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ACCESSION OF NEPAL

Memorandum On The Foreign Trade Regime

In a communication dated 5 December 1995 (WT/ACC/NPL/1), the Government of Nepal applied for accession under Article XII of the Agreement Establishing the World Trade Organization (WTO). Having regard to the Decision adopted by the General Council on 31 January 1995, the existing Working Party on the Accession of Nepal to the GATT 1947 continued as a WTO Accession Working Party with the following terms of reference: "To examine the application of the Government of Nepal to accede to the World Trade Organization under Article XII, and to submit to the General Council recommendations which may include a draft Protocol of Accession". The membership is open to all WTO Members indicating their wish to serve on the Working Party.

In accordance with established procedures (WT/ACC/1), the Secretariat is circulating the Memorandum on the Foreign Trade Regime of Nepal. The Annexes and Tables listed in the Memorandum are reproduced in document WT/ACC/NPL/2/Add.1. WTO Members are invited to submit questions on the Memorandum to the Secretariat, in writing, by 15 October 1998 for transmission to the authorities of Nepal.

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I. INTRODUCTION

Nepal is one of the least developed countries of the world with per capita income of around US$20. Eight consecutive periodic development plans starting from 1956 have already been implemented. Recently, the Eighth Development Plan (1992-97) has ended and the Ninth Five -Year Plan has been formulated. The stated objectives of the Plan are: sustainable economic growth and poverty alleviation. The main programmes drawn up for attaining these objectives include intensification and diversification of agricultural production and agro-processing industries, development of the energy sector, creation of rural infrastructure, employment generation and population control.

Macro-economic stabilization has been highlighted in the Ninth Plan to ensure economic growth with stability. Nepal has embarked on a medium-term, extensive structural adjustment programme since 1986/87. It aims to move Nepal on to a higher sustainable growth path by increasing the participation of the private sector in economic activities, and improving public resource management. The Government has redirected investment in the social sector for poverty alleviation. The trade sector has received priority, and in that context Nepal has adopted a liberal trade policy in order to integrate itself effectively into the international economy**,** attract foreign investment, make domestic products competitive internationally, diversify trade, and generate employment.

The trade policy has the following objectives:

(i) to enhance the contributions of trade sector to the national economy by promoting international trade with the increased participation of the private sector through the implementation of an open and liberal atmosphere;

(ii) to diversify trade by identifying, developing and producing new exportable products through promotion of forward and backward linkages for making export trade competitive and sustainable;

(iii) to expand trade on a sustained basis through gradual reduction in trade imbalances;

(iv) to promote trade in coordination with other sectors of the economy.

Nepal has taken the following major steps to achieve these objectives:

(i) liberalization of the trade regime;

(ii) full convertibility of the Nepalese currency (Rupee) in current account transactions;

(iii) easier access for exports of Nepalese industrial products to neighbouring markets;

(iv) export promotion measures.

The foreign trade regime of Nepal in recent years has shifted towards an open and liberal regime as envisaged in the WTO framework. Nepal is treating all foreign investors on a non-discriminatory basis. Furthermore, Nepal is increasingly providing national treatment to foreign companies, thus creating a conducive environment for healthy competition and foreign direct investment. The need to increase the supply of tradable items, both goods and services, to attract foreign investment, and to gain better market access conditions for its exports is guiding the current development policies as well as Nepal's intention to integrate into the multilateral trading system.

II ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

1. ECONOMY

(a) General description (territory, population, economic specialization, main economic indicators)

Nepal is a landlocked country. It is surrounded by India to the east, south and west and by Tibet, an autonomous region of the People's Republic of China, to the north. The country has a rectangular shape and stretches from east to west (latitude of 26.22' to 30.27' and longitude 80.4' to 88.12'). It is largely a mountainous country, as more than 83 per cent of the 147,181 sq. km. of its land area is either mountains or hills. The mountainous range has most of the highest peaks of the world including Mt. Everest. The Himalayan range in the north has compelled the country to search for access to the sea through India. The country has a tropical climate. About 90 per cent of rainfall occurs during the monsoon (June to September).

The population of the country as of 1996 was estimated to be 21 million, and population density was 143 persons per sq. km. The population growth rate according to 1996 census is 2.1 per cent.

In Nepal, agriculture accounts for around 41 per cent of the Gross Domestic Product and more than 80 per cent of the employment. Rice is the major cereal product followed by maize, wheat and millet. Of the cash crops[*] potato, sugarcane, oilseeds, jute and tobacco are the major ones. Woollen carpets and ready-made garments are the leading export items that constitute about 85 per cent of the total overseas exports. Growth in the manufacturing sector has been basically led by food manufacturing, beverage production and cement production. Besides, the country also specializes in handicrafts. Tourism has remained a major source of foreign exchange earning and is estimated to account for 2 to 3 per cent of the GDP. The main economic indicators are presented in Annex I, Table 1.

(b) Current Economic Situation

The macro-economic indicators revealed a mixed performance in the Seventh (1985/86-1989/90) and Eighth (1992/93-1996/97) Plan period. The real growth rate during the Seventh Plan period stood at 4.8 per cent averaging 5.1 per cent in producer price during the Eighth Plan. In FY 1996/97 the growth rate dropped to 4.0 per cent. Likewise, the rate of inflation, which averaged at 11.6 per cent during the Seventh Plan came down to 8.3 per cent during the Eighth Plan period. In FY 1996/97 it was around 8 per cent.

Government revenue increased by more than 18 per cent, on average, during the Seventh Plan period and stood at 11 per cent of GDP during the Eighth Plan whereas the expenditure growth averaged at 17.9 and 14.2 per cent of GDP during the Seventh and Eighth Plan period respectively. The revenue as a per cent of GDP was 8.7 per cent in FY 1992/93 that reached 11.2 per cent in FY 1995/96. Similarly, expenditure as a per cent of GDP, which was 17.3 per cent in FY 1992/93, reached 17.8 per cent in FY 1995/96. Although revenue has been increasing, there has been only a modest rise in the revenue-GDP ratio. In fact, tax collection in Nepal is one of the lowest in South Asia.

The external sector has witnessed a favourable balance of payments for the last decade, despite perennial trade deficits. The growth of exports that was 14.8 per cent during the Seventh Plan

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[*] Cash crops refer to crops produced mainly for sale, and not for consumption by the producers.

period declined to 11 per cent during the Eighth Plan period. Imports grew by 19 per cent on an average during the Seventh Plan period increasing to 24.7 per cent during the Eighth Plan period. The main reason for such decline was the negative growth rate in FY 1994/95. Trade deficit also increased from 13.3 per cent of GDP in FY 1992/93 to 23.7 per cent in FY 1995/96. The current account deficit increased from 6 per cent of GDP in FY 1992/93 to 9 per cent in FY 1995/96 and narrowed down to 5.9 per cent in 1996/97.

