

## **Communist Party of India (Marxist)**

### **National Policy on Regulation of Organised Sector in Retail Trade: A Proposal**

#### **Background**

Retail trade contributes around 10-11% of India's GDP and currently employs over 4 crore people. Within this, unorganized retailing accounts for 97% of the total retail trade. Traditional forms of low-cost retail trade, from the owner operated local shops and general stores to the handcart and pavement vendors together form the bulk of this sector. In the absence of any significant growth in organized sector employment in India in the manufacturing or services sector, millions are forced to seek their livelihood in the informal sector. Retail trade, which has been a relatively easy business to enter with low capital and infrastructure needs, has acted as a refuge source of income for the unemployed.

Organized retailing has witnessed considerable growth in India in the last few years and is currently growing at a very fast pace. A recent KPMG survey report prepared for the FICCI states that organized retail, estimated as a \$ 6.4 billion industry in 2006, is projected to reach \$ 23 billion by 2010. The share of organized retail in overall retail sales is projected to jump from around 3% currently to around 9-10% in the next three years. A number of large domestic business groups have entered the retail trade sector and are expanding their operations aggressively. Several formats of organized retailing like hypermarkets, supermarkets and discount stores are being set up by big business groups besides the ongoing proliferation of shopping malls in the metros and other large cities. This has serious implications for the livelihood of millions of small and unorganized retailers across the country.

Need to Regulate Organized Retail

Large format retailing is controlled and regulated across the world. The experiences of Western European as well as South East Asian countries are particularly relevant in this regard. However, an appropriate regulatory framework for the organized retail sector in India has to be framed keeping in mind the Indian specificities. India has the highest shop density in the world with 11 shops per 1000 persons, much higher than the European or Asian countries. The potential social costs of the growth and consolidation of organized retail, in terms of displacement of unorganized retailers and loss of livelihoods is enormous. Regulation in India therefore needs to be more stringent and restrictive. There are broadly three ways in which the adverse impact of the rapid and unbridled expansion of organized retail can be felt:

1. Around 95% of the 12 million shops in India have a floor area of less than 500 square feet. The impact of the growing market share for organized retailers is being manifested in the falling sales for the unorganized retailers in several places. The NSSO surveys already indicate a significant decline of more than 12.5 lakhs in the number of self-employed retailers in urban India (by current weekly status) between 1999-2000 and 2004-05. Further acceleration in the growth of organized retail would eventually result in making business unviable for a large number of unorganized retailers, particularly in the event of a slowdown in consumption growth and retail sales. In the backdrop of huge unemployment and underemployment persisting in India, small-scale retailing still provides livelihood security to around 20 million urban workers and 12 million rural workers. Their displacement would further worsen the unemployment scenario.

2. Giant organized retailers use their monopoly buying power to squeeze small producers of agricultural as well as manufactured products. The experience of the farmers of developing countries with the giant food retailers has been particularly bad. The farmers become dependent upon the inputs, credit and technology supplied by the food retailers and end up being at their mercy in terms of prices for their produce and quality standards. Contract farming, which is the preferred mode of operations as far as the agribusiness corporations and food retailers are concerned, has led to agrarian distress in many places. Moreover, uncontrolled diversification in agriculture away from foodgrains can imperil food security. In the backdrop of the crisis being already faced in Indian agriculture, the entry of large retailers with monopsonistic control can aggravate the situation.

3. The proliferation of large format retail outlets reshapes the urban landscape in myriad ways. Land use patterns change drastically, often in violation of city plans. Given the unplanned and chaotic path of urban development witnessed in India over the past decade and a half, and the pathetic state of urban infrastructure, the proliferation of large format retailers will only accelerate the undesirable trends of predatory real estate development and unsustainable pressures on urban infrastructure and the environment. Rather than enhancing choices for the consumers, especially the lower income groups, proliferation of large format retail stores would kill competition, lead to closure of neighbourhood markets and make consumers solely dependent upon the organized retailers. This would also increase the propensity to use private vehicles for shopping thus leading to more pollution. Regulation of the organized retail sector has to address all these areas of concern mentioned above. Organized retail cannot be allowed to grow in a way, which displaces existing unorganized retailers, jeopardizing livelihoods in the absence of other employment opportunities. The interests of the small producers, especially farmers, also have to be protected by preventing the emergence of local monopolies/monopsonies. It has to be ensured that competition is not stifled and potentially monopolistic practices in credit, input and output markets are not encouraged by the entry of large corporate retailers. Moreover, undue pressure on urban infrastructure and the environment arising out of the proliferation of large format retailers has to be prevented.

