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SUSTAINABILITY IMPACT ASSESSMENT OF PROPOSED WTO NEGOTIATIONS

FINAL REPORT FOR THE DISTRIBUTION SERVICES STUDY

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ANNEXES [see Annex Report]

ABBREVIATIONS

AAI	Agribusiness Accountability Initiative
ACP	African, Caribbean and Pacific group of developing countries
AFTA	ASEAN Free Trade Area
APC	Australian Productivity Commission
APEC	Asia-Pacific Economic Cooperation
ASALS	Arid and semi-arid lands (Kenya)
ASEAN	Association of South East Asian Nations
BCIC	Bumiputera Commercial and Industrial Community (Malaysia)
BOP	Balance of payments
BSCI	Business Social Compliance Initiative
BSR	Business for Social Responsibility
CBS	Central Bureau of Statistics (Kenya)
CEN	European Committee for Standardisation
CENELEC	European Committee for Electrotechnical Standardisation
CPC	Central Product Classification of the UN
CSR	Corporate Social Responsibility
DDA	Doha Development Agenda
DG	Directorate General
EC	European Communities
ENT	Economic needs test
EPE	European Partners for the Environment
ERB	Electricity Regulatory Board (Kenya)
ERRT	European Retail Round Table
ESM	Emergency Safeguard Measure
ETSI	European Telecommunications Standards Institute
ETUC	European Trades Union Council
EU	European Union
EurepGAP	Euro-Retailer Produce Working Group for Good Agricultural Practices
FDI	Foreign Direct Investment
FIC	Foreign Investment Committee (Malaysia)
FTA	Free trade agreement
FTAA	Free Trade Area of the Americas
GAP	Good agricultural practice
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GCC	Gulf Cooperation Council
GDP	Gross Domestic Product
GMO	Genetically Modified Organism
GNP	Gross National Product
GRI	Global Reporting Initiative
GTAP	Global Trade Analysis Project
ICEG	International Centre for Economic Growth (Kenya)
ICOT	Information, Computing and other Information Technologies
ICT	Information and communications technology
IDPM	Institute for Development Policy and Management
IFC	International Finance Corporation

IISD	International Institute for Sustainable Development
ILO	International Labour Organization
IMF	International Monetary Fund
IPC	Investment Promotion Council (Kenya)
ISIC	International Standard Industrial Classification
ISO	International Standards Organization
IT	Information technology
ITSP	International Trade and Services Policy
KAM	Kenya Association of Manufacturers
KLSE	Kuala Lumpur Stock Exchange
KNCCI	Kenya National Chamber of Commerce and Industry
LDC	Least-developed country
MERCOSUR	The Southern Cone Common Market of Latin America
MFN	Most-favoured nation principle
MFP	Multifactor productivity
MITI	Ministry of International Trade and Industry (Malaysia)
MNC	Multinational corporation
NAFTA	North American Free Trade Agreement
NAICS	North American Industrial Classification System
NCPB	National Cereals and Produce Board (Kenya)
NDP	National Development Policy (Malaysia)
NEP	New Economic Policy (Malaysia)
NGO	Non-Governmental Organisation
NL	The Netherlands
OECD	Organisation for Economic Cooperation and Development
PPP	Public-private partnership
PRSP	Poverty Reduction Strategy Paper (Kenya)
RM	Malaysian ringgit
SAI	Social Accountability International
SAM	Sustainable Asset Management Research (Switzerland)
SARS	Severe Acute Respiratory Syndrome
SC	Securities Commission (Malaysia)
SIA	Sustainability Impact Assessment
SME	Small and Medium-sized Enterprises
STIC	Sustainable Trade and Innovation Centre
TNC	Transnational corporation
TOR	Terms of Reference
UK	United Kingdom
UMNO	United Malays' National Organisation
UN	United Nations
UNCTAD	United National Conference on Trade and Development
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNIDO	United Nations International Development Organization
US	United States of America
WBCSD	World Business Council for Sustainable Development
WHO	World Health Organisation
WTO	World Trade Organisation

EXECUTIVE SUMMARY

Studies by economic researchers show that employment in distribution is usually the second largest sector in a national economy. As a proportion of national GDP it increases as GDP per head rises, until a level is reached at which economies of scale and scope are exhausted, after which the proportion declines slowly in an inverted U-curve. Retail sales of food are the largest element of total retail sales, but as income per head rises they decline as a proportion of household expenditure. As overall consumer demand increases it is progressively served by the major retail firms, which build larger stores to cater mainly for urban areas. This leaves the poorest people in rural areas and some outlying suburbs ill served.

The principal global actors in the retail sector are European, and those in the wholesale and franchising sectors American. There is a relatively limited number of these multilateral firms, and they are already present in the major worldwide markets where their access has been permitted either as a result of specific commitments undertaken pursuant to the Uruguay Round, or through unilateral policy decisions. Given that the distribution markets in OECD countries are largely saturated, such companies will wish to expand their presence further into markets that are currently protected, provided that income levels are adequate and inward investment regimes are secure and welcoming. Firms based in developing countries which have already expanded to neighbouring territories in Latin America, Africa and Asia may be expected to do so increasingly as part of the same worldwide trend towards concentration and larger outlets in distribution.

In contrast to these international trends, stakeholders in distribution fall into two opposing groups. Major retailers and their representative trade associations are pro-liberalisation, and adamantly assert their good citizenship practices and observance of social responsibilities, pointing to independent audits of their activities and facilities around the world. On the other hand, charities and workers' unions point to the existence of bad practices which severely affect the lives and health of owners and workers whether in small and micro enterprises on the land, or in factories and processing plants. They fear that uncontrolled, or too rapid, liberalisation will exacerbate these adverse conditions.

Liberalisation negotiations under the WTO

The GATS negotiations will attempt to liberalise **market access** and seek the grant of **national treatment** for foreign affiliates, but not for the temporary movement of natural persons in distribution services, for which governments will continue to impose any terms they deem necessary. Thus the role of **domestic regulation** becomes paramount. However the GATS negotiations will not directly concern domestic regulation, except peripherally for example as regards stronger rules on transparency. Sovereign governments have the right to regulate for reasons of national policy. GATS rules do not directly impinge upon this freedom. Hence there is a great deal of room for manoeuvre, even where the grant of market access and national treatment are bound in GATS schedules of specific commitments.

The developed countries on the whole have the most open markets and undertook higher levels of specific commitments on services in the Uruguay Round. Most developing countries took no commitments in the domain of distribution services, and this includes those which have the most restricted and protected markets. Full liberalisation could in principle strongly affect them. The supply of distribution services in the high-income countries is fully saturated, and the outcome of the negotiations will affect them only marginally even if areas are found where extra commitments can be undertaken. The greatest effects, proportionately to employment and income, would be felt by the developing countries. Full liberalisation for them would entail letting in foreign affiliates from Europe, America and Japan, as well as from each other, as the development of South-South relations in both merchandise trade and services trade becomes increasingly important.

Public procurement forms a significant proportion of demand in developing countries. It was excluded as a separate topic from the DDA negotiating agenda by the WTO General Council meeting in Geneva in July 2004, but the fact is that full liberalisation of trade in services (including distribution) would include the opening up of the purchases of central and regional governments to foreign private sector wholesalers and retailers.

The impact of liberalisation

Quantitative data concerning trade flows are not available for wholesale and retail services as these are subsumed in the merchandise trade category of balance of payments statistics. Thus the computable general equilibrium statistical modelling technique cannot be used for distribution services. There has perforce to be a greater reliance on qualitative factors. The main focus is on the regulations which, for legal predictability, limit the degree of liberalisation bound under the GATS. For developing countries GATS recognizes that liberalisation can be on a progressive basis. Domestic regulations are greatly significant as they control not only the pace and nature of development within an economy, but a wide range of social, health and safety standards affecting distribution outlets.

The development of a sector such as distribution results from societal demand factors. Political and legal decisions which are taken in the context of liberalisation serve to speed up this process. In countries where the process has the potential for the fastest development, the choice for governments is how to phase in far-reaching changes, and how to mitigate the inevitable costs of structural adjustment which adversely affect the poorest people, whether these are consumers, shop owners or agricultural producers. Various regulatory and administrative tools are available to mitigate the negative effects, but the required human, institutional and financial resources will not always be available, and capacity building aid will be needed in these cases.

Developing country studies: Brazil, Kenya and Malaysia

The three country studies which were undertaken for the purposes of the present SIA show how important government policies are in the distribution sector. Such policies directly or indirectly affect employment levels, the pace of liberalisation, and the need to take account of the ethnic makeup and sensibilities in society, as well as in the ownership of distribution enterprises, their capitalisation and development. If regulations are inadequately enforced, or not enforced, and if the means to combat corruption do not exist, these too are factors which adversely affect human health and safety. Some of the patterns which are likely to be seen in developing countries were also apparent in the changes which took place in Central and Eastern Europe and the CIS countries following the collapse of Communism.

The impact of liberalisation varies by country. Key determinants are the level of development; quality of governance; and the availability of ICT infrastructure, equipment and skills. There is no single panacea prescription to propose to governments. It can be important to phase in liberalisation measures where either there are sensitive social issues at stake (such as racial balancing), or the resources to handle the adverse consequences of structural adjustment are lacking and aid for capacity building is necessary. The most singular issues include the ethnic history, social networks, prevailing legal enterprise forms, privileges accorded to certain categories of citizen, land ownership and real estate prices, and state control of outlets and product prices.

The country studies bring out key issues to differing extents. In Brazil the worldwide process of concentration in the distribution sector has been under way for some decades, and although it was interrupted during the 1980s and 1990s by severe internal economic difficulties it is relatively far advanced. The inward investment regime is liberal, and there are relatively few constraints of planning or environmental regulations to restrict the operations of major investors, several of whom are long established in the market. In Kenya the inward investment regime is also liberal, indeed probably the most liberal in Africa. However many years of economic difficulties and mismanagement, and bureaucratic corruption, impoverished the economy and effectively halted the processes of concentration in the distribution sector during the 1990s. Recent growth in retailing has largely been in the micro- and small enterprise sector, and the market has been neither large enough nor secure enough to be attractive to inward investors. Kenya has extensive planning and environmental protection regulations, but these are frequently undermined through inefficient and corrupt administration. In Malaysia, which is rapidly industrialising, though still a developing country, the processes of concentration in retailing are far advanced. Large distributors, both indigenous and foreign-owned, are present in the market, to such an extent that a moratorium on the development of further hypermarkets in certain areas has been imposed until 2009. Malaysia however has a highly restrictive inward investment regime, and although the restrictions have been eased in recent years, investment is still tightly screened and conditions are imposed concerning minimum equity participation of the majority Bumiputera people. There are extensive powers to control the prices and if necessary the supply of basic products. Significant further liberalisation of distribution would require Malaysia to remove or at least amend a series of regulations whose avowed aim is to promote social cohesion and harmony.

All three countries, like other developing countries, still have a majority of small and predominantly family-owned enterprises in the retail sector. But in differing degrees these small outlets are under threat in all three from the processes of globalisation and concentration. The trends may have been interrupted for a decade or so by severe macro-economic problems (Brazil and Kenya) or retarded by regulation (Malaysia), but they are still present and in the long run, probably irresistible.

Existing studies covering a number of other developing countries show that in greater or lesser degree very similar characteristics and developments are present in their markets also. The general conclusion must be that developing countries cannot escape global trends in the production, trade and marketing of foodstuffs and other goods which began in the major developed markets, including the progressive decline of small and family outlets; although case by case the speed of such processes varies according to local conditions and policies.

Principal sustainability impacts

In developed countries, and the EU in particular, the impact of the liberalisation of distribution services will be largely confined to the gains from increased income arising from investment abroad in foreign affiliates.

In developing countries, the effects will be larger where both trade liberalisation and deregulation are carried out together. Where such regulatory policies are not in place, or are poorly co-ordinated with trade liberalisation measures, the potential gains in terms of sustainable development from distribution services liberalisation are likely to be compromised.

There may be significant local effects in developing countries, in the form of squeezing small retailers out of the market, and price and other pressures exercised on suppliers by big international retail chains.

Smaller and poorer countries will not be significantly impacted since they are unlikely over a foreseeable timescale to attract large-scale international investments in distribution. Trade liberalisation alone is unlikely to have a significant impact on the volume of FDI flows to developing countries.

Environmental impacts will result from increases in consumption and the volume of products produced, both domestically and abroad. With this come associated issues such as the disposal of waste and the possible need for regulations to encourage the recycling of packaging. To the extent that improved distribution increases consumption and trade, this will also increase the need for road, rail, maritime and air transport. More road transport may increase urban air pollution, noise, traffic congestion and accidents.

The implications of the findings for impacts on the Millennium Development Goals are discussed in the overall project report for the SIA studies.

Agriculture and Forestry – the links with distribution

Agricultural trade depends on efficient transport facilities and distribution channels. Global distribution chains increasingly dominate the market for fresh fruits and vegetables. This is bound to affect production patterns in the producer territories, and to accentuate the economic, social and environmental impacts which flow from agricultural development, including both beneficial and damaging effects.

A number of practical issues arise from developments in distribution. For example, where agricultural tariffs and other import barriers are reduced through market liberalisation, the questions arise of how effectively such reductions in price are passed on to consumers through the distribution chain; and whether the increased trade generated through liberalisation leads to improvements in the income of farmers and other producers, particularly in developing countries.

Modernisation of distribution, including just-in-time logistics systems which greatly reduce stock levels, as well as the quality standards set by large retailers, can contribute, even within developing economies, to helping local produce to get to the consumer quicker, in better condition, and cheaper. At the same time, increased competition may encourage more intensive animal farming methods, more pressure for the genetic engineering of crops, and greater involvement of multinational corporations in the actual processes of production. All such consequences could have adverse implications for environmental standards, biodiversity and human and animal welfare.

Some of the same basic points apply in the case of forestry. Forestry products are traded in huge quantities internationally between enterprises, but reach consumers only in the form of finished goods. No issues seem to arise regarding the distribution of forestry products which are different from those concerning other finished goods.

Regulatory mitigation processes

National systems of regulation can be designed to mitigate the adverse economic, social and environmental effects of full liberalisation of the distribution sector.

In the **economic** dimension, subsidies by western governments to farmers for certain foods (principally sugar, wheat, maize and rice) cause the largest distortions of product markets and should be phased out, since they impact hardest on the smallholder producers in developing countries. They also lower the nutritional value of the diets of the poorest in developed country urban areas. High tariffs and restrictive quotas imposed on imported products also have a significant distorting effect.

The absence of tax on aviation fuel greatly distorts the relative advantage of importing perishable and high value products from distant countries and should be studied.

However such issues fall for negotiation in fora other than the ongoing GATS negotiations, and cannot be addressed directly in the context of the liberalisation of distribution services.

Competition policy is a crucial tool which governments should use to prevent the abuse of power by major wholesalers and retailers, as well as manufacturers and food processors. Such abuses include predatory pricing to drive out smaller outlets, the passing of demand-fluctuation risks down to small suppliers, and the imposition of low farm gate prices through greatly unequal economic bargaining power. It is structurally not possible for the myriad SMEs and micro producers in different countries to join together to counteract the global power of the MNCs.

Planning and land zoning policies can have strong economic implications for the development of the size and location of wholesale facilities and retail outlets, in addition to controlling the social and environmental effects.

Regulations on **work related** issues should concentrate on workers' rights (observance of ILO standards, including freedom for unionisation), their conditions of employment (working hours, holiday entitlements, minimum wages, job security, gender equality, opportunities for the handicapped), and insurance benefits.

The impact assessment of these factors will show different, possibly opposite, effects for those working for the large firms, compared with those in family-owned shops (the micro enterprises). Governments should press MNCs, whether foreign or locally owned, to institute and implement CSR policies, though ultimately these are voluntary even when they incorporate regional or international standards.

Regulations affecting **health and education** relate to the training of employees, and the transfer to them of know-how and the use of technology. Their health depends on in-store practices for the handling of certain products, and on the existence of procedures to minimise work-related accidents, especially during the movement of goods. The health of consumers in relation to the quality and safety of products purchased is also a key concern. This may involve restrictions on the advertising of unhealthy foods aimed at children.

Regulations relevant to **social welfare and poverty** relate to the distributional effects of changes over time in income per head, and whether the informal traders are brought into the taxable economy, so boosting government revenue. Other considerations are impacts on social inequality and social exclusion, and the provision of social spending and safety nets. The impact on the propensity of people to migrate is significant, as also is achievement of the Millennium Development Goals – especially the eradication of extreme poverty and hunger, the promotion of gender equality, the empowerment of women, and ensuring environmental sustainability.

The consequences for **consumer choice** relate principally to the range, quality and price of products in the new stores, their safety, hygiene and labelling practices. With food being a significant proportion of the retail price index, price competition, which stabilises or reduces food prices can reduce general inflation. However, this improvement in choice may not extend to the rural population, and possibly some peripheral and poor urban areas. Governments may wish to encourage people to buy local, seasonal and organic produce, and directly in street markets from producers, or from farms, where possible.

The effect of liberalisation on **environmental sustainability** can be considered according to the impact on biodiversity, environmental quality and natural resource stocks.