Despite the current account deficit, the balance of payment showed a sizable surplus owing largely to the inflow of official capital in the form of foreign loans and private capital in the form of foreign direct investment and other short-term credits. As a result, the foreign exchange reserve of the banking system has increased from about US$4.5 million in FY 1985/86 to US$0.655 billion in FY 1994/95. At the end of Fiscal Year 1995/1996, foreign reserves amounted to US $1.236 billion of which banking sector reserves were US$0.717 billion with the Central Bank accounting for the remainder. During the first 9 months of FY 1996/97 foreign reserves amounted to US$1.113 billion. The current reserves (May-June 1998) of the Central Bank cover 8 months of imports.

Rising trade deficit has also affected the current account deficit position negatively in recent years. Increased foreign direct investment and loans helped improve balance of payment position. The surplus in the balance of payment is estimated to be US$0.029 billion in FY 1996/97 compared to deficit of US$0.0195 billion in FY 1995/96.

2. ECONOMIC POLICIES

(a) Main directions of the ongoing economic policies, tactical and strategic goals of the economic policies, pricing policy, economic development plans, privatization plans, sectoral priorities, regional development plans, etc.

The government has opted to shift its role from direct intervention to promotion and regulation of economic activities. The current industrial policy allows for the development of almost all industrial ventures without license. Nepal encourages foreign investment in the form of joint venture operations and up to 100 per cent equity shareholdings in industries. There are no foreign exchange restrictions.

The country has introduced full convertibility of the Nepalese rupee on current account. Liberalisation of the financial sector has resulted in the establishment of varieties of financial institutions providing specialized financial services. The establishment of commercial banks in the private sector, introduction of finance companies, establishment of new rural development banks, and evolution of a full fledged stock exchange are expected to strengthen the financial system and provide finance required for industrial and business expansion.

Nepal's external sector has faced trade deficits for decades. The cumulative trade deficit, which stood at US$353.78 million in 1992/93, increased to US$1,164.24 million in 1996/97.

Since 1990, the government has been reviewing the roles of the public and private sectors in the economy. In this context creation of legal framework for the promotion of economic activities of both the private and public sectors has been stressed. The government has pursued privatization policy whereby a number of public enterprises are being privatized. Sixteen public enterprises have already been privatised. Some others are selected for privatisation in FY 1997/98. Among the enterprises selected for privatisation are a power company, a tea estate and a national newspaper publishing company. Analysis of additional six public enterprises, which will possibly be privatised in FY 1998/99, is due to start during this fiscal year. Besides, the government has adopted liberal economic policies for private sector participation in the infrastructure sector including transport, communications, power and irrigation as well as in education and health. The response has been encouraging. The private sector has entered into air transportation, communications, and hydropower. By attracting more resources of the private sector into these areas, the government intends to focus its attention on the social sector.

The government has formulated a Master Plan for the energy sector to cope with the demand for energy. Foreign participation has been encouraged in the sector. As a result of the government policy, the trend observed so far in foreign private investment is encouraging. Likewise, in the industry sector the government intends to promote foreign investment as it believes that it will contribute to diversify and increase the competitiveness of the Nepalese economy. The state's industrial policy is today positively committed to a liberal economic regime for the wider participation of the private sector.

His Majesty's Government has formulated the Ninth Five Year Plan starting from FY 1997/98 to 2001/2002.The main objectives of the plan are to empower people economically and socially by integrating them into the mainstream of the nation's development process by alleviating poverty and making the nation economically prosperous. The plan which is trying to make a dent into the prevailing widespread poverty situation in the country aims:

(i) to develop the agricultural sector in accordance with the Agricultural Perspective Plan (APP);

(ii) to develop water resources, power, and energy to strengthen the overall economic and social development base and to fulfill the needs of various sectors through multi-dimensional utilisation of water resources;

(iii) to emphasize human resource and social development in the process of overall development in order to make proper use of available resources, national heritage and various opportunities;

(iv) to develop industry and tourism sectors in order to increase production and income and promote the non-agricultural employment opportunities;

(v) to develop physical infrastructures such as road, bridges, air transport, communications, and the like which are prerequisites for overall economic and social development.

The Nepalese agricultural development policy is embodied in the Nepal Agriculture Perspective Plan (APP) adopted by the Government in 1995. The following are the main objectives of the APP:

(i) to accelerate growth rate in agriculture through increased factor productivity;

(ii) to alleviate poverty by achieving significant improvements in the standard of living through growth and expanded employment opportunities;

(iii) to transform transition subsistence-based agriculture into a commercial one through diversification and widespread realization of comparative advantages;

(iv) to fulfill the production of agricultural development as the base to expand the opportunities for an overall economic transformation; and

(v) to identify immediate, short-term and long-term strategies for the implementation of the APP, and to provide clear guidelines for preparing periodic plans and programmes in the future.

The strategy for achieving the objectives of the APP has the following fundamental components:

(i) concentration of public sector investment in a small number of input priorities: shallow tubewell irrigation, agricultural roads, easy availability of fertilizers and the technology system of research and extension have been identified as the priority inputs;

(ii) concentration of efforts to facilitate intensification of agriculture: livestock, cereals (paddy, wheat), citrus, apple, off-season vegetables, vegetable and flower seed, bee-keeping products, silk, and forest products.

(b) Monetary and fiscal policies

Monetary Policy

The monetary policy of Nepal is geared towards controlling excessive liquidity so as to control inflationary pressures, and to improve the balance of payment situation of the country. Accordingly, broad money and narrow money aggregates are targeted to increase in line with the predetermined benchmarks. The Central Bank (Nepal Rastra Bank, NRB) has given up exercising direct instruments of monetary control since the early 1990s and has resorted to indirect instruments only. In this context, open market operations has become the main instrument of monetary control in Nepal. Treasury bills and NRB bonds are two instruments used in such operations. Besides open market operations, bank rate and the cash reserve ratio are the other additional instruments at the command of the Central Bank for monetary control. However, they are used less frequently. The Central Bank has recently reduced the cash reserve ratio (CRR) of commercial banks from 12 per cent to 10 per cent to encourage credit flow in the private sector by the commercial banks. Similarly, refinance rates have declined from 11 to 9 per cent.

