=4>, accessed 20 August 2013.
5. <http://tsdb.wto.org/simplesearch.aspx?id=112&sc=4>, accessed 20 August 2013.
6. Circular 2 of 2011, dated 30 September 2011, issued by Department of Industrial Policy and Promotion, Government of India.
7. Press Note 6 of 2013, dated 22 August 2013, issued by Department of Industrial Policy and Promotion, Government of India.
8. Press Note 5 of 2013, dated 22 August 2013, issued by Department of Industrial Policy and Promotion, Government of India.