Direct impacts on the environment arise from the construction of wholesale facilities, and of stores and their associated car parks, and from increased traffic, noise and pollution. Pollution levels affect environmental quality in towns, and also contribute to climate change, which is probably the most significant general concern. Town planning and zoning can manage such aspects as the permitted ratio of new stores to traditional small outlets, the siting of wholesale facilities and major retail outlets, and traffic circulation including the construction of new roads. However the wider issues of environmental pollution lie outside the ambit of negotiations on liberalisation of services, and can be addressed only on the level of global cooperation.

There are also indirect impacts which arise from the activities of the suppliers: for example on **biodiversity**, affecting crop varieties, crop rotation, protection of ecosystems and species, soil erosion, use of pesticides and other chemicals which build up in the soil, in aquifers and in the tissues of wild animals. The **environmental quality** can be reduced due to lower air and water quality, increased effluents and other emissions, and higher fertilizer use. The use of oil-based fuels and packaging materials leads directly to the unsustainable use of **natural resource stocks**, whereas forest-based packaging can be produced in a sustainable way.

Government flanking measures: key enhancement and mitigation actions

There is little that governments can do to enhance the positive effects of liberalisation in the distribution sector. This of itself brings general economic benefits and improves structural efficiency. The focus must be on mitigating adverse impacts - both the direct social, economic and environmental impacts and also the indirect effects arising from changes in consumption patterns and in supply driven by demand.

Governments of developing countries should accordingly concentrate on:

- The phasing in of liberalisation, in view of their social and economic priorities, and the quality of their governance and regulatory capacity. Key issues in regulation include the enforcement of operational regulations such as for labour/employment, planning, health, hygiene, safety standards, and putting pressure on firms, especially the largest, to improve their CSR performance.

- The mitigation of adverse effects, where resources permit, through:

  - training for the distribution sector
  - re-training for work in other sectors
  - the provision of credit
  - assistance to form cooperative groups
  - technical assistance in business methods and ICT
  - unemployment benefits
  - price controls on basic products to protect the poor

Each government will have to take a considered view of the degree of liberalisation of the distribution sector which is desirable and feasible in the national context, and how it can be achieved. In the light of this assessment, it will need also to consider the practical relevance of the mitigation actions listed above and their likely effectiveness.

Flanking measures by the EU

The EU should consider direct action to assist developing countries, including reduction of its own production subsidies which reduce world prices and adversely affect developing country producers; consistent and determined action against restrictive practices operated by dominant suppliers; capacity building assistance for developing countries related to the distribution sector; and harmonisation of standards at the EU level so as to make compliance easier for suppliers in developing countries. As indirect action, it should take every opportunity within the framework of multilateral organisations to work for the development of internationally agreed principles and regulations which will benefit suppliers in developing countries, and to encourage the provision of credit to small enterprises in the distribution sector.

1. INTRODUCTION

The purpose of this sector study is to identify in greater depth than the Preliminary Overview Report[1] the implications of further liberalisation of the distribution sector for the long-term economic, social and environmental development of both the EU and its trading partners, and to identify ways to enhance the positive benefits and minimise potential costs. Its immediate aim is to improve the basis for formulation of EU policy towards the negotiations under the General Agreement on Trade in Services (GATS) of the World Trade Organisation (WTO), which form part of the Doha Development Agenda (DDA)[2].

The Doha Ministerial Declaration of 14 November 2001 mandated that "The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries." Negotiations had already begun in January 2000 as specified in the WTO Marrakech Agreement in 1994, and there had been a number of negotiating proposals submitted by Members. The Ministers "reaffirmed the Guidelines and Procedures for the Negotiations adopted by the Council for Trade in Services of 28 March 2001 as the basis for continuing the negotiations." Since then some countries have submitted initial requests, and a few revised requests, to certain other WTO Members. A minority have tabled initial offers.

The Preliminary Overview Report identified the distribution sector as holding out large opportunities for liberalisation, with concomitant significant likely sustainability impacts, which were described as follows:

> "An economic gain is expected in exporting countries from the return on investment, and in importing countries from increased economic efficiency. Efficiency gains lead to lower consumer prices, particularly for higher income urban communities. The number of small traders is expected to decline, with a smaller number of jobs becoming available in new outlets, giving a net adverse effect on employment and associated social factors. Goods are expected to be sourced from a wider area, including internationally, with associated environmental effects from the additional transport. Improved effectiveness is expected for those distribution services which supply modern industrial and commercial equipment to other sectors of the economy, with an enhancing effect on developing countries' growth rates."

This study focuses on the impacts of liberalisation in developing countries at different stages of development. The EU distribution market is already largely open, and except as discussed in Section 2.4 below, the impact of any future trade liberalisation which the EU might bind under the GATS will be small and virtually un-measurable.

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[1] The Preliminary Overview of Potential Impacts of the Doha Agenda: Final Report (George and Kirkpatrick, 2003)

[2] The technical outline for the distribution services SIA study is given in Annex A.

2. SIA METHODOLOGY

2.1 Availability of data

A fundamental difficulty in the study of the impact of liberalising distribution services is the absence of reliable data, even for developed country markets, concerning the international structure of distribution and the trade and financial flows which are attributable to it. Data for the services sectors as a whole remain poor, despite efforts which have been made during several years by the United Nations Statistical Commission, IMF, UNCTAD, OECD and the European Commission to establish a basis for the collection of statistics which are of particular negotiating interest.

Data series which identify distribution services separately are inadequate. The main reason is that distribution does not feature in the IMF Balance of Payments Manual classification of services, so that there are no cross-border trade flow data on wholesale and retail transactions. The international flows of goods which pass through the medium of the distribution sector form part of national and international statistics for merchandise trade. Capital investments undertaken abroad by distribution companies are not identified within in the aggregate figures for FDI flows, which themselves may be very unsatisfactory particularly in the case of developing countries. It follows that there is no statistical basis upon which the economic impact of further liberalisation of distribution, investment trends, or the impact on national balances of payments, could be modelled using the standard general equilibrium econometric techniques, or even for making a rough estimate of the current value of trade volumes generated through the activities of international distribution companies.

The present SIA takes account of data in the analyses and conclusions embodied in the parallel studies of the agriculture and forestry sectors which are relevant to the distribution sector.

2.2 Liberalisation scenario

The SIA study compares a further liberalisation scenario with a base scenario which assumes that the provisions of existing commitments under GATS are fully met. The further liberalisation scenario represents the strongest probable implementation of the negotiations agreed to at the 4th WTO Ministerial Conference in Doha. Effectively this would involve the removal of all restrictions on market access and national treatment for distribution except in especially difficult areas of policy such as the movement of natural persons (though it would be expected that further commitments would be undertaken regarding the movement of intra-corporate transferees and contractual service suppliers). The scenario includes any necessary amendments to domestic regulations which inherently or potentially discriminate against non-domestic providers, such as inward investment controls, urban planning systems and employment or health and safety regulations. New liberalisation commitments would not be expected to cover unskilled workers, nor significant numbers of semi-skilled workers.

The causal chain analysis traces the effect of this degree of trade liberalisation in distribution services on FDI flows, the effect of increased FDI on the domestic markets in the investment-importing and investment-exporting countries, and the final impact on sustainable development.

2.3 Country studies

Country studies of the likely effects of further liberalisation of distribution services were carried out in respect of a group of countries which are representative of the range of developing countries both geographically and in terms of economic development, as follows:

Brazil
Kenya
Malaysia.

The studies of Brazil, Kenya and Malaysia are attached respectively as Annexes D, E and F[3]. The results of the studies are discussed in Chapter 4.4 below.

2.4 Assessing the Impact of Distribution Services Liberalisation

As described below, a wide range of previous studies of the distribution services sector has been consulted. The main conclusions which emerge from such earlier work form the starting point for the present analysis. The policy responses of developing country governments to the liberalisation of distribution services must chiefly depend on what resources and capacity are available to help them to formulate and implement policies to accentuate the positive impacts of liberalisation, and to minimise the negative impacts. Both objectives depend on measures to optimise the efficiency increases arising from foreign direct investment, associated transfers of technology and management know-how, for the fixed facilities and for supply chains. Similarly, government policy responses need to extend to measures for financial support to unemployed people and for retraining.

Taking into account the issues identified by previous studies[4], the present study of the distribution sector investigates economic, social and environmental issues related to trade liberalisation, to assess their relative significance. In all these cases it is necessary to take into account that relevant impacts may be both direct and indirect.

Actual or potential **economic** effects include the macro-economic effects of liberalisation such as the impact on the overall numbers of distribution enterprises; changes in the proportions of both GDP and employment which are accounted for respectively by the wholesale and retail sectors; a possible trend towards vertical integration within larger enterprises of wholesale and retail activities; consequences for the distribution of products as inputs to other sectors of the economy and hence for overall economic development and competitiveness; and the impact on the relationship and balance between the formal and informal distribution sectors.

Other key economic impacts include the effect on flows of foreign direct investment (FDI) into developing countries, associated with the arrival in the market of large foreign-owned enterprises; consequences for national finances including tax collection; transfer of know-how and technology, and professional training; effects on the range and

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[3] Terms of reference for these studies are attached as Annex C.
[4] The SIA has included a study of existing literature relating to the distribution sector. Summaries of relevant reports and studies are included as Annex B and common factors emerging from these studies are discussed in Chapter 6 below.

availability of products, their quality, safety and hygiene; and the impact on consumer prices. Potentially there will be wide-ranging effects on chains of supply (both national and international), and on land use and prices in areas (predominantly urban) where large-scale new distribution investments are located.

It is also necessary to consider the policy responses of governments, which may include such devices as screening of inward investment proposals and possible restrictions; the application of economic needs tests (ENTs) both to inward investments and to the movement of personnel associated with investments; and operational requirements such as price controls, or special zoning and planning requirements. More positive policy responses might include, for example, concessionary interest rates to enable smaller enterprises to borrow so as to modernise, for example through amalgamations in order to gain economies of scale both in terms of store size, IT equipment and purchasing power.

Social impacts include the effect of liberalisation on overall employment in distribution, as well as on employment standards and employees' pay and welfare. These effects extend to more general impacts on income distribution and poverty. Important related considerations are how far liberalisation may affect the existing balance of employment as between men and women, and the impact of religious, cultural and historical attitudes.

It is in this area of social impacts that the policy response of governments is particularly important. For example, within the overall budgetary limits they might give special encouragement to training in management, logistics and IT skills; to train people who were displaced from small traditional outlets for alternative employment; or provide guaranteed levels of minimum income as a safety net to the unemployed.

Environmental effects from the growth in number and size of distribution enterprises in developing countries do not differ essentially from the environmental effects of such growth elsewhere. They have to be evaluated in the context of local conditions and regulations, their relative impact and importance may naturally differ from those of similar impacts in developed countries, and particularly as regards such impacts as atmospheric pollution, it may be difficult to isolate the impacts of distribution from those caused by wider economic and social factors. In principle, the environmental effects arising from growth in distribution enterprises can include levels of traffic, frequency of accidents, pollution and noise which may rise due to changing patterns of transport for distribution; and the need for new investment in transport infrastructure (initially roads, but also airports and railways), with consequent pressures on land use in areas of higher population density.

If a further liberalisation scenario is adopted at the conclusion of the DDA negotiations the impact – depending of course on the extent of further liberalisation agreed – would be significantly different as regards developed countries and developing countries. To take the specific case of the EU, there would be no material change to the situation of openness to imports of services which has prevailed since January 1995 when the GATS entered into force, although there may be continuing changes in the services markets of member states resulting from commercial decisions taken by entrepreneurs including those in other countries. One consequence might be further concentration in the distribution sector in certain EU countries as a result of mergers and acquisitions. Another consequence could well be a wider range of foreign companies exploiting niche opportunities to the benefit of EU consumers. There is however no *a priori* reason to presume that entrepreneurs from the different regions of the globe will perform better in these respects within the EU market.

It is possible that the EU retail sector is more saturated as regards the largest outlets than is the case for wholesale enterprises, so that any impact of liberalisation might be felt more sharply in the wholesale sector. Wholesalers are already under great pressure from a few dominant retailers, and some have become vertically integrated with them. Others have merged so as to gain competitive leverage in order to counter the weight of the retailers. Although wholesalers also have large fixed facilities, it is possible that supply chain management developments, especially the ICT innovations, will have a greater impact on them than on retailers, resulting in even greater concentration and the disappearance of the smallest firms. "Niche" operations in wholesaling are not as viable as in retailing. As for commission agents, they could find themselves under even more severe pressure.

As regards the developing countries which have hitherto maintained restrictions on the entry of foreign distribution firms, further liberalisation could lead to very different results. Concentration into a smaller number of large operators could occur relatively rapidly. However it is likely that overall, only a relatively small number of firms will be in a position to exploit such developments. In the distribution sector in developing countries the vast majority of outlets are very small, or are micro-enterprises with no workers other than the owners and immediate family. In most developing countries only a few firms – typically less than 20 taking wholesale and retail together – are relatively large. Among these only a handful from any one country have significant operations abroad, and even fewer are active globally. This pattern is unlikely to change in broad terms, though some firms from the larger developing countries may grow large enough to project their presence abroad as national economies expand.

To the extent that firms from developing countries are capable of exploiting opportunities in other developing countries this will boost South-South trade (as further discussed below); but distributors in developing countries would also face the possibility of greater competition from OECD-based firms which may have greater capacity in terms of capital, management know-how, global experience and economies of scale.

It needs to be borne in mind that while no sector of services trade can be said to exist in isolation, this is particularly true of distribution. Distribution is heavily reliant on efficient supply chain management, and to the extent that this involves the transport of products across national borders, it can be adversely affected by poor port management and customs practices, which are rife in many developing countries and which result in long delays. Increased costs can arise from the demands of border and port officials for corrupt payments. The regulations and practices affecting imports can thus have a major impact on the distribution sector, which is indirectly but strongly influenced by the parallel DDA negotiations on trade facilitation issues.

3. APPLICABILITY OF THE GATS RULES TO DISTRIBUTION SERVICES

3.1 The distribution sector

Distribution is the crucial link between manufacturers, farmers, food processors and consumers. The performance of the sector widely influences consumer welfare and price levels, since its transport costs and margins constitute a significant proportion of final prices. Poor performance can lead to the misallocation of resources and resulting economic costs. In most countries the sector ranks second in terms of GDP and employment (in the 15-25% range), and can account for up to 40% of total enterprises. The retail portion accounts for the major part, and in most countries it comprises single outlets under sole proprietorships ('mom and pop shops'). In developed countries there is increasing concentration through mergers and acquisitions, and some vertical integration where retailers control both the traditional wholesale function which is being squeezed smaller (a case of so-called "disintermediation", or the elimination of the intermediate functions of distribution), and in some cases production as well. This vertical integration can extend to the road transport fleets owned by the largest retail chains.

International trade in distribution services is partly through franchising abroad (the fees paid fall under GATS Mode 1), but is mainly conducted through FDI in foreign affiliates (i.e. GATS Mode 3) the data on which, for reasons explained in Chapter 1 above, do not show up in national balance of payments statistics. A few large EU-based retailers are present in many countries around the world, but the greater proportion of sales by US foreign affiliates, for example, is from wholesale services, with only a few large retail groups active internationally. In the main the largest retailing groups around the world keep to their national markets.

In most countries distribution services have not been provided by the state (apart from, in a few cases, monopolies for the sale of tobacco and alcohol). There is no attempt by the state to provide a universal service, unlike in the utilities, and in telecoms and transport sectors which are regarded in some countries as a proper area of public service. Thus privatisation of distribution does not produce the large opportunities for foreign direct investment which are seen in some other sectors. There is furthermore little evidence of cross-subsidisation and price control by governments – apart from some cases of price setting for a few basic foodstuffs, pharmaceuticals, tobacco and alcohol.

Retail distribution comprises a sector predominantly of family enterprises and small outlets. In most countries supermarkets and hypermarkets are usually constrained by local policies for licensing, town and country planning zoning regulations, and the consequent political pressures. These restrictions are likely to remain in place in many countries. The large groups only gain a foothold in developing countries as income per head of the middle classes rises, and then mainly in the larger city centres. Inward investment in distribution can frequently be difficult. Prime sites were taken long ago and brand names well established. Public reaction can be aroused if there is a fear that local community facilities or city centre life are threatened due to price competition from bigger units on the outskirts. Licensing permission can be controlled by authorities highly influenced by local retailers.

Nevertheless some multinational enterprises are active in retail services trade. Members of the European Retail Round Table (ERRT) who are active outside the EU, including in developing countries, are listed in Annex H. A wide range of factors may govern the decision to seek to expand overseas, including the level of saturation and competition in the home market; the desire for greater efficiency from economies of scale and scope; shareholder pressure for higher dividends, leading to pressure for increased turnover; and the aim to gain "first-mover" advantages in the largest emerging markets, pre-empting possible future expansion in such markets by enterprises from competitor countries.

Full liberalisation of access can probably never be achieved since societal objectives will prevail, expressed through land use zoning and limits on numbers and size of supermarkets and hypermarkets, and medium-sized outlets.