Fiscal Policy

Since the start of the 1990s Nepalese Government has pursued an ambitious tax reform programme with the aim of raising public savings, reducing reliance on direct taxation and to improve the overall efficiency and fairness of the tax system. Reforms have been undertaken to broaden the tax base, lower income tax rates, and to simplify the rate structure across a whole range of taxes. The current fiscal policy of the Government is to pursue the following major objectives: (i) reduction of unproductive expenditure in the public sector; (ii) reform of the income tax structure by reducing high rates and broadening the tax base; (iii) reduction of net domestic borrowing to 0.5 per cent of GDP; and (iv) streamlining of bureaucracy.

(c) Foreign exchange and payment system and relations with the IMF, application of foreign exchange control if any

The Central Bank publishes exchange rates for its transactions and the market rate is determined by the foreign exchange market. Import licenses to obtain foreign currency for specific goods are no longer required. The present system facilitates 100 per cent of capital transfer in the form of foreign investment and subsequent repatriation of profit in foreign currencies. Foreign currency bank accounts can be freely opened. In case of the emergence of balance of payment (BOP) problems, the government may resort to restrictive measures.

The Nepalese Rupee has been pegged to the Indian Rupee at the rate of NRs. 1.6 per Indian Rupee since February 1993, and movements in the value of the Nepalese Rupee reflect movements in the Indian Rupee against third country currencies. The current exchange rate is about 67.00 Nepalese Rupees per US Dollar (June 1998).

Several amendments have been made in the Foreign Exchange (Regulation) Act, 2019 (1962) in order to reflect the liberalisation policy. A number of money changers have been opened in the main cities of Nepal, and some other are in the process of approval by the Central Bank. Thus Nepal has effectively and successfully created a free and open financial market in the country. Moreover, it is worth mentioning that the Government declared its commitment to make Nepal an international financial services centre in its budget program of fiscal year 1995/96. To implement its program, the Government has formulated an act of the same title in this regard.

In 1992/93, Nepal entered into the Enhanced Structural Adjustment Facility (ESAF) with the International Monetary Fund. However, it was discontinued in FY 1994/95 due to some political changes. The government is trying to re-enter ESAF again.

(d) Foreign and domestic investment policy

A major objective of national economic policy is to promote and encourage transparent and fair business environment for both domestic and foreign investment, and to increase the role of the private sector in Nepal's development process. For this purpose, a liberal industrial policy was adopted in 1992, and the Industrial Enterprises Act, 1992, the Foreign Investment and Technology Transfer Act, 1992, and the One Window Policy of 1992 were announced. Under this policy, a high level committee has been formed with the Director General of the Department of Industries as its Coordinator in order to coordinate the activities of various agencies related to industrial enterprises. The major thrust of these acts and policies lies in their openness with emphasis on market-driven strategies, and the dominant role of private initiative and enterprise. The Government acts as a facilitator to the private sector and concentrates its efforts on the development of the infrastructure required, as well as in guaranteeing a stable macroeconomic environment. The policies and acts mentioned above apply to all sectors of economic activities within the country.

The Industrial Policy of 1992 identified foreign investment promotion as an important strategy in achieving the objectives of increasing industrial production, meeting the basic needs of the people, creating maximum employment opportunities, and paving the way for improvement in the balance of payment situation. Foreign investment is expected to supplement domestic private investment through foreign capital flows, technology transfer, and providing access to international markets. The first amendment of the Foreign Investment and Technology Transfer Act (FITTA), 1992 in 1996 has opened further avenues for investors, and has also simplified the administrative procedures.

Some of the salient features of the Industrial Enterprises Act, 1992 and of the Foreign Investment and Technology Transfer Act, 1992 (as amended) are:

(i) foreign investment requires an approval from the Department of Industry. A person desiring to avail the foreign investment or technology transfer shall be required to make an application to the Department. It grants permission in accordance with decision of the Industrial Promotion Board within 30 days from the date of application;

(ii) foreign investors are allowed to hold 100 per cent ownership in industries;

(iii) foreign investment is open in every sector of economic activities, except for very few sectors such as cottage industries, arms and ammunitions, security printing currencies and coinage, retail business, travel and trekking agencies, consultancy services, etc. (Specified in Annex of the Industrial Enterprises Act, 1992);

(iv) technology transfer is encouraged in all public enterprises of industries;

(v) the law prohibits nationalization of any private sector industries;

(vi) the Government does not intervene in fixing the prices of industrial products in the private sector industries.

The statutory provision of FITTA guarantees full repatriation of the amount received from the sale of equity, profits, or dividends and interest on foreign loans, and the repatriation of the amount received under an agreement for the transfer of technology.

Foreign investors will be granted a business visa until their investment is retained. Resident visa will be provided for a foreign investor, who, at a time, makes an investment in excess of US$100,000 or equivalent and retains it.

Nepal is a member of the Multilateral Investment Guarantee Agency (MIGA), has signed Reciprocal Encouragement and Protection of Investment Agreements with France, Germany, and the United Kingdom, and is underway to conclude such agreements with a number of other countries. Agreements avoiding double taxation have, moreover, been reached with India, Norway, and Thailand.

(e) Competition policy

In Nepal, currently there is no specific legislation on competition but the Government feels the need to introduce legislation to guarantee free and fair competition in the country.

(f) Privatization policy

In 1992, HMG Nepal launched a comprehensive privatization programme. The current privatization process is ruled by the Privatization Act, 2050 (1994). During the first stage of this programme, ten public enterprises were privatized; among them: Bansbari Shoes and Leather Factory (BSLF), Bhrikuti Paper Mill (BPM), Brick and Tile Factory Harisiddhi (BTFH), Nepal Film Development Corporation (NFDC), Balaju Cotton Factory (BCF), Raw Hide Collection and Development Corporation (RHCDC), Nepal Bitumin and Barrel Industry (NBBI), and Nepal Lube Oil Limited (NLOL). In the second stage of the process, since September 1995, two companies, Raghupati Jute Mill and Nepal Foundry have been sold. Leasing arrangements have been agreed for two other enterprises—Bhaktapur Brick Factory and Biratnagar Jute Mill. Nepal Coal Limited will be transferred to employees. HMG has listed 25 more enterprises for privatization in the near future, including some large-scale ones. In the financial sector, HMG has sold 10 per cent of its equity shares in Nepal Bank Limited (NBL), lowering government ownership to 41 per cent.

HMG has also established a Privatization Unit in the Ministry of Finance for the supervision and coordination of the privatized SOEs (State-owned Enterprises). This unit is also responsible for the selection of other SOEs which have to be privatized. At present HMG has privatized 16 public enterprises and privatization process is still underway.