### **Framework for a National Policy on Regulating Organized Retail**

Small retailers need protection and policy support in order to compete with organized retail. The Ministry of Housing and Urban Poverty Alleviation has formulated a National Policy for Urban Street Vendors. The policy proposes several positive steps to provide security to street vendors considering it as an initiative towards urban poverty alleviation. However, what is required is a more comprehensive policy, which addresses the needs of small retailers, especially in terms of access to institutional credit and know how to upgrade their businesses.

A regulatory framework for organized retail should also be framed. Since the operations of organized retailers impact upon various sectors of the economy, policy guidelines should be framed involving all the relevant Departments, namely Commerce, Agriculture and Urban Development. Moreover, since regulation of the large format retailers would mainly be in the domain of the states and local bodies, State Governments have to be consulted and involved in the process of framing policy guidelines. A Central legislation or a Model legislation, which can be enacted by the State Governments, may also be considered for this purpose.

In addition, the UPA Government should also abandon the moves to permit FDI in retail trade through the back door, as in the case of the joint venture between Wal-Mart and Bharti whereby the former proposes to operate in the cash-and-carry segment while the latter in the front-end. It is more than obvious that this proposed joint venture is nothing but a subterfuge, to circumvent the existing policy regime, which does not allow FDI in retail. The entry of giant MNCs like the Wal-Mart, TESCO, Carrefour etc, besides accelerating manifolds the already rapid growth of organized retail, would also sabotage any attempt by the Government to regulate the sector in order to protect the interests of the small retailers and farmers. The UPA Government should take a categorical position on this issue. Not allowing MNCs to operate in the retail sector should be the starting point of the national policy on retail.

The issues, which need to be addressed in the regulatory framework for organized retail, have already been discussed above. Some suggestions are made below which seek to address those issues:

#### A Licensing System for Organized Retail

1. A system of licensing should be introduced for organized retail. Any retail outlet with floor area over an appropriate minimum floor area should require prior license from local authorities (city corporations or municipalities). Corporate entities should not be allowed to operate retail outlets below the specified minimum floor area
2. The authority to grant licenses should be the urban local bodies. A dedicated committee/board/department should be set up by the urban local bodies, with representation from street vendors and small retailer associations, which should be empowered to grant licenses to organized retailers.
3. The system should be devised in a manner so that there is transparency in the process of granting licenses in order to prevent corrupt practices. A process of open bids for granting licenses may be considered.
4. Considering the multiplicity of formats of organized retail, there should be separate sets of regulations for each format, based on floor area. Slabs should be set for the different retail formats, like discount stores, supermarkets, hypermarkets, shopping malls etc based on floor area.
5. Licenses for each format should be given on the basis of a population criterion, i.e. not more than X number of large format retail stores of Y format per Z population. The criteria may vary between states and cities depending upon the nature of the retail sector and needs of consumers. However, a commonality should exist in terms of assessing the employment impact by the local authorities in a scientific as well as democratic manner, before granting license for a large format retail outlet.
6. There should be appropriate caps both on the total number of large format retail outlets that are being granted licenses in particular areas as well as on the maximum floor area for a retail outlet.
7. Retail outlets above a certain floor area should not be allowed to operate within existing commercial zones/areas. In case a license is granted for a large format retailer within an existing commercial area, it should only be on the basis of an agreement to share a substantial proportion of its floor area with small retailers at concessional rent. The allotment of space to small retailers in such cases should be done by the license issuing authority.
8. Giant retail outlets like hypermarkets, which attract large numbers of customers should have adequate parking space and should ideally be located

- outside city limits. Environmental Impact assessment should also be mandatory for giant retail outlets whose floor area exceeds a specified limit.
9. Penal provisions, including withdrawal of licenses, should be laid down for violation of the terms and conditions of licenses by organized retailers.