Wholesale distribution requires extensive warehousing and bonded sites, associated trucking and other transport facilities. The issues raised are principally land ownership, land use planning and zoning, traffic volumes, access to motorways, railway goods yards and seaports. All can be highly regulated and even emotive in public debate because of actual or perceived local environmental impacts.

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. Data on such cross-border transactions are not usually separately identifiable.

Franchising services are qualitatively different from wholesale and retail services. A franchisee purchases the right to use a business format designed by a franchiser, or to sell certain of its trademarked products or services in return for a fee and/or royalty to the franchiser. The relationship between the franchiser and franchisee includes not only the product, service, and trademark, but also the entire business format. Sales by affiliates of overseas franchises are classified by the industry of the product sold.

Specific commitments in respect of franchising made under the GATS frequently exclude the sale of tobacco; alcoholic beverages; pharmaceutical, medical and orthopaedic goods; weapons, munitions and arms; chemical products; military equipment; precious metals, precious stones and art; and petroleum and petroleum products. This limits, to some extent, the effectiveness of any liberalisation commitments which might be scheduled.

Franchising is not to be separately covered by the present study because there appear to be no issues relevant to franchised outlets which do not also apply to retail outlets more generally. Data on cross-border franchising transactions in the distribution sector are not separately identifiable.

Electronic commerce raises complex issues in the context of the definition of international trade in services and of liberalisation. E-commerce is not a sector of itself, but comprises many inter-locking services and relies on the physical infrastructure for its 'transport' or distribution. It greatly empowers suppliers, including SMEs, and individual consumers. The main beneficiaries initially are enterprises which can minimise physical stocks, streamline supply chains, reduce transposition errors on orders, and provide closer customer support.

At first the Internet was exploited for business-to-business transactions, but now household consumers are finding it increasingly convenient for comparing prices and product information from any country, and for transactions not only concerning goods, travel and hotels, but also of intangibles such as software, music and insurance.

The suppliers can easily track buying patterns and use the information to target advertising and special offers. They do not necessarily need expensive shop premises, nor the services of wholesalers, so that many of the considerations relating to traditional forms of market access do not apply. For certain products existing retailers have to fight back by emphasising shopping as a form of entertainment, and the chance to assess items in three dimensions and to feel the products. However, some of the most successful suppliers to consumers from websites are the major retail chains.

At present the low penetration of computers in developing country households holds back the growth of electronic commerce, and even the more advanced developing countries such as South Africa lack broadband capacity, which is a further handicap for Internet commerce.

The issue of keeping the Internet open for trade raises a very wide range of concerns, many of them falling outside the remit of the GATS negotiations and hence of the present study. They include privacy, child morality, taxation, encryption systems, secure payment systems, spam control, crime prevention, jurisdiction for redress and so on. Realistically, the growing use of E-commerce for the transmission of service-related information cannot be controlled without unwarrantable interference by governments in the freedom of individuals to engage in activities which are not illegal, even if they may sometimes be undesirable. There are uncomfortable conflicts of public interest and national policy here which no government has yet solved, but which all – including developing countries – have increasingly to grapple with.

In the EU Internal Market the issues for electronic commerce include the jurisdiction for the regulation of web and email servers, the clarification of the legal status of on-line contracts and emails, codes of conduct, cross-border co-operation, an alternative cross-border dispute settlement system, efficient legal redress, and the principle of applying host country control only in cases where home country control has failed. The same will increasingly be the case in other markets. Thus, opportunities in developing countries for E-commerce depend more on the development of their internal markets and national infrastructure than on liberalisation opportunities generated under the GATS.

3.2 "South-South" Trade in Services

Much of the debate regarding liberalisation of trade in services is still conducted in terms of North-South relationships, focusing on the one hand on the interests of multinational companies based in developed countries, which have the financial resources for international investment, and on the other hand on the widespread fears in developing countries about foreign domination of their economies. Economic exchanges, both trade and investment, between developing countries (South-South) are much less significant in volume than North-South trade and investment flows. Nevertheless, and particularly in view of the rapid growth rates in some developing countries, South-South trade is a dynamic factor and needs increasingly to be taken into account.

A recent paper by UNCTAD has estimated that "South-South trade and regional economic and trade arrangements can provide a supportive environment for entering dynamic and new sectors". For example, the paper notes that the MERCOSUR and AFTA have had a substantial impact on the expansion of trade in specific sectors among participating countries, as well as between these countries and the rest of the world. South-South trade can be a useful testing ground for developing countries to build export capacities in dynamic and new sectors; there are already signs that this is happening. South African firms have invested heavily in Kenya and Uganda, including a number of distribution firms. Chilean distribution firms are present in the Argentine market. Brazil has made requests in the GATS negotiations to Argentina, China, India, Korea, Mexico, Paraguay and Uruguay for market access in their distribution sectors. For cross-border expansion of distribution services to take place there needs to be a critical mass in the home market in terms of capital, skills and management resources, just as in other industries which undertake international investment. Inevitably therefore it will be distribution firms in the more advanced developing countries which will be better placed to take place of liberalised access in other developing countries.

China is already moving into outward investment in manufacturing, partly to gain assured access to established outlets and partly to secure new technology through acquisitions and joint ventures. As China continues to develop as a major manufacturing power, it is highly likely that Chinese undertakings will also establish a position in the distribution sectors of target markets. Initially this will happen in developed countries but increasingly China will participate in distribution in developing countries, to parallel the outsourcing of manufacturing operations which China may be expected to enter upon in due course. China's GATS Schedule lists relatively few restrictions on foreign providers of distribution services, except on a transitional basis. In certain areas and main cities inward investment in retailing is confined to joint venture operations, which are also limited in number.

In the case of India, Indian companies may explore the possibilities of opening affiliates/retail chains in countries with similar tastes (such as Pakistan, Bangladesh, Singapore, Malaysia, Sri Lanka and the Middle East).[5] However an Indian academic paper notes that currently the "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". It is recognized that in future, if Indian companies want to expand their sales in international markets, they would face stiff competition from the existing players, given that retailers from the Far East and South East Asia are already exploring the South Asian and Middle East markets."[6]

Overall, the commitments which were undertaken in the Uruguay Round in the distribution services sector were fairly restrictive in terms of both coverage and modes of delivery. India, along with a large number of countries such as Bangladesh, Chile, Egypt, Indonesia, Malaysia, Pakistan, the Philippines, Singapore and Sri Lanka, did not offer

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[5] UNCTAD: "Strengthening participation of developing countries in dynamic and new sectors of world trade: trends, issues and policies ", TD/396, 17 May 04, page 18 §43

[6] "Distribution Services: India and the GATS 2000 negotiations", Arpita Muckherjee, Working Paper No 80, Indian Council for Research on International Economic Relations, New Delhi, April 2002.

any commitments.[7] Even countries with very liberal foreign investment regimes such as Singapore have not scheduled any commitments. Thailand scheduled commitments only in commission agents' services. Although in Hong Kong the wholesale market is open to foreign investors, the territory did not make any commitments in this sub-sector.

The absence of existing GATS commitments does not, of course, necessarily imply that the country has a restrictive regime for inward investment. However in these circumstances it remains open to governments to impose additional restrictions on foreign service providers without the need to compensate trading partners. The consequence is uncertainty, because potential investors can have no foreknowledge of trade barriers that may exist in these countries, or of how investments will be treated once they are established. Such uncertainty is discouraging to investors from developed countries, who on the whole have much greater financial resources to withstand market fluctuations and uncertainties as well as a wider range of investment options. It is bound to be relatively more strongly discouraging to investors from other developing countries, who are unlikely to command similar financial resources or investment choices.

So far only a few distribution firms in developing countries are following the trend of cross-border investment initiated by those in the high-income countries. Nevertheless, the scope for increasing South-South trade in all services, including distribution, must be enormous. It is impossible to quantify this scope, since country by country it depends on the stage of development, on rates of economic growth and consumer income, and on rates of investment including FDI flows. Nevertheless there is very significant potential on a South-South basis for linking investment in distribution with cross-border investment in manufacturing as well as in other services. Governments would do well to encourage their firms to participate in this trade, and to consider entering into market access and national treatment commitments in the GATS negotiations which would increase the scope for more South-South investment in distribution, as well as improve the efficiency of their distribution sectors.

Where South-South investment in distribution services takes place, it is likely to be undertaken by large undertakings – small firms and individuals in developing countries will not have the capital or the cultural knowledge to undertake significant cross-border distribution trade. As regards the social and environmental consequences of South-South investment, these are unlikely to differ greatly from those of development by North-based distribution undertakings, certainly as regards environmental impacts such as increased traffic flows, pollution and demands on local services. Undertakings based in other developing countries may not however bring with them higher technical and labour standards and wages to the same degree as may be expected from North-based firms.

3.3 GATS and Distribution Services

3.3.1 Coverage of GATS

The GATS "applies to measures by Members affecting trade in services" (Art I:1). The definition of measures "means any measure by a Member, whether in the form of a law,

[7] Among the leading developing countries, Argentina, Brazil, Kuwait, Panama and Peru scheduled commitments in distribution services.

regulation, rule, procedure, administrative action, or any other form" (Art XXVIII (a)). These measures are categorised under four "modes of supply" (as described below).

The measures at issue in the present context are those which restrict market access, whether for inward investors in general or for specific enterprises, discriminate against foreign services and services suppliers (that is, as between foreign firms from different countries, or as between all foreign firms and their nationally-owned counterparts, to whatever extent), or otherwise unduly affect operations.

Governments impose many limitations on services and services suppliers for reasons of public order, safety and health, and consumer and environmental protection, and as an exception under Article XIV they do not have to be listed in the GATS schedules of member countries. Likewise, non-discriminatory domestic regulations relating to services do not have to be listed, but they do have to be based on objective and transparent criteria, and be not more burdensome than necessary to ensure the quality of the service.

3.3.2 The GATS modes of supply

The four modes of supply defined in Article I of GATS are:

- **Mode 1**: from the territory of one Member into the territory of any other Member. It includes commission agents' services, some parts of franchising services, catalogue and Internet (E-commerce) supplies to consumers' abroad, and delivery by fax, mail and express courier services.
- **Mode 2**: in the territory of one Member to the service consumer of any other member. Countries rarely place restrictions on outgoing citizens. The main activity in this mode is tourism, of vital interest to the distribution sector, but tourism as such is not likely to be affected by the GATS negotiations on mode 2. Some analysts also include in Mode 2 the supply of services to foreign affiliates by locals in the host country.
- **Mode 3**: by a service supplier of one Member, through commercial presence in the territory of any other Member. This is likely to be the main mode of supply for wholesale and retail, and, at least in part, for franchising.
- **Mode 4**: by a service supplier of one Member, through the presence of natural persons of a Member in the territory of any other Member. Here the significant issues are visas, work permits, immigration and labour laws. The most sensitive issues arising in negotiations on Mode 4 concern demands for the liberalisation of the temporary movement of semi-skilled and unskilled workers from developing countries into developed countries to work there in services enterprises. The numbers of managers, professional and expert staff moving on an intra-corporate basis between developing and developed countries is not likely to be large enough to cause concern. GATS does not envisage general access for foreign workers to national labour markets. Even so the issues raised under Mode 4 shade over into more fundamental issues of immigration policy and workers' rights.

In the DDA negotiations WTO members can only urge each other to bind the requests for market access and national treatment which are put to them. The need for implementation by developing countries of re-regulation and deregulation in their domestic market, as pointed to by the industrialised countries, is not within the purview of the GATS,

3.3.3 GATS Negotiations and Distribution Services

The analysis of the different forms of distribution services, and the applicability to them of the four GATS Modes, leads to the conclusion, that while sensitive issues may arise under Mode 4, concerning the temporary admission of professional and qualified personnel to developing countries, in order to support newly-established distribution units, by far the most important issues arise in relation to Mode 3, as regards the treatment of inward investments in distribution. Such issues arise, firstly, in relation to inward investments in general; and secondly, as regards any specific criteria or tests which may be applied to distribution undertakings.

Despite the importance of the sector, only 36 WTO Members made specific commitments during the Uruguay Round in at least one of the distribution sub-sectors, with only 21 such commitments covering commission agency services, and 23 franchising. Effectively, developing countries have not made significant commitments concerning distribution. This does not mean, of course, that they necessarily have illiberal regimes governing inward investment (see the appraisal of country studies at Chapter 4 below). It does mean that whatever the economic benefits which liberalisation of distribution and the creation of larger and more efficient units may bring to developing countries, in international negotiating terms the developed countries are the *demandeurs* as regards market access and the grant of national treatment in developing countries.

In summary, the GATS negotiations will attempt to liberalise **market access** and seek the grant of full **national treatment** for foreign affiliates, but not for the temporary movement of natural persons to supply distribution services. In this area governments will continue to impose any terms they deem necessary. Thus the role of **domestic regulation** becomes paramount, even where the grant of market access and national treatment are bound in GATS schedules of specific commitments. The negotiations will only peripherally affect the process of regulation, perhaps through somewhat stronger rules on transparency.

The developed countries on the whole have the most open markets and undertook higher levels of specific commitments on services in the Uruguay Round. The supply of distribution services in the high-income countries is fully saturated, most of them have little if any scope for further liberalisation, and the outcome of the negotiations will affect them only marginally. Most developing countries took no commitments in distribution, including those with the most restricted and protected markets. Thus the greatest effects of full liberalisation, proportionately to employment and income, would be felt by the developing countries, which will both be letting in foreign affiliates from Europe, America and Japan, as well as from each other, as South-South developments become increasingly significant.

Article X of GATS provides for the negotiation of emergency safeguard measures (ESMs) for services, on the basis of non-discrimination. After more than ten years the GATS disciplines on ESMs have not yet been agreed, and it is not possible to predict the provisions that could be available to the EU and its trading partners – both developed and developing countries – for dealing with surges of imports of services which unduly threatened domestic suppliers. In the distribution sector this is anyway an unlikely scenario for many developing countries. The main form of services trade in which they engage is under Mode 3 (commercial presence), and with few exceptions they actively seek inward FDI. As regards Mode 4, entry is likely to remain universally restricted owing to immigration controls applied by all countries. As regards Mode 2, all countries would welcome a surge of visitors, together with their purchasing power.

3.4 The Public Interest: Government Regulation and Corporate Social Responsibility (CSR) Initiatives

A crucial task for governments is to ensure that companies observe standards of business ethics, employment conditions and environmental responsibility, which are consistent, both with the national priorities of the host countries and with accepted international best practices. There are two ways of ensuring that inward investors observe acceptable standards. The first is through appropriate domestic regulation governing the operations of both indigenous and foreign-controlled enterprises. The second is to encourage companies voluntarily to observe agreed standards. Especially in developing countries, where frameworks of company law and regulation may be less rigorous or may not exist, incoming distribution companies need to be persuaded to observe clear standards of corporate responsibility, especially in social and environmental matters.

Even in developed countries with sophisticated government machinery, over-detailed enforcement of standards by government agencies can lead to excessive day-to-day intervention in company affairs, bureaucratic delays, increased costs, and obstacles to innovation. There is thus a general global drive towards a co-ordinated international system of setting standards at the level of governments, co-ordinated through international bodies such as the International Standards Organization, but for implementation on a voluntary basis. Even this approach presents problems for many developing countries, where systems for setting and implementing standards may at best be inadequate, and at worst barely exist.

At the same time there is a risk of creating such a growing and confusing "spaghetti pile" of varied, overlapping and possibly conflicting requirements, whether official or private, that this effectively excludes smaller suppliers in developing countries and LDCs, who do not have the financial, technical and educational resources to comply.

Therefore it is highly desirable that in parallel with the formal international and national procedures for standards setting, there should be wider acceptance by companies of standards of corporate responsibility. This is something that has to be promoted by the host governments. International organizations can offer a forum for discussion and development of standards, advice on implementation, and technical help. Some developed countries exert strong pressure over the standards e.g. of pay and employment conditions operated by their national companies or local affiliates in developing countries, but ultimately they cannot enforce such standards.

One consequence of the complex and decidedly patchy international situation on standards is that private sector enterprises, including distributors, are grouping together to set standards to be enforced at the beginning of supply chains for the products which they purchase. Such standards may cover product quality, production processes (including farming methods, which are an increasingly sensitive matter, particularly for consumers in developed countries), and labour conditions.

Some major store groups now operate detailed CSR programmes as detailed in their published reports. Such programmes include standards for affiliates, franchisees and suppliers in countries abroad. Standards may cover matters such as working hours, minimum wage levels, physical conditions of work and bans on the employment of child labour, and directly govern what goods are permitted to enter the distribution networks.

An inevitable consequence of the various initiatives and processes described above, is that the standards which are required and set in developed countries, whether these are centrally set by accredited national standards bodies, or observed voluntarily by companies, will come increasingly to predominate, including in the developing countries. This may look like another example of the relative weakness of developing countries in the face of inward investors. On the other hand the process has advantages for the developing countries, because:

- As already noted, the global trend in standard setting and implementation is towards greater co-ordination and consistency;
- Standards in developed countries are frequently higher than those in developing countries, and their introduction and application can assist the transfer of technology, training, and improvement of quality;
- Increasing impetus and support will be given to the process in developing countries of building up their own standards-setting procedures and accreditation bodies;
- If developing countries are to increase their exports to developed markets, it is essential for them to be able to comply with the standards which apply there.