3. FOREIGN TRADE IN GOODS AND SERVICES

(a) Volume and value of trade

The total volume of trade is increasing in a progressive manner. In absolute terms, total trade increased from US$896.39 million in 1992/93 to, US$1532.43 million in 1995/96 and increased to 1882.0 million in F.Y. 1996/97. As a percentage of GDP, total trade, which stood at nearly 22 per cent in 1980/81, increased to 23.3 per cent in 1990/91 and further to 39 per cent in 1995/96. The shares of exports and imports in total trade stood at 20 per cent and 80 per cent respectively in the year 1995/1996 and was 19.1 and 80.9 per cent in FY 1996/97.

(b) Exports and imports

Exports

Total export value recorded a continuous growth over the past years except in 1994/95. Total export, which stood at US$274.08 million in 1992/93, increased to US$314.98 million in 1995/96. It increased further to US$358.71 million in FY 1996/97. As a percentage of GDP, exports increased from 5.8 per cent in 1985/86 to 10.4 per cent in 1992/93 and was only 8.3 per cent in FY1995/96. The liberalization of import of industrial raw materials along with the exchange rate adjustment has been instrumental in the growth of exports in the past. The fall of export in absolute terms in 1994/95 is due to decrease in the export of woollen carpets and ready-made garments. Total exports increased, on average, by 11 per cent between 1992/93 and 1996/97.

Imports

Total import value has recorded a significant growth over the past years. Total import, which stood at US$622.31 million in 1990/91, increased to US$1,217.45 million in FY1995/96 and further to US$1,522.95 in the year 1996/97. The import nearly doubled in 1995/96 compared to 1992/93. As a percentage of GDP, import increased from 23.7 per cent in 1992/93 to 32.0 per cent in 1995/96. Total import increased, on average, by 24.7 per cent between FY 1992/93-1996/97.

(c) Structure of trade

Structure of exports

There has been structural shift in the composition of exports in the later part of the 1980s and early part of the 1990s as compared with the 1970s and early 1980s. In 1980-1991 around 70 per cent of Nepal's total exports comprised primary commodities; manufactured goods accounted for 30 per cent.

In 1992/93, the share of primary goods in total exports declined to around 14 per cent and the share of manufactured goods increased to 86 per cent. In the year 1995/96 the share of manufactured goods in total export was 82 per cent where as the share of primary good was only 18 per cent. The major exportable items included woollen carpets, ready-made garments, leather, handicraft, and jute goods. Carpets and garments alone contributed more than 78.3 per cent of Nepal's total exports in the 1992/93 and 65.6 per cent in year 1996/97.

The primary commodities are largely exported to India, and manufactured goods to third countries. Exports to India consist mainly of jute and jute goods, dried ginger, cardamom, ricebran, oil, pulses, and oil cake; while exports to third countries mainly consist of carpets, garments, hide and skin, and handicrafts. (Details in Annex 1.)

Structure of imports

Nepal's imports consist of various items ranging from primary goods to manufactured consumer goods, fuels and lubricants, chemicals and drugs, machinery and transport equipment. In 1995/96, manufactured goods accounted for almost 60 per cent of the total imports. In the year 1994/95, the percentage increase in imports was 23.5 per cent, and in the years 1995/96 and 1996/97 the growth rates were 20.4 per cent and 25.1 respectively.

(d) Trade by geographic areas and dynamics of trade

Trade by geographic areas

After FY 1984/85 India's share in Nepal's total trade went on decreasing and that of other countries kept on increasing. The percentage shares of India and other countries in 1985/86 were 42.0 and 58.0 respectively. In FY 1995/96, India's share decreased to 27.5 per cent and other countries share increased to 72.5 per cent. Again in FY1996/97 India's share dropped to 26.5 per cent and the share of other countries stood at 73.5 per cent. HMG/N has signed bilateral trade agreements with 17 countries. Nepal is a member of SAPTA, which has been effective from December 1995. The agreements with India and SAPTA are preferential ones. The Ninth SAARC Summit, which took place in 1997 has decided to move from SAPTA to SAFTA (South Asian Free Trade Area) by the year 2001. This apart, Nepal has trade with more than 50 other countries of the world. The country exports and imports a large volume of goods from abroad. On the export front, the major trading partners are Germany, United States, India, Bangladesh, Italy, Switzerland, Austria, United Kingdom, France, and Belgium. In FY 1996/97, these countries' share in the total exports remained 33, 25, 23, 2.15, 1.5, 1.5, 1.4, 1.2, 1.04, and 1.03 per cent respectively. The rest (9.35 per cent) exported to other countries included Tibet Autonomous Region of the People's Republic of China.

On the import front, major trading partners are: India, Hong Kong (until 1997), Singapore, UAE, Japan, UK, China PR, Switzerland, New Zealand, and Thailand. In FY 1993/94, these countries, shares in the total imports were 27.53, 21.56, 10.59, 5.93, 4.21, 3.35, 3.20, 2.47, 2.34 and 1.73 per cent respectively. The rest (17.09 per cent) was imported from other countries.

Dynamics of trade

Until the 1970s more than 90 per cent of Nepal's foreign trade was directed towards India. The trade diversification policy pursued by the government during the 1970s led to a significant shift in the direction of Nepal's trade. As a result, the share of India in Nepal's total trade declined from 52.5 per cent in 1980/81 to 25.1 per cent in 1990/91 which increased to 27.5 per cent in the year 1995/96 and again declined to 26.5 per cent in 1996/97. Full convertibility of Nepalese currency on current account, exemption of income tax on earnings from export, timely duty refund on exports, and minimum service charge levied on exports contributed to a significant diversification of Nepal's foreign trade.

4. DOMESTIC TRADE IN SERVICES INCLUDING VALUE AND COMPOSITION OF FOREIGN DIRECT INVESTMENT

The service sector is assuming a more important place in the structure of the economy. The share of services in GDP has been steadily increasing. In 1997, it reached 39.7 per cent with a growth rate of 5.5 per cent. The increase in the share of service sector is mainly attributed to the expansion of trade and tourism services. In view of the importance of foreign capital for industrial development, efforts have been made to attract foreign investment through the implementation of liberal and open policy. Till mid April 1997, a total of 356 joint venture enterprises were given permission to establish industries. The total fixed capital of these joint venture enterprises is US$710 million while the total project costs in these enterprises are US$807 million. Similarly, total foreign investment in these enterprises is US$163 million.