#### Government's Role in Preventing Private Monopolies

1. A single large format retailer should not be allowed to capture a large market share. For this it is important to restrict the number of retail outlets that a single private entity can open in a city, state as well as region. Under no circumstances should a national level monopoly be allowed to develop in the retail sector.
2. There should be guidelines to prevent predatory pricing and below-cost sales by organized retailers. A mechanism should be set up where complaints against predatory pricing can be registered by small retailers. The Competition Commission in India is not suitably equipped to handle such issues. A dedicated mechanism is required for this purpose.
3. In order to prevent the development of big private monopolies in retail trade, it is also important for the Government to ensure its presence in the market. Several Government marketing agencies exist, both at the Central as well as State levels. With a few exceptions, these agencies have been experiencing decay, owing to various factors. These marketing agencies should be revived and encouraged to grow and compete with private large format retailers.
4. Consolidation of several Government marketing agencies in order to create a few big public sector retail chains should be seriously considered, which can also invest in developing modern supply chain infrastructure. Panchayati Raj Institutions (PRIs) should be involved in the administration of cold storages and procurement centres.
5. Encouragement should be provided to the existing retail chains in the cooperative sector. New retail cooperatives should also be promoted. Partnerships between existing Government marketing agencies and cooperatives can also be considered, especially in food retail where synergies exist.
6. The State Governments or urban local bodies should levy a cess on the VAT on all goods sold by large format retail outlets (including those in the public sector) in order to create a level playing field between the organized and unorganized retailers. Revenues generated from the cess can be used to create a dedicated fund to provide infrastructure support, financial assistance or cheap credit for unorganized retailers to improve and upgrade their operations.
7. Tax incentives should not be provided, either by the Central or State Governments, for the setting up of procurement/distribution centres or "rural business hubs" by private players. Neither should tax breaks be provided to private players for contract farming.

#### Safeguarding Farmers' Interests

1. Handing over farmland to food retailers for contract farming should not be permitted. Rules for contract farming should ensure that there is no possibility of farmers being alienated from their land, even if there is a failure in meeting contract commitments.
2. Contract farming should be regulated and monitored by the Government to protect the interests of farmers. Farmers should be encouraged to form

- groups or cooperatives in order to enter into contracts collectively with corporates rather than entering into individual contracts.
3. The processes of credit provision linked to input supplies and subsequent purchase of the crop, all by one private player, need to be regulated carefully by State authorities and PRIs. Supply of inputs like seeds need to be monitored by the Government. It is also important to ensure that monoculture is avoided.
  4. It should be ensured that the farmers are not denied the opportunity of selling their produce over and above the quantity specified in the contract to other agencies at a price higher than what is specified in the contract. Farmers also need to be protected from arbitrary refusal by the contracting parties to buy their produce on grounds of 'poor quality'. The Government should reserve the right to intervene in such contracts in situations when they are found to be operating to the detriment of farmers' interests.
  5. Large procurement centres created by corporate retailers should compulsorily have separate space for Government agencies. The scope of activities of the Government agencies would depend on the scale of operations. They may range from a single information centre for Government services to various Government agencies supplying inputs, providing extension services, disbursing credit and undertaking procurement. Several State Governments have amended their APMC Acts in accordance with the Model APMC Act framed by the Central Government. That model Act itself needs to be changed incorporating the suggestions made above. State Governments should also be persuaded to do the same.
  6. It has to be ensured that a single corporate retailer does not monopolize procurement operations in a district or area. It is therefore absolutely critical that both public procurement agencies and cooperatives are given support, incentives and freedom to compete with the corporate retailers. This would require special initiatives from the State Governments to reinvigorate the Government agencies. The Central Government should also provide adequate funds required for the purpose.
  7. Private procurement of foodgrains by large players who can manipulate the market should be discouraged. The experience of the last two years shows how the free hand given to corporate players has led to shortfalls in public procurement necessitating wheat imports. There is an urgent need to strengthen and expand the public procurement machinery into more areas and provide it with the required flexibility to ensure adequate procurement at remunerative prices. Private procurement of food grains, wherever it takes place, should be closely monitored by the PRIs and the Government.
  8. Food retailers or other agribusiness companies should not be allowed to corner and hoard foodgrains stocks under any circumstances. To prevent cornering of stocks by private players with the associated potential for speculation, there should be rules for public disclosure of stock holding levels. Public agencies should be empowered to purchase foodgrains from the private holders at pre-specified prices if their stocks exceed a specified level.

## Conclusion

These proposals are being made in a backdrop where private players are entering both in retail trade and agriculture in a big way. There is an urgent need to frame new rules in order to regulate the operations of corporates in these sectors, which employ the bulk of the Indian population. The UPA Government should consider the proposals seriously and take immediate initiatives to frame a national policy in this regard.