While the majority of standards may not appear to apply directly to the distribution services sector, some do: for example standards governing working conditions, and transport operations. The full range of standards which affect international trade in goods apply indirectly to distribution, in the sense that they govern what goods are acceptable to be traded. Further liberalisation of distribution services by developing countries will bring with it increasing pressure to apply standards across the board which are consistent with those in international markets. The issue here for developing countries is how, in the distribution sector as in other sectors of their economies, to use standards constructively both in their own market liberalisation process and in improving their access to markets abroad, and to contribute positively to economic development.

Sustainability and CSR

Many of the internationally agreed conventions, such as under the auspices of the ILO, multilateral environmental agreements, human rights conventions and others, are not effectively implemented and lack appropriate enforcement tools and sanctions. This unsatisfactory situation derives in part from the lobbying of multinational companies against binding rules that would restrict their freedom of action in areas such as these. By contrast, companies have shown significant interest in protecting their position through voluntary adherence to CSR standards. Annex I lists a number of private sector initiatives and international institutions which are active in the development and promulgation of international standards including CSR.

The balance of risks and benefits of implementing codes effectively varies with company size and geographical spread. Even though all seem likely to observe the ILO core labour standards, there are various designs and varied degrees of stakeholder participation resulting in a lack of comparability and in confusion, especially for SME suppliers (based in developing countries) to the retail trade, who are faced with a variety of standards, many of which are beyond their technical and financial resources to meet. A number of sectoral initiatives are in hand in EU Member States, with the aim of systematizing the operation of voluntary codes.

The EU Commissioner for the Internal Market has said: "The Commission does not want to enact a European code of corporate governance. We see no need for this at present and the adoption of such a code, if it were even possible, would be an inevitable and possibly messy political compromise, which would be unlikely to achieve full information for investors." He also made clear that having different codes in the EU "may entail some frictional and fragmentary cost", and the Commission would therefore encourage moves towards greater convergence.[8]

There are doubts about the effectiveness of voluntary codes in achieving consistent standards, and there is a lack of independent monitoring and verification of the effectiveness of CSR initiatives. There are few if any regulations governing how independent auditors should assess social and environmental issues in the context of company reporting, and little opportunity for workers to contribute to the process, other than through internal corporate structures. Certainly in the shorter term, for developing countries, it appears that the enactment and enforcement of balanced and transparent local regulations, governing such matters as corporate behaviour, labour, social standards and environmental protection, is essential. In many developing countries this cannot be achieved without outside help. Governments and donor agencies in developed countries should consider offering technical assistance for the preparation and implementation of appropriate regulations, related in particular to planning and environmental concerns.

[8] Quoted in the Financial Times of 21 January 2005.

4. REVIEW OF EVIDENCE ON IMPACTS OF LIBERALISATION OF DISTRIBUTION SERVICES IN DEVELOPING COUNTRIES

4.1 Introduction

This chapter presents the various sources of information and evidence relating to the effects of distribution services liberalisation which will be used to assess the likely significant sustainable development impacts of GATS liberalisation in developing countries. Three main bodies of evidence are reviewed:

- Previous studies of the distribution sector (section 4.2)
- Modern developments in food retailing (section 4.3)
- Country case studies for Brazil, Kenya and Malaysia (section 4.4)

4.2 Previous Studies of the Distribution Sector

The SIA has included a study of recent literature relating to the distribution sector. Summaries of relevant reports and studies are included at Annex B.

The range and varying focus of these studies mean that no consistent conclusions can be drawn from them. Nevertheless it is possible to identify a number of issues which serve as a focus for the SIA of distribution.

The wholesale and retail sectors, taken together constitute a substantial proportion of GDP (in some cases as high as 11-13%), even in relatively less developed economies. In developing countries the retail sector, in particular, is characterized by a high proportion of small, mainly family-run, undertakings. A study by the World Bank has concluded that the service sector in a country expands in line with growth of GDP per head[9]. However, once GDP growth has passed a certain point the proportion represented by distribution services tends to fall again, in an inverted U-curve, as the benefits of sophisticated operating methods and economies of scale kick in. An important cause of this effect is the growth of larger distribution outlets – supermarkets and hypermarkets – and in particular the arrival of major foreign-owned distribution chains. Depending on local legislation, a common route for such multinational companies to establish themselves in a national distribution market, at least initially, is through acquisitions and/or joint ventures.

Among the **positive** aspects of liberalising distribution services are the following:

- As a general pattern, the benefits of liberalisation feed through and benefit the whole economy;
- Liberalisation and the development of distribution, along with other service sectors, is essential to the balanced development of an economy as a whole;
- The development of larger-scale distribution outlets, usually but not exclusively in connection with inflows of FDI, improves efficiency and yields economies of scale, providing certain consumers with better prices, quality, hygiene standards and choice;

[9] World Bank (2001)

- Local producers are stimulated to improve their production methods and standards, and can use newly created international supply chains to increase their own exports.

Possible **negative** consequences include these:

- The benefits of liberalisation and development of larger distribution outlets can cause shorter-term loss of existing jobs, as for example supermarkets and hypermarkets, whether domestically- or foreign-owned, drive out smaller indigenous distributors;
- Increases in the quantity and scale of trade can lead to adverse social consequences, and extra environmental costs such as the generation of extra waste products and the need for new infrastructure construction;
- In developing economies, the workforce may be in a weak position to resist potentially oppressive working practices on the part of major distribution outlets;
- Global sourcing practices of major international outlets may deny to local producers and suppliers the benefits of technology transfer and depress local prices that they receive for their products;
- Major retailers can apply great pressure back through the supply chain on producers and farmers as regards prices and quality, but the benefits of productivity improvements may not be equally passed down;
- The regional and global just-in-time supply chain sourcing systems can pass the whole risk of varying demand patterns experienced by retailers down to small suppliers and farmers. Where such suppliers are located in developing countries the risks, including unemployment, are ‘exported’ back to them from the industrialised countries;
- Increased regulation associated with liberalisation and new developments in distribution, covering such issues as trading hours and employment standards, may offset some of the efficiency gains from the largest scale outlets;
- Host governments may be confronted with the need to provide extra and improved transport infrastructure and other services;
- To offset the benefits gained from lower prices to consumers, there may be adverse financial effects from large new facilities such as increases in land prices and rents, leading to inflationary pressures elsewhere in the economy.

The studies suggest a number of other issues arising from liberalisation, which may be inherently **neither positive nor negative**, but which governments need to take into account when preparing policies to accompany the liberalisation of distribution:

- Important changes in the nature and scale of the distribution sector give rise to the need for new and effective regulatory and competition policies;
- In the interests both of indigenous traders and of inward investors, regulatory systems need to be enforced equitably and transparently;
- Large retailers compete very closely with one another, particularly on price, and often operate on very narrow margins. Governments need to recognize this competition when negotiating with individual distribution undertakings e.g. on conditions and terms of entry;

- Large and well-financed undertakings have extensive bargaining power in their dealings with governments, particularly in developing countries;
- Some barriers to entry in national markets may arise less from issues of economic or legal policy than from national tradition or social preferences;
- Requirements governing market entry, for example minimum capitalisation or land zoning regulations, may constitute important barriers to investment;
- Regulation which inhibits the flow of inward investment to the distribution services sector also inhibits potential efficiency gains;
- In principle, it is possible for governments to operate the full range of regulations governing the distribution sector so as to discriminate against foreign-owned undertakings;
- The often far-reaching social and employment changes brought about by liberalisation require effective and equitable policies of social support to cushion the impact of rapid change.

4.3 Modern Developments in Food Retailing

New structures

This section draws extensively on the analysis in *Not on the Label* by Felicity Lawrence[10]. It concentrates on modern methods of food distribution, but similar issues increasingly arise in regard to the transport and retailing of other products.

The multinational food retailers form the end of a 'just-in-time' supply chain that starts with farmers and horticulturalists who are mostly small-holders. These producers cannot form large and powerful groupings such as are characteristic of the food manufacturers and processors (bakers of bread and biscuits, confectioners, coffee roasters, etc), some wholesalers and middlemen, and above all the retail organisations. Globalisation, liberalisation and deregulation have placed great power in the hands of a relatively few nationally-based firms, some of which have a global presence.

There are many examples of concentration in international food distribution, for example:

- 1 firm has 57% of the global soluble coffee market
- 5 coffee roasters/manufacturers buy 50% of the global supply of coffee beans
- 5 firms control 70% of global banana trade
- 1 firm controls 45% of the global grain trade
- 4 soya traders have 75% of the US and EU markets
- 1 firm has 42% of US corn exports
- 110 buying desks order the food eaten by 430 million people in Europe.
- 10 manufacturers of best known brand foods dominate in global terms
- 3 firms sell 70% of confectionery in the UK
- 2 bakery firms dominate the supply to UK retailers
- 4 EU retailers hold 75% of the Czech grocery market.

The major retailers in Europe, which also account for most of the top 30 global grocery firms and account for a third of food sales worldwide, dominate the manufacturers and

[10] Penguin Books, 2004

processors. They often replace traditional wholesalers by using use their own lorry fleets. The food supply chain stretches right across Europe. It includes many other countries around the world. Many products are sourced from suppliers with low costs, where the harvesting, grading and dispatching work is principally labour-intensive. In these circumstances powerful buyers can exercise monopsony or near-monopsony purchasing power and depress prices to producers.

Even in developed countries growers tend to have to sell their produce to single buyers. This enables retailers, wholesalers and manufacturers / processors to pass the economic risks down the line to the farmers, including the costs of advertising, loss leaders, special offers and discounted promotions.

Modern food distribution methods have partly developed in response to, and partly generated, certain perceived consumer demands, such as the all-year-round availability of fruits and vegetables which are seasonal in temperate climates, consistent appearance and taste, and longer shelf-life. These developments have enormously extended, but also in many respects transformed, range of food varieties on offer.

The warehousing of products in large fixed facilities has given way to the just-in-time supply chain, so that effectively lorry fleets perform the storage function while in transit. Typically, produce is collected at major computerised distribution depots and transport centres and then delivered by lorries, which may carry loads of up to 40 tonnes each, to retail stores where there is only minimal back-of-store storage. Powerful IT systems at the checkout desks in stores communicate replenishment needs to the distribution centres and farmers. It is calculated that in the UK food retail lorries now account for about 40% of all commercial traffic.

These major developments in food distribution have occurred in the past two decades. They have impacts in areas such as the environment, labour, health, agriculture, trade and competition, which may be grouped as follows.

Economic impacts

Consumers benefit from the constant availability of an increasingly wide range of products, from consistent product standards and cheaper prices. As regards the distribution undertakings, the major retailers have the highest profitability in the supply chain, achieved through progressive sectoral consolidation and partial vertical integration, which has put them in the most powerful competitive position. Smaller retailers have to group together or go out of business. The same applies to the smaller farmers and wholesalers, who lack capital resources and expertise. The manufacturing and processing functions have also tended to group together into oligopolies in order to withstand the power of the retailers, not always successfully. Where large new stores are opened, the general pattern is for existing smaller outlets to be driven out of business.

In the circumstances of these new patterns of distribution and retailing there is, in one sense, powerful competition because the major retailers compete intensively with each other on price, for public profile and image, for market share, for the most efficient access to supplies in order to optimise transport times, and for the best retail locations. On a different level their practices, either individually or collectively, are strongly anti-competitive because of their dominance of suppliers, who are effectively not free to negotiate freely with buyers of their produce, and the depression of prices paid to suppliers, which has a knock-on effect through reduced standards of pay and conditions for workers in many producing enterprises, including the agricultural sectors of otherwise highly developed countries. Even if a producer does take the major risk of breaking free from the dominance of a particular monopoly buyer, it may only be in order to end up in a similar relationship with a different buyer.

The reach of national anti-trust authorities is limited in dealing with the multinational major retailers, and although it is a common practice for powerful retailers to target their smaller competitors by selling selected merchandise lines below cost, effective action against predatory marketing practices is rare. In many developed countries national policies accentuate market distortions, for example through subsidies to paid to Western farmers for sugar, wheat, maize (corn) and rice which distort world market prices and push farmers in developing countries out of business.

Social impacts

It is convenient for richer consumers to be able to travel to large supermarkets of hypermarkets to find all the goods they need (increasingly clothing, electrical and other products in addition to food) on one site. However once the existing small shops in a locality have disappeared, the poorest consumers, who do not own cars, have to travel further than before, on foot or by bus or even by taxi, to the stores. They can only buy the cheapest food products, which in the main are the most highly processed and have higher salt, fat, sugar and water content, together with additives to mask the fat, starch and sugar. Such a diet is known to contribute to higher rates of diabetes, heart diseases, cancer and increased depression – and in children other abnormalities as well. Few countries act to restrain the construction of larger retail outlets, as did France on grounds of "social and economic cohesion and the fabric of society."

At present such effects of displacement of traditional smaller shops are felt mainly in developed countries, or in urban areas of the more advanced developing countries, where the development of modern retailing has progressed furthest. In the poorest and least-developed countries, where many people either subsist on the land or buy fresh local produce on a hand-to-mouth basis, larger retail outlets have made less progress so far owing to the general lack of sufficiently affluent custom. In these countries the effects of development of larger stores are still localised, mainly in urban areas, and otherwise contingent rather than actual. They will become more apparent as economic development proceeds and at least some consumers have bigger disposable incomes.

Health and environmental impacts

The higher standards of hygiene and handling practised by large distributors are a marked advantage for consumers, to whom modern rapid delivery methods generally deliver goods fresher and in better condition.

At the same time there may be adverse health and nutrition effects. The vitamin content of food goes down the longer the journey. Intensive production methods can produce less healthy and less nutritious products, for example in the cases of fish and prawns which if intensively reared contain lower amounts of essential oils needed for brain functioning than do those caught in the wild. The WHO has reported that 60% of deaths are related to recent dietary pattern changes, involving foods with high fatty, salty and sugary content, while unbalanced nutrition causes up to 40% of cancers.

As regards environmental impacts, international supply chain systems increase the use of unsustainable oil fuels in air and truck freight, and of oil-based plastic packaging. As an example, it is estimated that in the United Kingdom households consume 25% of oil, of which 70% relates to food. The food industry is the third largest user of energy, and accounts for between 12% and 20 % of greenhouse gas emissions.

Both trucking and airfreight cause air pollution and increased emissions of climate change gases. Consumers who have cars have to travel further to shop at the major outlets. Perceived consumer demand for cosmetic perfection of fruits and vegetables leads to high wastage rates, while traditional crop rotation methods are supplanted by the greater use of pesticides, antibiotics, disinfectants and agro-chemicals harmful to the soil and waterways. In some fertile areas of developing countries coffee growing and horticulture have replaced natural forests, with a consequent impact on wildlife. Animal rearing is generally practised in intensive industrialised facilities, such as fish and prawn farms, many of which replace natural habitat and adversely impact local fishing grounds.

As in the case of social effects, the impact of modern retail developments on public health is so far felt more extensively in the developed and the more advanced developing countries, and for the same reasons. However the damaging environmental effects of more intensive production methods, for example of meat and fish, are felt immediately and exclusively in the developing countries in which they are practised.

4.4 Country Studies in Brazil, Kenya and Malaysia

Terms of reference for the studies of the distribution sectors in individual developing countries are attached as Annex C. The full studies are attached respectively as Annexes D (Brazil), E (Kenya) and F (Malaysia). The specialists involved in preparing the country studies are listed in Annex G.

The purpose of the country studies has been to add to existing knowledge about distribution services in developing countries, and to draw from these detailed studies more general lessons about developing country interests. They have aimed to identify both direct and indirect impacts in the selected countries of the further liberalisation scenario compared with the base scenario. They have focused on economic impacts (both macro- and micro-economic); social impacts (including impacts on employment, incomes, consumer interests and health and safety); and impacts on the environment and biodiversity. The studies have attempted to identify how such impacts of liberalisation work through the economy of the subject countries and over what timescale, and how durable are the changes that they bring about. The aim is to identify trade-offs between different areas of policy and activity related to distribution, to clarify the occurrence and nature of risks, and to identify "win-win" situations under which policy initiatives can be formulated from which all parties potentially may gain.

The studies are not of course fully comparable, given the differing circumstances in the markets studied and the very different quality of data available in them regarding distribution services. The following Table sets out the main points in the respective analyses. Views expressed are those of the specialists, and are not necessarily to be understood as conclusions of this SIA.