5. INFORMATION ON FINANCIAL MOVEMENTS RELATED TO NATIONALS WORKING ABROAD (REMITTANCES)

A certain class of people in Nepal join the Indian and British armies. Besides, there is now also a flow of Nepalese citizens (skilled/unskilled) to foreign countries including India in search of better earnings. Every year these people remit part of their earnings, which is an important source of receipt, under transfer head of the balance of payments of Nepal. Such private remittances in 1992/93 amounted to US$47.53 millions which increased to US$68.0 million in 1995/96 and further to US$69.49 million in 1996/97. As a per cent of the net transfer, it came to be 43.2 per cent, 35.1 per cent, and about 29 per cent, respectively. Thus the share of the transfer remittance in net transfer is changing.

6. INFORMATION ON GROWTH IN TRADE IN GOODS AND SERVICES OVER RECENT YEARS AND FORECASTS FOR YEARS TO COME

Information on the growth in trade up to the year 1998 is given below. Growth in trade depends largely on product diversification and appropriate trade policy of the country. Occasionally, exportable items occupying important role have been changed. Since recently, woollen carpets and ready-made garments have played a significant role in the export trade in Nepal. It is expected that country and product diversification of trade will continue in the future. HMG is convinced that accession to the WTO will foster this process.

Direction of Trade

(Rs. in million)

X/M	1992/93	1993/94	1994/95	1995/96	1996/97	1997/98 (First 8 months)
Export	17.266.5	19,293.4	17,639.2	19,843.7	22,598.6	16,640.4
India	1,621.7	2,408.9	3,124.3	3,978.6	5,577.1	5,303.9
Other Countries	15,644.8	16,884.5	14,514.9	15,865.1	17,021.5	11,336.5
Import	39,205.6	51,570.8	63,679.5	76,699.2	95,946.0	50,451.4
India	12,542.1	17,035.4	19,615.9	25,588.1	25,843.8	16,874.9
Other Countries	26,663.5	34,535.4	44,063.6	51,111.1	70,102.2	33,576.5
Total Trade	56,472.1	70,864.2	81,318.7	96,542.8	118,544.6	67,091.8
India	14,173.8	19,444.3	22,740.2	29,566.7	31,420.9	22,178.8
Other Countries	42,308.3	51,419.9	58,578.5	66,976.1	87,123.7	44,913.0

Source: Economic Survey, Ministry of Finance. Trade Promotion Centre

III FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND TRADE IN SERVICES

1. POWER OF EXECUTIVE, LEGISLATIVE AND JUDICIAL BRANCHES OF GOVERNMENT

(a) General introduction to executive branch of government

After a popular movement launched in 1990, the then existing partyless Panchayat System was dissolved. A new democratic constitution was promulgated in the same year. The new constitution, the Constitution of the Kingdom of Nepal, 1990 (hereinafter referred to as the "constitution") established a Westminster-style government with the King as the Head of the State and the Prime Minister responsible to the parliament, as the Head of the Government, and an independent judiciary. The parliament is a bicameral legislative body, but, as in other parliamentary countries, the lower house (the House of Representatives) is more powerful than the National Assembly, the upper house. The executive, legislative, and judicial powers are well defined and separated by the constitution. The executive power in the country with the responsibility of issuing general directives, controlling and regulating of the administration is vested in His Majesty the King and the Council of Ministers, the Cabinet. His Majesty the King as the Head of the State appoints the leader of the Party which commands a majority in the House of Representatives as Prime Minister and constitutes the

Council of Ministers on his recommendation and under his chairmanship. The Prime Minister and the other ministers in the government are collectively responsible to the Parliament. The other ministers are also individually responsible for the business of their respective ministries to the House of Representatives as well as to the Prime Minister.

(b) Composition of parliament and legislative branch

The parliament consists of His Majesty the King and the two Houses of parliament, namely the House of Representatives and the National Assembly. The House of Representatives consists of two hundred and five members elected from one-man election constituency on the basis of one-person-one-vote system through a secret ballot by Nepalese citizens who have attained the age of eighteen years. Nepal has adopted the simple plurality or "first past the post" election system under which a candidate securing the largest number of popular votes in a given constituency is elected. The National Assembly (the upper house) consists of sixty members, ten of which are nominated by His Majesty the King from amongst persons of high reputation, and 35 members, including at least three women members, are elected by the House of Representatives on the basis of proportional representation by means of the single transferable vote system. Fifteen members are elected also from five Development regions on the basis of a single transferable vote system by an electoral college consisting of the chiefs and deputy chiefs of Village Development Committees and Municipalities and the chiefs, deputy chiefs and members of the District Development Committees of each region. The tenure of the members of the House of Representative is five years. The National Assembly is a permanent house. The tenure of one-third of its members expires every two years.

Except as otherwise expressly provided in the constitution, the parliament is empowered to enact any law. A bill passed by one house of the parliament is transmitted to the other house as soon as possible and if the receiving house passes it, it is presented to His Majesty the King for his assent. A bill becomes an act immediately in accordance with the constitution. The Government is empowered to promulgate rules or regulations under a delegated legislative power vested under an act of parliament. The constitution provides certain specific provisions concerning ratification of, accession to, approval of, and acceptance of a treaty. Depending on the content, nature, and term of a treaty, a joint sitting of both houses of the parliament or the House of Representatives is authorized to ratify or accede to. Normally, multilateral treaties concerning trade which require ratification of accession are ratified by the House of Representatives by a simple majority vote. Once treaties are ratified, they are executed at the national and international levels. A treaty may be invoked on a collateral issue, which the courts may have to determine before adjudicating on the rights of the parties. However, the Supreme Court, in case it decides that the provision of an act is inconsistent with the provision of a treaty to which His Majesty's Government is a party, the provision of the treaty in question prevails. Under the Nepal Treaties Act, 2047 (1990) in case of divergence between the provisions of Nepalese law and provisions of the international treaty to which the kingdom is a party, the provision of the treaty shall apply to the extent of divergence.

(c) Composition of judiciary and its nature

The judiciary of the country is an independent organ. The powers relating to justice in the kingdom are exercised by the courts and other judicial tribunals in accordance with the provisions of the constitution, the laws of the country, and universally recognized principles of justice. The judiciary of the country comprises three tiered courts consisting of 75 District Courts, 11 Appellate Courts, and one Supreme Court. The Chief Justice of the Supreme Court of Nepal is appointed by His Majesty the King on the recommendation of the Constitutional Council, a constitutional body composed of the Prime Minister, the Chief Justice, the Speaker of the House of Representatives, the Chairman of the National Assembly, and the Leader of the Opposition in the House of Representatives as its members. Appointment of other judges of the Supreme Court, Appellate Courts, and District Courts is made by His Majesty the King on recommendation of the Judicial Council. In

Nepal, judges are not part of the civil service and the terms and conditions of their service have been determined by law as required by the constitution. The Supreme Court, the apex of the judicial system, has, inter alia, extraordinary jurisdiction for the enforcement of fundamental rights as provided by the constitution in Part 3 and can issue appropriate order and writ including the writ of habeas corpus, mandamus, certiorari, prohibition and quo warranto. Moreover, it is also empowered to declare any law or any part thereof either void ab initio or from the date of its decision on the ground of inconsistency with the constitution, because such law imposes an unreasonable restriction on the enjoyment of the fundamental rights of the citizen. Similarly, appellate courts may issue habeas corpus, mandamus writs and injunction orders.

2. GOVERNMENT ENTITIES RESPONSIBLE FOR MAKING AND IMPLEMENTING POLICIES AFFECTING FOREIGN TRADE

Under article 35 of the constitution of the Kingdom of Nepal, 1990, the executive power of the kingdom of Nepal is vested in His Majesty and the Council of Ministers. Article 41 of the constitution provides that the allocation and conduct of activities of His Majesty's Government is to be carried out as set forth in the rules approved by His Majesty. His Majesty's Government (Allocation of Business) Rules, 1990 (as amended), allocate the functions of the government among the various ministries, i.e., government entities, according to which the following Ministries are responsible for making and enforcing the policies affecting foreign trade in goods and services:

(a) The Ministry of Commerce is principally responsible for making and enforcing policies on trade including foreign trade. The responsibilities of this ministry include:

- (i) Formulating and enforcing trade policy.
- (ii) Study, research, and survey on internal and international trade.
- (iii) Making policy decisions on import and export trade regime and conducting international trade relations.
- (iv) Formulating policies and setting requirements for public trade enterprises.
- (v) Preparing and negotiating treaties and agreements relating to foreign trade (and transit), as well as participating in bilateral and multi-lateral intergovernmental trade negotiations.
- (vi) Contact, assistance and coordination with national, regional, international organizations pertaining to trade and transit.
- (vii) Study and survey of different means of carriage of goods in the internal and international trade, and of the management necessary for cheaper carriage, including multi-modal transport schemes.
- (viii) Training to develop capable manpower in the appropriate areas.

Apart from the Ministry of Commerce, a separate Department of Commerce exits under it. The Department of Commerce deals with technical issues such as the registration of trade firms, and where appropriate, permits licenses or authorization for goods to be imported in or exported from Nepal.

Besides that, Trade Promotion Centre operates as a separate government undertaking to promote foreign trade, particularly overseas trade.

(b) The Ministry of Finance is responsible for activities related, inter alia, to: currency; banking, insurance, revenue policy and planning; revenue administration and collection of customs duties and taxes levied by the government from time to time; general price policy for State-owned enterprises (SOEs); exchange and control of foreign currencies and control of accounts as well as mobilisation of foreign aid. As the customs duties and taxes fall within the scope of this Ministry, it is also responsible directly or indirectly for some trade matters and policies.

(c) The Ministry of Industries is responsible for policies related, inter alia, to: foreign investment, promotion thereof and matters relating thereto; promotion of industrial investment; development and transfer of technology; industrial promotion and protection; patent design and trade mark. These matters are also related to trade issues.

(d) The Ministry of Tourism and Civil Aviation is responsible for issues related, inter alia, to: tourism industry and tourism promotion; trekking, mountaineering; development of air transportation and other tourism trade related service and issues.

(e) The Ministry of Works and Transport is responsible for activities related, inter alia, to: policy on development of inland and water transport; regulation of transportation and carriage by land and sea including multi-modal transport and trade facilitation.

(f) The Ministry of Labour is responsible for activities related, inter alia, to: labour policy and its implementation; study and research of labour force and labour market, and its use; contact and relation with national, international organizations related to labour; relation between labour and management; employment service and labour supply; trade union and social security of labourers; work permit to foreigners; administration and management of labour.

(g) The Ministry of Supplies is responsible for issues related, inter alia, to: the policy on supplies of basic needs goods and its implementation; supervision of the market and regulation of policy prices for enterprises under it; regular and balanced supply of the consumption goods and necessary consumption goods through these enterprises. The Ministry works in close coordination with the Ministry of Commerce.

(h) The Ministry of Agriculture is responsible for activities related, inter alia, to: policy on agriculture and agriculture production in general; development and improvement of food, cash and industrial crops; agricultural engineering and sophisticated agricultural inputs; agricultural nurseries and development of seeds; development of dairy and dairy products; fishery; marketing and price regulation of basic agricultural products, agricultural inputs, and development of agricultural technology; plant quarantines; food research, and import, sale and distribution of fertilizers and agricultural inputs.

3. DIVISION OF AUTHORITY BETWEEN CENTRAL AND SUB-CENTRAL FORM OF GOVERNMENT

The constitution of Nepal provides a unitary form of government. Unlike a federal structure of the government, there is no division of authority between central and sub-central or regional government in Nepal. However, the laws of the country provide for delegation of authority to the local authorities as and when required.

4. ANY LEGISLATIVE PROGRAMMES OR PLANS TO CHANGE THE REGULATORY REGIME

In the context of the current reform programme, new acts or amendments to existing ones are under consideration with the aim of increasing consumer protection and improving transparency of administrative decisions.

5. LAWS AND LEGAL ACTS

Laws and legal acts affecting trade are referred to in Annex 2.

6. DESCRIPTION OF JUDICIAL, ARBITRAL OR ADMINISTRATIVE TRIBUNALS OR PROCEDURES, IF ANY

Nepalese courts are competent to entertain and adjudicate all suits concerning real estates located in Nepal and estate matters with respect to assets in Nepal and also any other suits, if the defendant is domiciled in Nepal or the claim derives from an event that has occurred in Nepal or from any act made or done in Nepal regarding the defendant's domicile. If a foreign company has a branch in Nepal; it is treated as a domiciled party. A Nepalese court may also adjudicate suits concerning transactions made abroad if both the plaintiff and defendant are domiciled in Nepal. Summons are to be served on defendants domiciled abroad through letters rogatory issued by the courts. No. 34 of Adalati Bandobasta (court management) of Muluki Ain (Civil Code) provides that summons to be served on defendants domiciled in Nepal through letter rogatory issued by the foreign courts are satisfactory only if a reciprocal agreement to that effect has been concluded by the Government with the foreign state concerned. Muliki Ain is the general law of the land and any other specific act may replace the provision of the Muluki Ain if a specific act to that effect is made. In addition to the above mentioned courts, there is also a provision in the constitution which stipulates that law may provide for the establishment of special public enterprises of courts and tribunals for the purpose of hearing of special cases. However, a special court or tribunal may not be constituted for the purpose of hearing a particular case. In practice, there are special permanent tribunals to adjudicate and resolve revenue disputes (Revenue Tribunals), labour disputes (Labour Court) and disputes concerning dismissal of civil service employees (Administrative Court). However, there are no special courts, or tribunals so far to adjudicate trade disputes in Nepal.