Tabular presentation of the main points in the studies of the distribution sector in selected developing countries

Topic	Brazil	Kenya	Malaysia
Economic background	The distribution sector has developed during the last decade in line with the general economy. There has been a liberal economic policy since 1994. Too much hot money was attracted, leading to stop-go performance. Since 2002 growth has been restored and inflation controlled.	The performance of the economy from 1986 onwards was in severe decline because of mismanagement and infrastructure problems. Extensive liberalisation during the 1990s and lack of regulation in the banking sector had disastrous economic consequences	Malaysia, while still formally classed as a developing country, has reached an annual figure for retail sales per capita which, at US$1,025, is similar to that for Turkey. Malaysia has no comprehensive competition law.
Importance of distribution in the economy	Between 1994 and 2003 services as % of GNP fell from 64% to 57% as other sectors grew faster. Distribution as % of GDP fell from 14.6% in 1994 to 11.4% in 1998 but recovered to 13.5% in 2003	In 1996-2003 wholesale and retail services represented 8.6% of GDP. In 2002 employment in services represented 62% of employment in the formal sector. It has been estimated that in the informal sector, 3.3 m people worked in hotels, restaurants and distribution in 2003. In the formal sector, the comparable figure was about 160,000. A separate calculation suggests that in 1999 540,000 people were employed by small or medium-sized retailers.	Services account for 47% of GDP of which distribution services represent 13%, or 6% of GDP. In the fourth quarter of 2003 retail sales totalled about US$3.9 bn. Despite seasonal fluctuations, there has been a steady increase in turnover of the retail sector since 1999.
Structure of the distribution sector	Retailing is regionally fragmented because of the size of the country. Retail companies accounted in 2002 for 85% of total distribution companies and 73% of employment in the sector, but only 35% of turnover. Small companies dominate. Wholesaling accounted for 7% of companies but 42.5% of turnover. Almost 75% of distribution companies are located in the richer Southeast and Southern regions. Shopping centres expanded fast in the 1990s. Franchising is generally rare. . Distribution was responsible for 35% of new jobs created in the formal market in 2003.	Most of the retail sector consists of small single shops and sole proprietorships dealing chiefly in food, clothes and footwear. Levels wages and skills are low. Most current distribution firms were established after 1987 . Economic liberalisation in recent years has led to a huge growth in the informal sector. Larger firms tend to be older-established and few have been established in recent years because of the country's severe economic problems and infrastructure difficulties.	There are several retail store formats, ranging from hypermarkets and supermarkets to small family shops, and a large sector of efficient specialist retailers which handles 80% of retail trade (but is dominated as to 58% by the motor trade). In 2002 there were 153,660 retail establishments generating revenue of US$19 bn. and employing 512,815 persons of whom 56% were employees and the remainder sole traders or family workers. Retail accounts for 90% of distribution establishments and 70 of employment. Wholesaling represents 62% of th value added in distribution.
Presence of supermarkets and hypermarkets	Big stores have existed since the 1950s. Most entered through joint ventures. In 2002 hypermarkets and supermarkets accounted for 0.7% of companies and for 1% or retail employment, but for 11.6% of turnover.	There is evidence of concentration in the distribution sector and of emergence of larger outlets including chain stores.	At the end of 2003 some 57% of retail sales were accounted for by larger stores having annual sales of US$330,000 or over. Hypermarkets and large supermarkets have entered the market, and supermarkets are increasingly prevalent.
Extent of foreign ownership in distribution	By the end of the 1990s there was 25% foreign capital in supermarkets and hypermarkets and 5 out of the 10 largest	There is little evidence of significant foreign ownership in distribution.	Hypermarkets and large supermarkets are mainly owned by foreign retailers, including Carrefour, Giant,

	companies had at least 50% foreign capital. Only one of the 7 largest supermarket chains is Brazilian		Tesco and Jusco
Progress of concentration in the market	By 1974 supermarkets already accounted for 56% of food sales, and the arrival of Carrefour in 1975 led to further expansion of the sector.	Increasing demand for higher standards of service and better quality is leading to the growth of larger retail units and more concentration.	In parallel with Malaysia's industrial development, the distribution sector shows increasing concentration. However many family-owned stores show a capacity to adapt and are still competing with supermarkets in niche markets.
Positive impacts of liberalisation including establishment of large stores	The arrival of foreign supermarkets and modern distribution technology has increased jobs and led to improved efficiency and higher educational and training standards.	Cheaper goods, more competition i the market, and better access to foreign exchange. As a creative response, small African-owned enterprises are getting together in "Exhibition centres" to share overheads and provide wider ranges of competitively priced goods.	The growth of retailing by 18% from 1999-2003 is wholly due to large retail stores. Large stores accounted for some 23% of store workers, and paid wages up to five times the level of those paid by the smallest. There is a shortage of skilled workers for more advanced shops.
Negative impacts of liberalisation including establishment of large stores	There has been a sharp decline in department stores and in wholesale companies, which declined from 7,200 companies in 1954 to 216 in 2000. Smaller retailers suffer from the spread of supermarkets and hypermarkets. Supermarkets cause more pollution from increased traffic, discarded packaging and calls on resources.	Liberalisation and increased imports caused a number of domestic manufacturers to close during the 1990s, and other major manufacturers are downsizing. Establishment of larger units can increase competition for land use, a lead to extra pollution and risks to health from transport and activities such as bulk-breaking.	Small retail outlets and specialised stores, while still relatively healthy in Malaysia, are threatened by concentration and by the increasing prevalence of larger stores. Supermarkets and other larger stores in their turn have been adversely affected by the establishment of hypermarkets.
Social structure of distribution, including ethnic structure and gender	In 2000-2002 men accounted for c.62% of retail employment, slightly declining. Women accounted for c.37%, slightly rising. This mirrors general employment patterns. Women tend to be paid about 15% less.	The smallest distribution outlets, mainly retail, are owned by Africans. Asians own about 76% of medium and large wholesale and retail businesses (mainly family concerns). European ownership is very small and limited to agencies. Women dominate smaller-scale (chiefly food) distribution but men dominate distribution transport as to 90%.	The Bumiputera people, although 70% of the population, represent only 15% of retail employment. The Government is making efforts to get more Bumiputera into distribution. Malaysia has a relatively high degree of gender equality in work, but regulations concerning eg. maternity leave for women are quite restrictive.
Extent of GATS commitments regarding distribution	GATS Modes 1, 2 and 4 are unbound. Market access under Mode 3 is bound (no restrictions) except for motor vehicles and parts and wholesaling of fuel-related products.	Kenya took no MFN exemptions under GATS. There are no GATS commitments regarding distribution.	Malaysia has very few GATS commitments in the distribution sector. Distribution is subject to general controls on company acquisitions and temporary entry of intra-corporate transferees and other experts.
Commitments under other international agreements	Further liberalisation commitments are under negotiation in MERCOSUR.		
Inward investment regime	Very liberal.	Since the mid-1990s Kenya operates one of the most liberal investment regimes in Africa. Export Processing Zones benefiting from extensive tax concessions were introduced in 1990.	Regime for capital inflow is largely liberalised.

Regulations governing ownership and operation		Businesses must be locally incorporated. Until recently there were restrictions on the foreign ownership of quoted companies. Distribution undertakings have to be licensed, and the Trade Licensing Act requires that foreigners conduct business in specific areas designated as general business areas. Local authority permits have to be obtained to conduct business. There are restrictions on the employment of foreign nationals in some services, including tourism and transport. Professionals working in certain services must have work permits.	All businesses with foreign equity must be locally incorporated. There are minimum capital requirements ranging from RM50 million (US$13 million) for hypermarkets to RM1 million for speciality outlets. Bumiputera equity of 30% must be included. Approval is required for the acquisition by foreign interests of voting rights in Malaysian corporations above certain limits or of a controlling interest. The Hypermarket Regulations require certain minimum conditions including RM50 million capital per outlet, a distance of 3.5 km. from urban centres, and car parking provision. An employee cannot be required to work more than 8 hours per day or 48 hours in one week.
Planning regulations	There is a lack of effective urban planning in Brazil.	The Local Government Act 1998 lays down zoning and planning requirements regulating distribution outlets.	There is a freeze till 2009 on hypermarket development in certain areas.
Environmental regulations		The Environmental Management and Coordination Act 2001 places requirements on all investors regarding environmental protection, including prior environmental impact assessments and permissible levels for air, water and soil quality and noise.	
Health and related regulations		Distributors of some products may be required to get licences from government agencies to ensure compliance with health etc. requirements.	
Other regulations affecting the distribution sector			The Price Control Act 1946 and subordinate regulations give power to control prices of a long list of items eg. basic foodstuffs and fuels. The Control of Supplies Act 1961 confers powers to regulate supply and distribution of essential goods, including licensing powers and import regulations. The regulations for Bumiputera participation provide special training and credit arrangements for Bumiputera and set an overall target of 30% for Bumiputera participation in capital.
Policy priorities	MERCOSUR has proposed in the current GATS negotiations	Kenya could bind market access for services that currently	Malaysia should undertake further economic

	that all WTO members liberalize all sectors of distribution services. Brazil also needs to take **internal** measures to modernise infrastructure, improve education and skills and introduce a serious programme of urban planning.	receive little protection such as transport, travel, insurance and environmental services; and liberalise those which are not domestically produced and can improve competitiveness, eg. telecoms and IT. It is vital to negotiate under the GATS an effective short-term and time-limited Emergency Safeguard Mechanism on the lines of GATT Article XIX, which would be transparent and triggered by objective events. The problem of inadequate data on services must be tackled. There is a need to make gender equity and equality a mainstream priority in distribution; and possibly to review local zoning and planning requirements to ensure that they do not hold back development of the distribution sector.	liberalisation, including the distribution sector, only stepwise and slowly, in view of the considerable economic, environmental and social impacts that would be entailed.
Likely impact of base liberalisation scenario	Because of the openness of Brazil's investment regime, no discernible impact is likely.	Given Kenya's existing liberal investment regime, the overriding impact of macro-economic problems in recent years, and the fact that environmental etc. regulations are not targeted specifically at distribution, it does not appear that the base scenario would have any discernible effect.	Malaysia took very few commitments under GATS affecting distribution. Day to day operation of the sector is relatively little regulated. Accordingly, the base scenario is likely to have little impact. Existing growth in the power of inward investors can disrupt the structure of distribution.
Economic impacts of further liberalisation	There would be **positive** impacts from increased inflow of FDI and improved technology and infrastructure development. **Negative** impacts would include more competition for local firms, closures of small retailers and possible further decline in the wholesale sector.	Equally, in as far as further liberalisation would consist of binding existing liberal entry regimes, it is not possible to distinguish specific consequences. Increased domestic competitiveness would have beneficial effects on activity and employment.	**Positive** impacts would include increased efficiency in distribution. On the **negative** side, amendments to or possible repeal of the Price Control Act and the Control of Supplies Act would be required, which would undermine the ability of smaller retailers to compete.
Social impacts of further liberalisation	**Positive** impacts from increased inflow of FDI would include creation of new jobs and improved educational standards and training. **Negative** effects could include more job losses. Uncoordinated or rushed FDI inflows could cause disproportionate impacts on workers according to localities.	**Positive** impacts could include the creation of better-quality and better-paid jobs, and the transfer of technology. **Negative** impacts could include loss of existing jobs, particularly in small retailers, and potential adverse environmental consequences.	On the **positive** side, liberalisation of the Hypermarket Regulations could be beneficial as regards wider product ranges, lower prices, and better hygiene standards. **Negatively** it would mean intense price competition for smaller stores and possibly accentuate the rate of disappearance. Amendment or repeal of the Price Control Act and the Control of Supplies Act could open the way to predatory pricing which could hurt poorer consumers. Abolition of the Bumiputera Regulations would be necessary. In the longer run social stability could be undermined.

Environmental impacts of further liberalisation	Adverse impacts could arise from increased construction, more pollution, and higher demands for energy and other services in the richer and more populous areas where infrastructure is often already inadequate.	**Negative** impacts could include potential adverse environmental consequences.	There could be a risk of goods being imported from countries with lower standards. Development of more major foreign-owned distribution outlets could have environmental consequences in terms of congestion, pollution etc. On the other hand, larger multinational corporations tend to observe higher environmental standards.
Prospects for further liberalisation in the short term	It is unlikely that Brazil will take early measures for further liberalisation unless negotiations within MERCOSUR make enough progress to permit this on a regional basis.	The investment regime is liberal. The economy is beginning to recover from the severe difficulties of the late 1980s and 1990s, but there still seems little early prospect of liberalisation and FDI inflow.	Capital inflows are already largely liberalised, subject to the specific conditions described in the study. There is little likelihood of the Price Control Act being eased in the short term.
Prospects for further liberalisation in the longer term	Brazil is negotiating for liberalisation in MERCOSUR and has jointly made proposals for further extensive GATS liberalisation. This would need to be on a basis of reciprocity and fair conditions for all.	It would be better to delay liberalisation of distribution to the longer-term, and to establish the specific sectors whose liberalisation can benefit the economy as a whole and promote transfer of useful technology.	Malaysia is unlikely to undertake significant liberalisation under GATS Mode 4, because of fears which already exist concerning potential immigration from neighbouring countries. Liberalisation of the Hypermarkets Regulations (due to expire in 2009 in any case) is likely to be the first step, and the main priority for Malaysia's partners.

Appraisal

The above summary of the country studies demonstrates the differences between the markets, as well as marked similarities in their distribution sectors:

- ***A dynamic approach to distribution***. In **Brazil** the concentration of retailing into the hands of a relatively small number of powerful supermarket groups has already gone a long way, particularly in the major cities and more populous regions, although it was retarded during the economic difficulties of the 1980s. There are still many small retailers, but they are under increasing competitive pressure from the bigger outlets. In **Kenya** there has been strong growth in retailing during the last decade, but because of economic difficulties at the national level this has occurred mainly in micro and small distribution enterprises. The market has not been attractive to larger retailers or to inward investors. In **Malaysia**, which is rapidly industrialising, the most vigorous retail development is in the establishment of larger-scale outlets, which have advantages in efficiency, lower prices, hygiene and quality. The Government has identified retailing as a leading tourist attraction of Malaysia.
- ***Continuing importance of small outlets***. In **Brazil** companies with less than 10 employees accounted for 93.5% of retail companies by number in 2002, and for 55% of employment in retailing, though for only 22% of turnover. In **Kenya** the sector consists predominantly of micro and small firms, employs a large number of relatively low-skilled workers at low wages, and involves mostly women. In **Malaysia** retailing is also characterized by small stores, which employ the majority of workers in the sector, but larger outlets have gained more ground (subject to a temporary standstill on hypermarket developments in some areas). Some 80% of retail trade is carried on through specialised stores.
- ***Growth of larger outlets such as supermarkets and hypermarkets***. In **Brazil** the development of supermarkets started relatively early. The supermarket sector, in which there is a considerable degree of concentration, has long accounted for the greater part of food sales and is the main channel of distribution for basic consumer products. In **Kenya** supermarkets and other larger-scale outlets are present in the market and changes in consumer preferences, together with more sophisticated foreign products, are leading to a demand, at least in the towns, for higher service quality which threatens the smaller retailers. However the development of large outlets (none on which is foreign owned) slowed during the 1990s because of severe economic conditions and reduced incomes. In **Malaysia** larger outlets, which are mainly foreign-owned, now account for almost 60% of retail sales. This threatens the smaller and family-owned shops, the numbers of which are likely to continue declining, and a standstill has been imposed on hypermarket developments in some areas for environmental reasons.

In all three countries the world-wide trend towards the creation of larger distribution units and integrated chains, and the decline of smaller outlets under the impact of competition, are discernible; though the dynamics are very different, reflecting different economic and policy conditions. This places the traditional small retail sector under pressure, though in each case there is still a high proportion of small businesses, often family-owned or individual traders, particularly in retailing of basic products. Predictably, workers in such businesses are more numerous, less productive, and less well trained and paid.

Also predictably, it appears to be the general economic environment which is the most important factor conditioning the interest of international investors in locating in a country. **Brazil** has a liberal policy towards FDI, but although no special restrictions were imposed on inward investment during the economic troubles of the 1980s and early 1990s, obviously investors were deterred, and distribution undertakings already in the market were forced into a process of concentration. In **Kenya** the liberal policy towards inward investment in distribution has been substantially negated in recent years by the general unattractiveness of the economy to investors and by perceptions of corruption. To this may be added unquantifiable effects arising from strict physical restrictions which are imposed on investments for planning and environmental reasons. On the other hand in **Malaysia**, where the basic investment regime is much less liberal, and where for social reasons which are particular to Malaysia there are requirements as to the participation of certain ethnic groups, inward investment in distribution has been so dynamic in response to general economic and industrial development as to justify the government in restraining it in certain areas.

Brazil and **Kenya***,* like most developing countries, have not inscribed access commitments for distribution services in their GATS Schedules, except that Brazil has inscribed commitments as regards GATS Mode 3 excluding the motor sector and the wholesaling of fuels. Both have generally liberal investment regimes, so the base scenario is likely to entail little, if any, change from the present situation.

Although **Malaysia** has a generally liberal distribution system, its existing GATS commitments do not extend to the retail and wholesale sectors. In this case also the base scenario would entail little or no difference from the current situation.

Neither **Brazil** nor **Kenya** would appear to have anything significant to offer by way of further opening in their inward investment regimes. Although **Kenya** places significant planning and environmental requirements on commercial developments, which may in some cases deter investors, there is no indication that distribution undertakings are specially targeted or disadvantaged under such regulations. The most that Kenya could reasonably be expected to offer in respect of such requirements – provided of course that the existing law is applied fairly and honestly – would be scrupulous observance of national treatment for inward investors. Existing small-scale distribution firms, and the women who predominantly work in them, are under pressure in Kenya from competition from larger undertakings. Significant further development of large stores could intensify this competition. The main factors that could lead to the development of more large stores would not however be further liberalisation of access, but improvement in the governance of the economy, increasing income per head, and decisive action to combat and reduce corruption.

In both **Brazil** and **Kenya** the development of larger distribution outlets could also give rise to social effects (especially on employment), and to environmental and resource effects. In Brazil this would merely be as a continuation of the present situation. Kenya already has detailed planning and environmental control laws which, however, need to be more effectively enforced.

Further liberalisation in **Malaysia** would increase the heavy pressure already felt by small retailers and wholesalers, particularly through the further entry of international distribution chains. In terms of social consequences, it could increase the need for more highly-qualified staff in larger shops, but at the same time reduce employment in smaller firms. Malaysia would have to amend most, or all, of its investment control measures, with possible adverse results for the poorer consumers who benefit from controlled prices and for the smaller food outlets where they shop. The special regulations relating to Bumiputera participation would probably have to be removed or amended. In the particular ethnic circumstances of Malaysia this could be seen as posing a threat to social stability, which has long been a top priority of the Malaysian Government. The Hypermarket Regulation, restricting the development of hypermarkets in certain areas, would have to be removed (but it is already scheduled to end in 2009). As to environmental consequences, increased development of larger outlets, including inward investment, could contribute to pressures on land use and to possible, though unquantifiable, increases in emissions and other pollution through increased use of transport. To counteract this effect, however, Malaysia already has stricter environmental laws than most other ASEAN countries.

In summary, it appears from the three country studies that further liberalisation might lead to significant effects in **Malaysia** – by which we understand effects different from what is already happening as a result of general economic and market forces. There it could accentuate the run-down of smaller distribution units in the face of increased investment by larger international distributors, and require the removal of restrictions which are designed to protect poorer consumers and counteract inter-communal divisions.

5. SIA FOR DISTRIBUTION SERVICES

5.1 Core and second tier sustainability indicators

IDPM's Phase One and Phase Two studies of methodology for evaluating the sustainability implications of policy proposals identified a set of nine core indicators by which proposals and initiatives should be evaluated.[11] In the subsequent development of the methodology, these nine core indicators were retained and were complemented by the inclusion of both indicative second tier indicators and process indicators.[12]

The eleven core indicators serve primarily to present the SIA results in summary form, and so generally represent a higher level of aggregation than is appropriate for detailed monitoring. Case by case, some will be more relevant than others. In detailed studies it is inevitable that more attention needs to be paid to second-tier indicators. This is particularly so in the case of distribution services, whose function is to sell the products of other industries. Clearly, further liberalisation of distribution services will have economic, social and environmental impacts in the countries concerned. However the direct impacts of such liberalisation tend to be felt in a limited range of related sectors, particularly construction and transport, as well of course as in their impact on employment and working conditions in existing distribution chains. It is possible to form judgments on the extent of such impacts only case by case.

Among the most important factors which will affect this judgment are the following:

- The country in which further liberalisation is proposed, its level of economic development, and social factors affecting employment
- Specific distribution-related activities in which liberalisation is proposed
- Existing importance of these activities in the national economy, including the proportions of employment and physical investment for which they account
- Current degree of openness of the economy in the distribution activities concerned, including access for foreign-based service providers
- Existing balance between domestic and foreign-owned providers of distribution services
- Capacity of the economy to absorb further liberalisation of distribution services in the short and medium term
- Extent and nature of government regulation in the national economy, covering such matters as competition, employment and environmental policies
- Timescale over which further proposed liberalisation would be implemented.

The largest developed economies are diverse enough to be able, over time, to absorb massive economic and structural change, particularly in service sectors, even where the redistributive and social consequences may be far-reaching. While some developing countries already have large and rapidly growing economies, the majority do not have this cushion of size and resources. Depending on local social, economic and political conditions, proposals for liberalisation may, activity by activity, have very different consequences in different countries.

[11] Kirkpatrick and Lee (1999)
[12] Kirkpatrick and Lee (2002)

Under each of the core indicator headings, and based on information drawn from previous studies and from the country studies conducted for the purpose of this SIA, appropriate second-tier indicators have been identified. These reflect the aspects where liberalisation of distribution is likely to have impacts. The indicators selected concern the direct or perceptible indirect effects. They do not include effects in terms of changes in national policy or legislation, which fall to be considered under the heading of Enhancement and Mitigation.

5.2 Impact Assessment of Trade Liberalisation Under GATS

Existing studies, as summarised in Chapter 4.2 above and in Annex B, suggest that trade liberalisation positively influences the inflow of FDI to the service sector. They also suggest that restrictions on establishment are the most significant negative deterrent because of their impact on the price-cost margins of distributors.[13] However trade liberalisation alone is unlikely to have a significant impact on the volume of FDI flows to developing countries. Other determining factors include the existence of a consumer market sufficiently large to offer a return on investment; the political climate; macro-economic prospects affecting investment in the longer run; land zoning restrictions; and the nature of local laws affecting employment and working conditions. A stable and predictable market environment – including a consistent and transparent regulatory framework – is a necessary pre-condition: in sum, good governance.

The impact on sustainable development of increased foreign participation in distribution services will be affected by the characteristics and structural features of the domestic market. In developing countries it is likely that the greater part of the retail sector consists of small units, which are likely to be inefficient and to offer a limited range of products without the consistent product quality standards which larger retail undertakings can enforce. As GDP per head rises, the distribution sector offers considerable potential for economies of scale and scope, which provide opportunities for major wholesale and retail groups to establish chains of outlets. The major groups have the capital to install point of sale accounting equipment that enables management to control costs, especially for stocks, and to predict consumer demand. New communication and information technologies also enable sales to grow rapidly through non-store outlets, such as mail order catalogues and over the Internet. These changes raise the likelihood of anti-competitive practices, which can be suppressed only by strong competition laws and their enforcement. There may also be significant local effects in the form of squeezing small retailers out of the market, and price and other pressures exercised on suppliers by big international retail chains.[14]

In developed countries, and the EU in particular, the impact of the liberalisation of distribution services will be largely confined to the gains from increased exports arising from investment abroad in foreign affiliates (GATS Mode 3), and a few managers and specialists moving temporarily to developing countries (Mode 4). There is little prospect in the foreseeable future that developing countries in general will be able to project significant FDI flows into developed markets, although some individual enterprises in the richer developing countries are already doing so.

[13] Australian Productivity Commission (2000)
[14] Oxfam (2004)

The aim of governments will be to optimise the overall benefits to society and the economy from any trade liberalisation. This will involve ensuring that the necessary strong regulations are in place to protect the quality of products and services, to protect consumer health and welfare, employee rights and working conditions, and the environment in the areas discussed above. It should be taken into account that under the GATS, these regulations should not constitute unnecessary barriers to trade, or be more burdensome than necessary to assure the quality of a service, or be unnecessarily trade-restrictive. Where such regulatory policies are not in place, or are poorly co-ordinated with trade liberalisation measures, the potential gains in terms of sustainable development from distribution services liberalisation are likely to be compromised.

In assessing the impact of liberalisation of distribution services, it is also necessary to consider how far existing regulations affecting the establishment or operation of foreign-based service providers are currently permissible under the GATS – that is, how far countries might find themselves required to remove such restrictions in any case, separately from any fresh liberalisation undertakings.

None of the three countries studied for this SIA has significant GATS liberalisation commitments in the field of distribution, so that in maintaining controls and restrictions in this area they would not be infringing any obligations. In fact, as noted Brazil and Kenya treat foreign-based distribution undertakings and investors liberally. Malaysia's cap on the establishment of large new retail outlets in certain areas (albeit time-limited) is not GATS compatible, because it is a purely quantitative restriction, i.e. no new outlets are permitted. However, if it were to be framed as a non-discriminatory qualitative limitation imposed for legitimate social, planning or environmental reasons, the government might be challenged only on whether the regulation was unnecessarily trade-restrictive. It would then have to consider any proposed reasonable alternatives which a challenger considered to be less restrictive of trade. The same reasoning applies to the special laws which are in place to further the economic interests of the Bumiputera people. A country's right to regulate to achieve social aims cannot be challenged under GATS. The only allowable challenge would be a demand to reduce the restrictions on trade if that were reasonably possible in the particular case at issue.

Economic impacts

Income effects
Retail turnover is driven by income per head, with food purchases being the largest element, though on a declining trend as higher income levels are reached. The rate at which the usually high proportion of informal retail outlets in developing countries is reduced, which can have significant effects on government finances through income and value-added taxes, is not assessed here, since this is beyond the GATS ambit.

Fixed capital formation
Flows of capital into developing countries will be conditioned by market size and GDP per head potential. Where the market access is *de facto* already open, there will be no change in the pace, but there could be an initial short-term higher pace in countries where FDI has been held back for whatever reason.

Employment
Employment in distribution could fall initially due to the loss of family outlets and the unskilled jobs which they provide. In the longer term employment is a function of GDP per head. The proportion of overall employment represented by distribution tends to rise until very high income levels are reached, after which it declines somewhat.

Social impacts

Work-related issues
The most significant effects of full GATS liberalisation would be felt through greatly reduced employment in the short-term in areas affected by the opening of supermarkets and hypermarkets, slightly offset by increased employment in transport and other related areas. This will be in the major urbanisations. The larger rural areas may well be generally unaffected, and in any case the process will proceed more slowly in the poorer and least-developed countries. Development of large outlets is nevertheless the policy area which needs the greatest attention by governments, since rapid changes can produce acute social problems arising from the sudden loss of viability of possibly thousands of family outlets, linked with environmental impacts which can be controlled only through effective regulation by governments. The other factors are not directly impacted by GATS liberalisation, but depend on government action and levels of companies' CSR standards and implementation. These issues are addressed in Chapter 6 below on Government flanking measures.

Health and education issues
These factors are not directly impacted by the process of liberalising market entry under GATS for foreign distribution companies. There will obviously be potential consequences for the structure of national distribution sectors, which are indicated below. The extent and importance of such consequences depend on government actions taken in response to new circumstances, e.g. changes in regulation. These issues are addressed in more detail in Chapter 6 below on Government flanking measures.

Welfare and poverty
Initially the opening of the largest stores will increase inequality due to the higher wages paid to their staff, and this will affect income development commensurately. In the longer term the wage effects will be subsumed into the general economic trends. As for the other factors in the table below, these are not directly impacted by the process of liberalising market entry under GATS for foreign distribution companies. There will obviously be potential social and welfare consequences, which are indicated below. The extent and importance of such consequences depend on government actions taken in response to new circumstances, e.g. changes in regulation such as employment law. These issues are addressed in more detail in Chapter 6 below on Government flanking measures.

Consumer interests
Under the further liberalisation scenario, the range of goods and services available from retail outlets would be greater. Prices would tend to go down owing to the increased economies of scale and to greater competition, given that inclusion of such products in the retail price index can stabilise or even reduce previous price trends. As for safety, hygiene and other factors, they are not directly impacted by the process of liberalising market entry under GATS for foreign distribution companies. There will obviously be

potential impacts, which are indicated below. The extent and importance of such impacts in these areas depend on government actions taken in response to new circumstances, e.g. changes in regulation. These issues are addressed in more detail in Chapter 6 below on Government flanking measures.

Environmental impacts

Increased consumption raises the volume of products produced, both domestically and abroad. With this come associated issues such as the disposal of waste and (as mitigation measures) the possible need for regulations to encourage the recycling of packaging, cars and electronic goods.

To the extent that improved distribution increases consumption and trade, this will also increase the need for road, rail, maritime and even air transport. More road transport may increase urban air pollution, noise, traffic congestion and accidents. The damaging environmental and ecological effects of intensive production methods, for example of meat and fish, which are required by modern distribution networks are already extensively felt in some developing countries and the resultant problems are likely to get worse without effective measures of control by governments.

The increased use of telecoms services could have adverse environmental impacts, though to a limited degree, due to the erection of telephone lines and transmitter masts. Other increased inputs will be required from business, professional and financial services.

5.3 Summary of Sustainability Impacts

It is important to note that these assessments relate solely to the opening of market access and national treatment in GATS terms, and do not take into account potential flanking and process actions undertaken in parallel by governments, nor restrictions imposed on grounds for which GATS provides general exceptions under Article XIV, or by means of non-discriminatory measures which are taken within the national border. These issues are discussed below in Chapter 6 on government flanking measures.

The impact summary table below applies to developing countries, and not to developed markets such as the EU. It indicates the results of binding open market access and national treatment in respect of Modes 1, 2 and 3. For Mode 4 it is assumed that there will be little change at the end of the DDA for the industrialised countries from the present modest undertakings, and that no greater specific commitments will be made by developing countries.

Where two symbols or pairs of symbols are shown, this is in an attempt to differentiate between the short-term (say up to 5 years) and longer-term cases where the impact over these timescales is considered to be significantly different.

Finally, the symbols focus on the retail sub-sector, since it represents the major and growing proportion of distribution, and here includes franchising outlets. Impacts on the wholesale sub-sector are likely to be broadly similar.

The symbols assess the position of the major developing countries. Smaller and poorer countries, including the LDCs, will not be significantly impacted since they are unlikely over a foreseeable timescale to attract large-scale international investments in distribution.

Potential positive and negative impacts are indicated in this study according to the following system of symbols:

Blank	Impact assessment as non-significant compared to base situation
Δ	Positive lesser significant impact
∇	Negative lesser significant impact
▲	Positive greater significant impact
▼	Negative greater significant impact
Δ∇	Lesser positive and negative impacts likely to be experienced according to context
▲▼	Greater positive and negative impacts likely to be experienced according to context
▲∇	Greater positive and lesser negative impacts likely to be experiencec according to context
▼Δ	Greater negative and lesser positive impacts likely to be experiencec according to context
?	Impacts uncertain

Summary of impacts: developing countries

Core indicator	**Second tier indicator**	**Impact significance** Short term	Long term
ECONOMIC			
Real income	Impact on GDP per head	Δ	
	Efficiency impacts of economies of scale	▲	
	Effect on GDP from greater integration into regional and local markets including internationalisation of supply chains and effects on local and regional transport networks	▲	
	Effects on national finances from tax revenues	Δ	
	Effects on national balance of payments (exports/imports)	Δ∇	
	Range of available goods and services	▲	
	Effect on retail prices, particularly of basic goods	▲	
Fixed capital formation	Flows of FDI from distribution enterprises in developed countries	▲	Δ
	Locally-generated investment	Δ	Δ
	Price of land in urban areas and areas where distribution enterprises congregate	Δ	▲
	Development of larger undertakings	▲	
	Decline of SMEs	▼	
Employment	Overall employment levels	▼	
	Overall impact on employment in distribution	▼	
SOCIAL			
Poverty	Displacement of existing employment	▼	∇
	Job security	▼	
	Wage levels (formal sector)	▲	
	Wage levels (informal sector)	∇	
Health and education	Safety, hygiene, quality and informative labelling of products	▲	
	Health of employees	Δ	
	Product quality and safety	▲	
	Safety at work	▲	
	Job quality and training	▲	
	Education and training	▲	

Core indicator	Second tier indicator	Impact significance Short term Long term
Equity	Income distribution effects and effect on inequality	▼
	Working hours (dependent on CSR and regulation)	▲▼
	Gender balance in employment (variable by country)	∆∇
	Working conditions (dependent on CSR and regulation)	▲▼
	Safety standards (dependent on CSR and regulation)	▲∇
	Cultural diversity (standardization of products and exclusion of local products – dependent on CSR)	▲▼
ENVIRONMENTAL		
Biodiversity	Impact on wildlife habitat and ecosystems	∇
Environmental quality	Soil erosion and other environmental effects	∇
	Use of fertilizers and pesticides	▼
	Noise pollution arising from increased distribution traffic	▼
	Effects on air quality and climate change	∇
	Effects of increased effluents and emissions on water and air quality	∇
	Contamination of soil and groundwater as a result of handling and storage of oil	∇
Natural resource stocks	Conversion of land use from agricultural to commercial	▼
	Use of land and water resources	▼
	Use of materials from non-renewable sources	▼
	Use of renewable resources, e.g timber, paper products (dependent on CSR)	∆∇
	Consumption of fuel	▼
PROCESS		
Principles of sustainable development	Effects on distribution of products as inputs to other sectors of the economy	∆
	Impact on workers' propensity to migrate	∇
	Changes in agricultural practice (supply chain quality controls)	∆
	Changes in agricultural practice (price pressure)	∇
Institutional capacity	Transfer of technology and know-how from developed countries	▲

Indications drawn from SIA concerning impact on developing countries of further liberalisation

It emerges from the discussion in previous chapters, from the studies summarised in Annex B, and from the country studies of distribution in Brazil, Kenya and Malaysia, that there is already a world-wide trend towards concentration of distribution, particularly retailing, into larger and more efficient units which are capable of providing consumers with more choice, higher standards and better prices. Developed countries already have largely liberalised their markets for distribution and investment. Many developing countries (for example Brazil, India, Kenya, Korea and Thailand) have also extensively liberalised their distribution services in recent years, although few of them have undertaken any meaningful GATS commitments regarding market access or even national treatment for distribution.