There is, however, Arbitration Act, 1981 under which disputes of commercial nature arising out of an agreement may be settled through arbitration as provided for in such an agreement. If the agreement providing for arbitration fails to lay down rules regarding the number of arbitrators or governing laws, the provisions of the Arbitration Act apply. As a matter of fact, arbitration has become an effective mechanism for settlement of disputes arising out of commercial contracts. Nepal is a party to the Convention on recognition and Enforcement of Foreign Arbitral Award done at Rand arbitral award made abroad may be executed in Nepal subject to the conditions stipulated by the said convention.

IV. POLICIES AFFECTING TRADE IN GOODS

1. IMPORT REGULATION

(a) Registration requirements for engaging in importing

As provided by the Company Act 1997, any person desiring to engage in industrial business activities in Nepal is required to register with the Ministry of Industry, Company Registration Office. Business firms for commercial or trade in goods are supposed to be registered at the Department of Commerce in accordance with the Private Firm Registration Act 1956 (2014) and Partnership Act 1962 (2020). Foreign- owned companies, or joint companies with foreign participation, according to the Foreign Investment and Technology Transfer Act of 1992 are required to make an application to the Department of Industry within the Ministry of Industry for obtaining permission to engage in industrial business in Nepal. Individuals for personal purpose (limited quantity, not for trading and business) can import without any registration requirements. According to the Customs Act of 1962, as amended, persons, firms or companies desirous of working as agents for delivery of goods must obtain a license from the Customs Office on payment of the prescribed fee. Persons, individuals or firms desiring to engage in agency service for trade and other commercial purpose must be registered in the Department of Commerce as provided by Nepal Agency Act 1962.

(b) Characteristics of national tariff

The Evolution of the Customs Tariff Regulation

Nepal has, in recent years, shifted from a highly regulated high tariff import regime to a liberal one. In the 1980's there were multiple tariff rates applied on imports, more than four hundred, and the peak tariff rate was as high as 255 per cent. Since late 1980's and particularly since the early 1990's, there has been a downward revision in tariff rates, and a simplification of the tariff rate structure. Previously, the customs tariff structure of Nepal comprised general and additional rates on imports. However, no additional duties were levied on imports from countries with which Nepal has preferential trading arrangements. The additional duties were abolished in 1994 to simplify customs administration. Now the basic rates are uniform irrespective of diverse sources of imports. The number of tariff rates were reduced to 5 slabs in the budget year 1995/96, and the maximum tariff rate is now 80 per cent for certain goods such as cars, jeeps, arms ammunition, cigarettes, etc. with a minimum tariff rate up to 5 per cent for daily consumption items.

Customs Tariff Nomenclature

The Harmonized System of Commodity Classification (HS) was incorporated in Nepal since the budget speech of the fiscal year 1992/93, and since then it has been brought into effect in the customs administration. The 1996 version of the HS Nomenclature was put into effect with the budget speech for fiscal year 1996/97 with the inclusion of the required amendments and corrections.

Public enterprises of Duty

Customs duties are imposed on imported goods in accordance with the rates mentioned in column 4 of the commodity classification of chapters 1 to 97 under sections 1 to 21 of Nepal’s Customs Tariff. As a general rule, ad valorem duties (calculated as percentage of value) are applied. However, a very limited number of products such as motor fuels, kerosene oils, gas and fuel oils, cement clinkers and some cements are subject to specific duties (calculated as a fixed amount per unit (refer to Custom Tariff for the specific duties).

An excise tax, according to the current legislation, can only apply to domestically produced goods such as molasses, Panmasala with or without tobacco, wine, beer and other alcoholic drinks, cigarettes and cigar tobacco and cars jeeps as well as pickup vehicles. The import of these goods which are subject to excise tax in Nepal are subjected to an *equalizing* duty equal to the excise tax that is applied on the national goods. The objective of this measure is to provide the same treatment to national and imported goods. Excise tax range from 15 to 40 per cent for some specific goods.

General Description of the Custom Tariff Structure

The prevailing basic customs tariff rates are 5, 10, 20, 30, and 80 per cent, and there is a significant number of tariff lines with zero duty. However, the majority of the import items fall in the customs duty slab of 10-20 per cent. The unweighted average customs duty rate for imports was 15.4 per cent in 1981/82. It declined to 8.8 per cent in 1992/93 and further to 8.2 per cent in 1994/95, remaining at 10.7 per cent in 1995/96 and shift to around 11 per cent in the year1996/97.

(c) Tariff quotas, tariff exemptions

There are no tariff quotas for imports in effect in Nepal.

The current legislation provides for certain tariff exemptions and tariff reductions, in order to facilitate the import of specific goods on a provisional basis. These measures are taken by the government and published in Nepal Gazette. They are valid for all suppliers of the goods which are specified in the Custom Tariff. The following exemptions are in effect:

(i) duty is exempted on the import of books;

(ii) customs duty is exempted on the import of equipment and vehicles for trolley bus services;

(iii) public health projects are given a full tariff exemption on the import of medical equipment;

(iv) import of cold storage equipment for the preservation of agricultural products including fish and fruits is exempted from the import duty;

(v) import of alternative power development equipment is exempted from import duty;

(vi) high quality printed materials imported for the promotion and publicity of the tourism in Nepal are exempted from the import duty;

(vii) duty is exempted on the import of threshing machine and husk-machine (Pankhi);

(viii) duty is exempted on the import of raw jute;

(ix) full exemption of customs duties is granted on the import of crates for keeping eggs, falling under chapter 48.

For a comprehensive list of exemptions and tariff reductions, refer to Customs Tariff, Other Provisions relating to Import Duty, Customs Tariff, pages 392 to 398 (The Customs Tariff in English is available at the WTO Secretariat).

(d) Other duties and charges specifying any charges for services rendered

Currently, there are no other duties and charges imposed on imports. Nevertheless, the Customs Act of 1962 and customs regulations provide the authority to the Customs Office to charge for the services rendered. There is a charge of 1 per cent for an import license.