On the assumption that the further liberalisation scenario would entail all WTO members assuming full liberalisation commitments under Modes 1, 2 and 3, a number of developing countries would have to assume very significant extra commitments. For example, as described in Chapter 4.4 and Annex F Malaysia would have to amend many laws and regulations which control or restrict inward investment in distribution; while

India (see Annex B) would be required to permit FDI in the retail sector, which is formally prohibited, although major international corporations have found ways of entering the Indian market. In countries which have effectively liberalised investment regimes such as Brazil, Kenya or Thailand, the act of binding market access and national treatment for foreign distribution firms could act as a fresh stimulus to investment because of the extra assurance which such companies would have on entering the market. The further liberalisation scenario could therefore have very significant effects depending on the circumstances of individual countries.

The symbols in the above tables suggest levels of significance for the relevant second-tier indicators, drawing on the analyses in the foregoing chapters, in the previous studies discussed in Annex B and in the country studies.

Potential impacts of further liberalisation on different groups of countries

To gain an impression of the extent to which developing countries will be differentially affected by further liberalisation, this table gives an overview:

Trade regimes >	Open		Closed		
Population size >	Large	Middle	Large	Middle	Small /LDC
Economic indicators:					
Structural and income effects	Δ	Δ	▲	Δ	Δ∇
Fixed capital formation	▲	Δ	▲	Δ	Δ∇
Employment	Δ	Δ	Δ	Δ	Δ∇
Social indicators:					
Work-related issues	∇	▼	▼	∇	Δ∇
Health and education issues	Δ	Δ	▲	Δ	Δ∇
Welfare and poverty	Δ∇	Δ∇	Δ∇	Δ∇	Δ∇
Consumer interests	Δ	Δ	Δ	Δ	Δ∇
Environment indicators:					
Biodiversity	∇	▼	▼	▼	∇
Environmental quality	∇	▼	▼	▼	∇
Natural resource stocks	▼	▼	▼	▼	∇

The trade regimes posited as ‘Open’ in this table are those that permitted market access for distribution services with few restrictions before the DDA, while those shown as ‘Closed’ greatly restricted such entry and operations. The population size is used here as a proxy for the extent of the economic market, not the geographical scale, with ‘Large’ being above 50 million, ‘Middle’ being between 50 and 10 million, and ‘Small’ being less than 10 million. The LDCs are included in the latter category regardless of population size, since their markets are so small, and it is assumed that there will not for some time be much inward foreign investment into their distribution sector upon further liberalisation. These three categories represent a rather arbitrary division, and where GDP per head is higher than average for the ‘Middle’ group, then they will be closer to the ‘Large’ countries as to the impact experienced.

The Further Liberalisation Scenario presumes that at the end of the DDA negotiations, WTO members will remove all quantitative restrictions and discriminatory qualitative restrictions on access into their jurisdictions of foreign services and service providers. Under GATS rules any changes which were made thereafter to measures affecting trade in services would have to comply with the obligations of MFN and national treatment, and with the list of specific prohibited measures relating to market access which are set out in GATS Article XVI. If a government decided to flout these obligations, it would have to compensate any affected trading partner by offering liberalisation measures of equivalent value in some other sector. It is not possible to make a general forecast either of which sectors might be selected for compensation (and which could be under WTO agreements other than the GATS), or of the likely extent (or “cost”) of the compensatory adjustments to be ceded. Developing countries would be well advised, at the conclusion of the DDA, not to open up fully any sectors to imports of foreign services unless they have in place effective regulatory laws and systems. They might otherwise leave themselves open to possible excessive claims from trading partners, alleging nullification and impairment of bound obligations under GATS.

5.4 Links with the Sectoral SIAs on Agriculture and Forestry

Agriculture

Distribution services are significant for the agricultural sector since its products are processed and traded within distribution chains, which involves different stakeholders at different stages in the process. Successful agricultural exports depend on efficient and accessible transport facilities and distribution channels. As described in Chapter 4 above, global distribution chains increasingly dominate the market for fresh fruits and vegetables. This is bound to affect production patterns in the producer territories, and to accentuate the economic, social and environmental impacts which flow from agricultural development, including both beneficial and damaging effects. However it is not possible to ascribe such developments wholly to changes in distribution patterns. Each of the separate activities involved in distribution – packaging, transport, provision of premises, employment of staff, selling - is an element in a continuum which ranges from cultivation and production technology at one extreme to advertising, the development of public taste, and even health awareness campaigns at the other.

A number of practical issues arise from developments in distribution. For example, where agricultural tariffs and other import barriers are reduced through market liberalisation, the questions arise of how effectively such reductions in price are passed on to consumers through the distribution chain; and whether the increased trade generated through liberalisation leads to improvements in the income of farmers and other producers, particularly in developing countries. As regards aggregate impact on GDP, the benefits for most countries arising from liberalisation of international agricultural trade would appear to be modest,[15] though of course they could be very significant in absolute terms and for individual sectors and groups of people. An efficient distribution sector has a role to play in passing the benefits of liberalisation through to stakeholders in agricultural production and to consumers.

Modernisation of distribution, including just-in-time logistics systems which greatly reduce stock levels, as well as the quality standards set by large retailers, can contribute, even within developing economies, to helping local produce to get to the consumer quicker, in better condition, and cheaper (although as noted above fresh products can suffer in quality through being transported over long distances). At the same time, as the Agriculture Sector Study has noted,[16] trade liberalisation associated with increased competition may encourage more intensive animal farming methods, more pressure for the genetic engineering of crops, and greater involvement of multinational corporations in the actual processes of production. All such consequences could have adverse implications for environmental standards, biodiversity and human and animal welfare. On the other hand, pressure exerted by consumers at the distribution level can have a real impact on the environmental and social standards of production. It could be an important role for the distribution sector to act as a channel for the expression and enforcement of consumer preferences in such matters and to offset potential adverse effects. This has

[15] Morrissey and others, Sustainability Impact Assessment of proposed WTO Negotiations: Mid-Term Report for the Agriculture Sector Study, 2005
[16] Ibid.

already happened widely in Europe through consumer resistance to the incorporation of genetically modified organisms (GMOs) in food products.

While GATS negotiations on improved market access for distribution services may bring about structural and operational changes which have a direct impact on agricultural producers and traders, the effect does not work in the same way in the reverse direction. The WTO agriculture negotiations are essentially about the terms of international trade, that is the removal of import barriers and reduction of domestic subsidies. Negotiating proposals which are currently on the table indicate that very significant reductions in trade distorting measures must be achieved, if the Doha Agenda negotiations are to reach a successful conclusion. Such changes can have a profound impact on the relativities of what is produced and sold, and where; on who sells it and at what price; and hence on consumer welfare. However even significant reforms would have only an indirect effect on the distribution sector as such. Individual enterprises might find that the changing economics of international trade in foodstuffs caused them to change some of their procedures or their product mix. However it is not likely that such effects would extend to the structure or procedures of national or international distribution chains, because of the wide range of products which the distribution sector handles in addition to food.

Forestry

The same basic point applies in the case of forestry. Forestry products are traded in huge quantities internationally between enterprises, but although such trade relies on transport and distribution services for the physical movement of goods, it is in the form of finished products that forestry goods reach consumers. The SIA Sector Study of Forestry suggests that further liberalisation of trade in forestry goods could have significant economic and social impacts particularly in developing countries.[17] Looking specifically at the distribution sector, the present study however concludes that no issues seem to arise regarding the distribution of forestry products which are different from those concerning the distribution of other finished goods.

It is possible that liberalisation of distribution services will increase the spread of multinational large-scale retailers, who pay attention to environmental standards and corporate social responsibility in general. There is already growing public concern in many countries about environmental standards, and as in the case of the widespread public concern about GMO products in foodstuffs, this tends to feed back to producers via the distribution sector. Such factors taken together could result in increased demand for wood which is certified as from sustainable sources and, vice versa, reduce the demand for wood that may come from unsustainable sources.[18]

[17] Katila and Simula, Mid-Term Report for the Forestry Sector Study (2004)
[18] Ibid.

6. GOVERNMENT FLANKING MEASURES – MITIGATION AND ENHANCEMENT

International and national policy context

A significant proportion of earned income is spent in retail outlets, with food the major part. Much of the production of agriculture, food processing and manufacturing – including wood-based items from forests – passes through shops: in other words the primary and secondary sectors are highly dependent on this prominent part of the tertiary sector. The distribution sector in turn is dependent on other tertiary sector services, principally transport and logistics, but also financial services, telecoms and various professional and business services, including advertising.

Shops form a large and visually dominant aspect of many urban streets, and can act as points of activity focus in villages. Shopping centres and malls constitute social attractions for all ages and walks of life.

There is therefore a wide range of respects in which government policies impinge on wholesaling and retailing. This extends beyond regulation for specific purposes to the crucial role of good governance and prevention of corruption at all levels of authority. This includes the CSR standards of private sector enterprises, whether technical, financial, social or environmental.

This study posits 'Further liberalisation' of trade in distribution services (resulting from negotiations under the GATS as the outcome of the DDA round of negotiations at the WTO) and seeks to assess its effects on trade, and the resulting impact on countries. In this context, trade includes direct investment in markets abroad through commercial presence. The assessment has to take into account economic, social and environmental developments in the countries affected, with the main focus being on developing countries.

Over such a wide canvas, and because quantitative data are mostly so poor, it becomes necessary to concentrate on a few key issues. Probably most governments will want the focus to be on employment, income and prices. Here distribution plays a significant role because its workers usually account for the second largest sector grouping in each economy, and its efficiency and competitiveness greatly affect the retail price index.

The fundamental analytical difficulty is to distinguish the effects of trade liberalisation promoted by governments from overall trends in the world economy. Governments rightly see market opening as one of the means for development, but not as an end in itself. Distribution however is inseparable from merchandise flows across borders. Indeed tourism policies in some countries (such as, in this study, Malaysia) are based on attracting international shoppers. But the principal aim is attracting FDI and with it the transfer of technology, especially sector-specific know-how and modern management techniques.

At this point, there are commercial realities to be recognised: the vast majority of shops and market stalls in developing countries comprise micro-enterprises or family units, with often a high proportion in the unrecorded (or informal) part of the economy, and which keep no accounting records and pay no taxes. Even in the advanced economies most outlets are small enterprises which do not have the capital or management capability to export. Furthermore, most major wholesalers and retailers stick to their home markets. It is only a few dominant chains that project their presence abroad, and this is the case for the largest enterprises in the leading developing countries also.

Therefore, in relative terms, only a handful of firms can take advantage of any further liberalisation that is to be legally allowed, in markets where so far their activities have been held back. Where access has been permitted, whether bound under the GATS or not, they are mostly present in markets which are attractive to them. Because of their global scale, capital base and competitive power, the few enterprises involved can benefit from first-mover advantages that locally-owned small firms may find it nearly impossible to match. This is because wholesale facilities and retail outlets, especially supermarkets and hypermarkets which the major players will construct, take up land space. Second comers can be shut out of a particular zone of influence. In this zone the smaller retailers are likely to be either forced out of business, or forced into a major shake-up in order to survive.

GATS focuses on how government measures (laws, decrees, regulations, official decisions and so on) affect the way in which services and service suppliers are permitted to access a market, and how they are treated there. All forms of restriction on the access of, and any discrimination against, foreign actors are seen as barriers to trade, which the GATS aims to remove progressively over time. But GATS obligations do not extend to laws which have as their aim the protection of national security, human, animal and plant life and health, and other over-riding social objectives. Nor do the obligations prevent governments from maintaining non-discriminatory regulations affecting licences, technical standards, qualifications and so on. This exclusion also covers town and country planning laws, which greatly condition market access for the distribution sector, as also do transport and traffic regulations.

The implementation of any proposed mitigation and enhancement measures in developing countries is unlikely to be affected to any significant degree by the operation of the GATS disciplines. Measures taken for specific social or consumer protection reasons can be challenged under the WTO dispute settlement mechanism only if they are either discriminatory or unduly restrictive of trade. It is not likely that training schemes, unemployment benefits, town and country planning laws, transport safety controls, building regulations and labour laws could be judged to be unnecessarily trade restrictive.

Nevertheless, the overall regulatory structure within a market is of central importance to the development of the distribution sector, whether foreign firms are active in that market or not. Foreign investors will only risk the large sums involved in major new outlets, or in large acquisitions, if the regulatory structure is perceived to be stable, free of corruption, fair and predictable. From the national policy angle, since the nature of the foreign competition is likely in the first place to be the entry of immensely powerful global brands, this can place the governments of small countries at a negotiating disadvantage when they wish to attract inward FDI and associated technical transfers.

The role of national regulation

It is important that governments, in parallel with negotiations for further liberalisation of distribution, should develop a framework of flanking legislation laying down core requirements relating to corporate governance and applying to all undertakings which operate in a market. It is entirely legitimate for developing country governments to build into their inward investment regimes requirements and standards relative to corporate practice. Such requirements should be based on internationally accepted best practices relating to such issues as employment standards, workers' health and environmental standards. Standards should operate even-handedly for all enterprises. A main objective would be to secure satisfactory conditions for the local staff who are engaged by such undertakings. This could lead to a progressive improvement in conditions for the employees of locally-based firms, as the latter adapt to compete with the incomers.

The role of competition policy is central. This is especially relevant to the case of some commodities and agricultural produce where just a few firms control a major proportion of globally traded outputs. However as regards competition policy the record of developing countries is not good. Although many have in recent years enacted competition laws, the necessary funding for independent enforcement capacity is mostly lacking. As with all competition regulations, where national laws do exist the focus tends to be on the national market, with little to restrain the global players internationally. Despite this, it was decided at the WTO in July 2004, at the insistence of the group of developing countries, not to negotiate about the interaction between competition policy and trade. The reasons which gave rise to this decision appear to have been concerns about globalisation and fears of domination of national markets by foreign interests (although agreement of effective international rules on competition might be seen as a means of restraining possible abuses by globalised enterprises). Nevertheless in some developing countries there is a renewed understanding of the importance of an effective competition policy in national development strategy. For example, the Government of Ghana is currently implementing a new and integrated national trade policy which embraces not only fundamental issues of productive capacity and infrastructure, but also the introduction of a comprehensive new competition policy.

The subsidies paid in OECD countries to a few key agricultural producers may be seen as strongly anticompetitive in international terms. The impact of those subsidies and the current negotiations at the WTO concerning proposals to reduce or eliminate them are dealt with in the parallel SIA of agriculture negotiations.

This study considers what should be the policies of governments once new obligations are undertaken under the GATS to open markets, although such policies fall largely beyond the remit of the GATS rules. Apart from competition policy, covering the economy as a whole, the principal infrastructure services upon which the distribution sector relies are each heavily regulated for over-riding social objectives, as are the land and buildings needed for distribution facilities. This in turn raises the issue of finding the right balance between necessary minimum standards as against over-regulation which stultifies the economy. If governments opt for the least interventionist regulatory stance, then a further issue is the extent to which corporate good governance through its CSR vision and practices can be relied upon. Since CSR adherence is voluntary, the results may be patchy or ineffective even where the principles and practices have been officially approved. Furthermore, the reliance on voluntary codes inevitably involves interlocking standards of international, regional, national and single organisations, posing real challenges for the suppliers to retail chains (and food processors), and lying well beyond the capability of individual farmers and suppliers in developing countries to comply with them.

In summary, governments must attend to the following policy areas, in order to mitigate the negative impacts of 'Further liberalisation':

- Perceptions of overall regulatory stability, effectiveness and good governance (including the suppression of corruption), and full transparency
- An independent competition authority, properly funded and with a strong enforcement capability – with clear demarcation between its overall authority and the remits of the infrastructure sector regulators (transport, financial services, telecoms, professional and business services)
- An independent Central Bank with a clear remit to control inflation
- Properly enforced and fair traffic regulations, land use and zoning laws, building safety and construction standards
- Properly enforced employment and labour laws (including health and hygiene)
- Properly enforced environmental protection laws for living species, including plants, as well as for the biosphere in which they exist
- Properly enforced intellectual property rights laws (including for franchise outlets).

Governments of developing countries, in view of their social and economic priorities, should concentrate on phasing in liberalisation over suitable periods. Considerations which they must particularly take into account include:

- quality of national governance;
- regulatory capacity, particularly the enforcement of operational regulations such as for labour/employment, planning, health hygiene, and safety laws and standards;
- how firms, especially the largest, can best be persuaded to improve their CSR performance.

Each government will have to assess the practical potential relevance of these actions and their likely effectiveness, and gauge the extent of possible effects, having carefully weighed both the positive and negative impacts of the degree of liberalisation of the distribution sector for which they opt. A key question is how best to strike a balance between mandatory requirements imposed on private sector enterprises, and what to leave to voluntary standards. This no doubt will depend case by case on the overall stage of development of the society and economy, the nature of the products involved, the degree of concentration in the wholesale and retail sector, their sourcing practices, employment and working conditions for labour, and the likely impact of their activities on the environment.

Each of the three groupings of impact indicator elements is now taken in turn to assess the key focus and actions recommended.

Economic policies

As part of their aim to reduce poverty and increase income per head governments should facilitate, indeed encourage, economies of scale and scope by enterprises so that resources are used more efficiently. They should:

- Encourage the transfer of technology and know-how from foreign firms to local firms and personnel. Whether this should be mandated as a requirement when investments are approved, has to be balanced against the risks of failing to attract the desired FDI.
- Encourage retailers to purchase local products. Again a careful balance has to be sought. This could conflict with consumer demand for quality, range of choice and lower prices. If the result were higher consumer prices, this could conflict directly with governments' desire to restrain increases in the retail price index. Further, if the effect of such measures were to discriminate against imports, the measures would be very likely to contravene the provisions of GATT 1994 and to lay governments which took them open to dispute action under the WTO.
- Encourage foreign-owned retailers to increase exports of locally sourced products through their international chains.
- In considering the grant of licences for the construction of new shopping outlets, take account of the foreseeable beneficial and adverse effects for each locality, and how they are to be integrated into the wider economy, so as to produce benefits for other relevant sectors. Here the economic and town planning policies overlap.
- Consider the balance of payments current account situation. This is always an important factor for governments to consider, together with revenues from income and general sales (or value added) taxes. However these considerations extend well beyond the distribution sector alone.
- Balance the desire to prevent loss of jobs and to reduce unemployment against the desirable national priority of moving as many workers as possible into the formal economy, including in the distribution sector, where their activities can be properly recorded and taxes paid.
- Provide for strong competition law and enforcement, so as to curb restrictive practices and particular abuses such as hardcore cartel activities.

Social policies

The transition from a closed distribution market to an open one needs careful handling to mitigate the short-term transitional structural adjustment employment costs. Some regulations will be relatively costless for governments, such as price controls on basic products bought by the poor; health and safety requirements; product hygiene and labelling; controls on minimum wages; workers' rights (including ILO standards); working hours; and gender balance. However other policies will need significant funding. Where resources permit, the mitigation of adverse effects could be achieved through:

- training for the distribution sector;
- re-training for work in other sectors;
- the provision of credit;
- assistance to form cooperative groups;
- technical assistance in business methods and ICT;
- unemployment benefits.

Where sufficient funds are not available, these are areas for which international aid for capacity building could be sought.

Environmental policies

Town planning and traffic policies are of central importance for the environmental quality in urban areas, and for settlements next to major roads. They control land use, noise and air pollution, waste discharges, recycling and so on. The world-wide trend towards concentration in the distribution sector and the development of larger shopping units means that governments have to take account of the consequent environmental impacts, whether or not the process is accelerated as a result of 'Further liberalisation' arising from the GATS negotiations.

Although the effect of liberalising distribution on agricultural practices is indirect, governments need to be aware of the possible adverse effects that will arise, and to be prepared to take measures to counter them. Such issues concern:

- The use of land and water resources;
- Consumption of non-renewable fuels;
- Consumption of renewable resources from forests.

Transition management

Experience with the liberalisation of other services sectors, notably financial services, has shown that strong regulation and a controlled pace of liberalisation are key factors in avoiding adverse effects and achieving intended benefits.[19] In the case of distribution services, the pace of liberalisation is particularly important in relation to the rate at which other sectors of the economy can take up the loss of jobs and small business livelihoods that is likely to be associated with the increasing labour efficiency of the sector.

The role and impact of standards

In addition to the standards set by governments for the regulation of conditions in their home markets, there is the separate but linked question of setting quality and safety standards for products. In a background note by the UNCTAD Secretariat for the XIth session of UNCTAD in São Paulo in June 2004[20] it is stated that:

> Market access difficulties are compounded by market structure issues, as well as by technical regulations and standards, SPS measures and complex and divergent rules of origin. Even more important are private sector measures and requirements such as voluntary standards. For instance, there is a growing trend towards harmonising private sector standards among international supermarket chains, making conformity with those standards a requirement for market entry. A key priority is to ensure that these standards and measures are developed transparently with the participation of developing countries, and applied in a non-discriminatory manner.

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[19] George and Kirkpatrick (2003)

[20] "*Strengthening participation of developing countries in dynamic and new sectors of world trade: trends, issues and policies",* UNCTAD XI, São Paulo, (TD/396, 17 May 2004, page 18 paragraph 42)

Product standards might be thought to be an issue exclusively of production of, and trade in, goods, because their function is to govern the safety and quality of what is produced, and to provide impartial yardsticks by which these things can be evaluated. However, because standards impact on the form in which goods can be sold and traded, they directly affect the distribution of those products. The same applies to the wider issues of regulation of working practices and conditions, financial probity of undertakings, safety in transport, and so on, whether these are agreed at the national level or internationally. However the autonomous nature of the market opening commitments under GATS inscribed by WTO members means, for example, that there is no uniform application of the national treatment principle in the case of services regulation, including measures affecting distribution.

Corporate social responsibility (CSR)

The current situation as regards private sector CSR initiatives is discussed in Chapter 5 above, where it is noted that the crucial task is to ensure that business observes standards of business ethics, employment conditions and environmental responsibility, which are consistent both with the national priorities of the host countries and with accepted international best practices.

It is highly desirable that in parallel with the formal international and national procedures for standard setting, there should be wider acceptance by companies of standards of corporate responsibility. This is something that has to be promoted by the host governments. International organizations can offer a forum for discussion and development of standards, advice on implementation, and technical help. Some developed countries exert strong pressure over the standards eg. of pay and employment conditions operated by their national companies or local affiliates in developing countries, but ultimately they cannot enforce such standards.

Flanking actions by the EU to mitigate the adverse impact of further liberalisation in developing countries

The EU should consider what flanking measures it can itself take in order to mitigate the adverse effects in developing countries of the Further Liberalisation Scenario. On some issues the EU could take direct action that would positively assist the situation in developing countries. On others the action would have to be indirect, for example through support to the development of effective multilateral policies and rules.

Under the head of positive mitigation measures the EU can directly assist developing countries, for example by:

- **Reducing its production subsidies** for products where such subsidies adversely affect world prices, causing falls in employment in agriculture in developing countries and in the supply of developing country products to EU retailers.
- **Acting against restrictive practices** of dominant businesses where there is a legal locus for the EU to act.. Such businesses control significant shares of world trade in commodities and agricultural products which are sold through EU retail outlets. These include coffee, bananas, soya and maize. Similar action might be considered against restrictive practices by all firms with significant shares of EU retail markets.

- **Acting, in cooperation with the competition authorities in the relevant countries, against abusive practices of EU retailers** which operate internationally and which put undue pressure on suppliers in developing countries.
- Assisting the governments of developing countries to provide **micro-credit facilities** for the retail sector (ie. to encourage the development of small enterprises).
- Ensuring that the EU's FTAs and EPAs operate so as positively to encourage the indigenous distribution sectors of developing countries.
- Encouraging EU retailers to **assist developing countries on the lines set out in GATS Article IV *Increasing Participation of Developing Countries*** :

  ie "to facilitate the access of developing country Members' service suppliers to information, related to their respective markets, concerning:
  (a) commercial and technical aspects of the supply of services;
  (b) registration, recognition and obtaining of professional qualifications; and
  (c) the availability of services technology."

  This would act in support of commitments by the EU to provide access to its own markets, which it is obliged to endeavour to arrange under GATS Article IV ie: those which aim at

  "(a) the strengthening of their domestic services capacity and its efficiency and competitiveness, *inter alia* through access to technology on a commercial basis;
  (b) the improvement of their access to distribution channels and information networks; and
  (c) the liberalization of market access in sectors and modes of supply of export interest to them."
- **Promoting the harmonisation at the EU level of approved standards** in the fields of technology, SPS, CSR, employment standards, working conditions and workers' health and the environment. The aim would be to reduce and rationalise the plethora of different standards faced by suppliers in developing countries, with which they are under pressure to comply.
- **Imposing a duty on the currently untaxed fuels used by air freight transport planes** bringing products to the EU from abroad, so as to remove this advantage compared with other forms of transport whose fuel is taxed.

Indirectly and at the multilateral level, the EU could help to mitigate the impact of further liberalisation in developing countries. The principal issues relevant for the distribution sector arise in the following multilateral institutions:

- **World Bank, IMF and WTO** concerning the provision of technical assistance for capacity building in developing countries. There is a need to increase such provision to the maximum level that can be usefully absorbed;
- **WTO**, concerning multilateral rules governing the further liberalisation of services trade under the GATS. The rules should be further developed in the direction of liberalisation which takes account of developing countries' needs, together with the need to control restrictive business practices;

- **UN and OECD** concerning good governance, including the suppression of corruption and money laundering. Existing initiatives for these purposes need to be pursued with determination;
- **ILO**, concerning the improvement of workers' rights and conditions, and the promotion of gender balance;
- **WHO**, concerning workers' health and safety. There is an acute need for action to improve standards in many countries;
- **IFC** for the provision of micro-credit facilities and micro-leasing;
- **International transport bodies**, for the development of rules to improve safety and anti-pollution measures;
- **UNEP,** concerning policies for the sustainable development of the environment.

7. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Conclusions

A number of conclusions emerge from the analysis in this report:

- Distribution, and particularly retailing, in developing countries is still carried on predominantly through smaller enterprises with strong local links. Proportionately, employment in such enterprises is higher because capital, efficiency and wages are all lower than in the larger companies.

- Nevertheless a significant change in the structure of distribution in developing countries is under way, reflecting world-wide trends. This is a progressive shift towards larger and more efficient outlets, which already has marked economic and social impacts.

- In developing countries wholesale firms tend overall to be larger than retail outlets, so that their activities are particularly exposed to the international environment as well as to local economic and socio-political conditions. The same applies to larger retailers. Smaller retail outlets, dealing mainly in basic necessities on the local level, are less exposed, at least outside urban areas.

- Liberalisation of distribution services in developing countries is likely to accentuate the existing trend towards larger units, leading to diversification of the nature and range of outlets and more investment by foreign-based operators in the largest stores.

- It is commonly assumed that although this ongoing process of concentration in developing countries will reduce employment in the distribution sector, the concomitant increase in inward investment by large foreign distribution chains will in part compensate, through an increase in employment and payment of higher wages in the larger enterprises. There is evidence (cf. the country study of Malaysia) that this is already happening. However there is also a risk that intensified competition and pressures to reduce costs could act in the reverse direction to depress wages in the large stores sector.

- A further consequence of the increased internationalisation of distribution in developing countries is the globalization of product types and of consumer tastes. There is a difficult balance to strike between increasing the range, quality and hygiene of consumer products on offer, and the potential loss of traditional products and knowledge of how to make them.

- Structural change could affect the gender balance of employment in the sector in some countries, for example in Kenya where women are predominantly employed in the small and micro- retail outlets and could lose disproportionately from a decline in numbers of such firms.

- While developing countries need to consider carefully the nature, scope and impacts of further commitments which they may enter into in the GATS negotiations, they must accept that the process of globalization and concentration, in distribution will continue, as in other economic sectors. It is therefore at least equally important to ensure that national regulatory structures are put in place which safeguard national social and environmental priorities on a transparent and equitable basis, without undermining the economic benefits of inward investment and more advanced developments in distribution.

- Similarly, voluntary adherence by firms to CSR principles is good as far as it goes, but on both the economic and social levels, investment by international distribution companies in developing countries needs to be accompanied by appropriate government regulation to ensure fair competition in the market, and by positive strategies to help the poor.

- Where expansion of distribution gives rise to adverse effects related to land use (such as local congestion, increased pressure from transport activities and associated road-building), these can be controlled by local zoning and planning requirements, and through environmental and health regulations.

- Nevertheless in view of the trend in developing countries towards the establishment of larger units, and the benefits of efficiency and higher standards which such developments can bring, there would appear to be considerable room for further development and concentration of both retail and wholesale sectors. For this purpose it might be necessary for governments to review and amend local zoning and planning requirements so as not to impede desirable developments.

- **Further liberalisation** is likely to increase efficiency, scale economies and technology transfer in developing countries, as well as increasing the degree of integration into world markets and improving consumer choice and standards.

- A relatively small number of companies, even in developed countries, are large enough to take advantage of the opportunities offered for worldwide expansion, including establishment in developing countries.

- Given the generally liberal situation in some developing countries such as **Brazil** and **Kenya** as regards distribution and inward investment, the further liberalisation scenario would make relatively little difference as compared with the base scenario, whether as regards social or environmental effects. The trend towards larger stores is already strongly developed in Brazil, and in Kenya it has been held up in recent years through macro-economic problems rather than by any consequence of government policy or legislation.

- In **Malaysia**, further liberalisation would accentuate the existing trend towards larger distribution outlets, particularly those owned by foreign companies. Not only would this have consequences in the closure of many smaller shops, with employment and environmental consequences; it would require the abolition of a number of measures specific to Malaysia which are designed to protect the position of poorer people and disadvantaged minorities.

- The analysis in this study shows that for developing countries in general, further liberalisation is likely to have economic and social impacts as follows. These may be either positive or negative, according to context:

- Altered balance between the shares of larger and smaller establishments in both the wholesale and retail sectors, with an increase in the numbers of larger outlets and a consequent change in the balance of ownership and of proportions of employment;
- Significant effects on employment (loss of jobs in older and smaller outlets, fewer but better-paid jobs in newer large shops and better working conditions);
- The higher quality and employment standards of larger incoming distributors will tend to raise standards in distribution generally;
- Reduced outlets for indigenous products and traditional methods;
- In response to perceived impacts, governments may be stimulated to look for GATS-compatible ways of screening inward investments.

- In developing countries, further liberalisation will have more discernible, and potentially adverse, environmental effects, though these are likely to be indirect. There could be:

    - increased pressure on land use from new construction in certain (chiefly urban) areas;
    - increase in pollution resulting from more intensive transport activity caused by larger-scale distribution outlets and from activities such as the breaking of bulk into smaller lots and the disposal of packaging and of toxic materials used in equipment;
    - more intensive agricultural production methods involving increased use of fertilizers and biocides.

- Some developing countries, such as **Kenya**, appear to have health and environmental regulations adequate to deal with any possible adverse effects, though they would have to be administered on a strict basis of national treatment.

Recommendations

Against this background, a number of recommendations might be considered for action.

<u>Action by governments of developing countries:</u>

- Particular attention should be paid to measures for improving the quality of governance as set out in Chapter 6.

- Measures to increase and improve regulatory capacity should be introduced, particularly for the enforcement of operational regulations such as for labour/employment, planning, health hygiene, and safety laws and standards.

- Encouragement to firms, especially the largest, to improve their CSR performance.

- Specific measures to encourage the transfer of technology and know-how from foreign firms to local firms and personnel.

- Encouragement to retailers to sell local products, and to consumers to purchase them, subject to the requirement placed on WTO member countries not to introduce measures which discriminate against imports.

- Encouragement to foreign-owned retailers to increase exports of locally sourced products through their international chains.

- In considering the grant of licences for the construction of new shopping outlets, take account of the foreseeable beneficial and adverse effects for each locality, and how they are to be integrated into the wider economy, so as to produce benefits for other relevant sectors.

- Consider introducing stricter zoning and planning controls covering the location and environmental impact of large retail outlets.

- Balance the desire to prevent loss of jobs and to reduce unemployment against the desirable national priority of moving as many workers as possible, including in the distribution sector, into the formal economy where their activities can be properly recorded and taxes paid.

- Provide for strong competition law and enforcement, so as to curb restrictive practices and particular abuses such as hardcore cartel activities, predatory pricing and the abuse of monopoly or dominant buying power.

- Enforce fair labour regimes which prevent the exploitation and abuse of workers particularly in farming and horticulture.

- Promote the introduction of international best practice CSR codes.

- Specific measures of social policy might include:

    - training for the distribution sector;
    - re-training for work in other sectors;
    - the provision of credit;
    - assistance to form cooperative groups;
    - technical assistance in business methods and ICT;
    - unemployment benefits.

- Governments need also to put in place measures to counteract adverse effects arising from:

    - The use of land and water resources;
    - Consumption of non-renewable fuels;
    - Consumption of renewable resources from forests, including stricter and better enforced controls on activities such as illegal logging.

Action by EU through development assistance:

- Governments and donor agencies in developed countries should offer technical assistance for the preparation and implementation of appropriate regulations related in particular to planning and environmental concerns.

- The EU should consider direct action to assist developing countries, including reduction of its own production subsidies which reduce world prices and adversely affect developing country producers; consistent and determined action against restrictive practices operated by dominant suppliers; capacity building assistance for developing countries related to the distribution sector; and harmonisation of standards at the EU level so as to make compliance easier for suppliers in developing countries.

Action by EU in support of global governance:

- Work with international development agencies, chiefly the World Bank, to improve programmes to fund trade policy adjustment assistance for developing countries. They should do so in close cooperation with the WTO and other agencies.

- The EU should take every opportunity within the framework of multilateral organisations to work for the development of internationally agreed principles and regulations which will benefit suppliers in developing countries, and to encourage the provision of credit to small enterprises in the distribution sector.

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