(e) Quantitative import restriction including prohibitions and licensing system

All items except a few under banned and quantitative restriction as shown in Annex 3.2 are free for import and there are no import quotas applied at present.

(f) Licensing procedure

Automatic licensing is applied for information purposes both for the import and export of goods. Licenses are also applied for the personal baggage exceeding allowance. In addition to this, the Treaties of Trade and Transit between Nepal and India envisage licensing in order to ensure that the transit of goods does not violate articles 8 and 9 of the transit treaty, which embody restrictions applied in India in the spirit of articles XX and XXI of GATT 1994 (general and security exceptions). The Department of Commerce issues the licenses (Annex 3 presents these procedures).

(g) Other border measures, e.g., any other schemes that have border effects similar to those of the measures listed under (e) above

There are no other border measures with effect similar to quantitative restrictions.

(h) Customs valuation

For customs purposes, the valuation processes for goods imported into Nepal are moving towards GATT 1994 valuation rules. For this purpose the necessary amendment in the Customs Act, 1962 was made in September 1997, which adopted the transaction value method. Accordingly, the value of goods for customs purposes will be based on the actual price paid. The owner of goods must produce evidence of transaction before the customs office. Further, the burden of proof lies with the owner. In case the transaction value declared by the owner does not match with the existing criteria of valuation, the customs office may determine the value on the basis of the value of identical or similar goods (refer to Gazette Notification for Customs Valuation 1997 (Marga 30, 2053) notified under the provision of section 40 of Customs Act, 1962). This applies also to circumstances, where the owner has not been able to declare the transaction value of goods. In determining the value of goods, HMG may base its decision on bills or invoices submitted by the owner or on the price list presented by an authorised agent or on the advice of experts from the fields of industry, commerce or trade. In case the valuation of dutiable goods is fixed in foreign currency, the rate of exchange fixed by the Central Bank determines the exchange rate to convert the value into Nepalese currency. The burden of proof lies with the owner of the goods at all time to prove the authenticity of the invoice, if the invoice submitted is not satisfactory. In applying the methods of customs valuation, the customs office will be trying to base its decisions on the actual value of the imported goods, and not arbitrarily determining the value of goods.

(i) Other customs formalities

Under the Customs Act, 1962 and Customs Regulation, 1970, the importer or his agent has to submit a Declaration Form along with the following documents:

(i) Import declaration form

(ii) Income tax registration certificate

(iii) Registration certificate of the commerce department for commercial imports.

(iv) Letter of credit

(v) Certificate of insurance

(vi) Packing list

(vii) Invoice

(viii) Bill of loading or airways bill

(ix) Certificate of origin

(i) Cost and transit declaration for the imports on CIF Calcutta basis.

The Customs Officer examines the goods physically against the above documents.

(j) Pre-shipment inspection

Currently, there is no system of pre-shipment inspection in Nepal.

(k) Application of internal taxes on imports

Products imported into Nepal are subject to VAT. Domestically produced goods and imported goods are both subject to the same taxes.

The existing sales tax rates of 10 and 20 per cent were unified at a 15 per cent rate in the 1995/96 budget. Exemptions from VAT applies basically to commodities deemed essential as food items, kerosene, sugar, cotton textiles, medicine, pencils, and utensils made of cooper, brass, and aluminum.

HMG has replaced sales tax with Value Added Tax (VAT) at a single rate of 10 per cent in the year 1997. This Tax will also replace all the existing taxes on services, including entertainment and hotel, and contract taxes. In FY 1997/98 VAT has been introduced with the rate of 10 and 20 per cent,10 per cent is levied for those taxpayers who are registered in VAT office and those taxpayers who do not report to the VAT office are levied 20 per cent tax in order to enhance tax collection and discourage tax avoidance.

Municipalities in Nepal currently levy a local transit tax called octroi, which most products are subject to, irrespective of whether they are domestically produced or imported, with a rate of one per cent of value. As provided by the Municipalities Act, 2047, octroi is not levied on food brought for daily use, and plants, machinery and equipment for use in industries specified by HMG as processing materials of basic needs. The Government is considering the elimination of this tax after alternative measures are adopted to replace the consequent loss of revenue of municipalities.

Cottage industries are exempt from income tax and excise duty.

(l) Rules of origin

The application for import requires the importer to state the country of origin of the goods to be imported. Nepal is applying the rules of origin under the SAPTA agreement in order to establish whether preferences should be applied on imported goods. In case of exports, document certifying the origin of goods, export declaration form, invoice, letter of credit, packing list, visa for ready-made garments for exports are required along with the application. Members of the Federation of Nepalese Chamber of Commerce and Industry are the only authorized agencies to issue a Certificate of Origin for certifying the export of Nepalese origin goods.

(m) Anti-dumping regime

Currently, there is no system of anti-dumping duty or any legislation to that effect in Nepal.

(n) Countervailing duty regime

Currently, there is no countervailing duty regime in effect in Nepal.

(o) Safeguard regime

Currently, there is no safeguard regime in effect in Nepal.

2. EXPORT REGULATIONS

(a) Registration requirements for engaging in exporting

The same as for importing.

(b) Customs tariff nomenclature, types of duties, duty rates, weighted averages of rates

The same Tariff Nomenclature HS system as approved by the WCO is used for imports and exports.

As a general rule, exports are free from duties. As provided by Annex II of the Nepalese Customs Tariff, only 16 products are subject to export duties; among them forest products, pulses, ricebran, and oil cakes. Duties in some cases are ad valorem. For other products, there is a specific duty. Ad valorem export duties for these products are levied on the basis of the FOB price.

All exports, except those subject to export duties, pay a service charge of 0.5 per cent of the export value.

(c) Quantitative export restrictions, including prohibitions, quotas and licensing systems

Products banned for exports and products under quantitative restrictions are given in Annexes 3.1. As mentioned earlier automatic licensing is applied for information purposes for the export and import of goods.

(d) Export licensing procedure

Except for a few banned items, all other goods fall in the free export product category. In the case of handicrafts, exporters have to present a certificate from the Nepal Handicrafts Association at the customs. For the export of forest-based and wild animal products, clearance is required from the Ministry of Forest.

(e) Other measures, e.g., minimum export prices, voluntary export restrictions, orderly marketing arrangements

Export Valuation

The value of goods mentioned in the bill or invoice submitted by the exporter is regarded as the value of such goods for customs purposes. In case the Customs Officer is not satisfied with the bill or invoice submitted to him, he may determine the value of such goods on the basis of previous records. However, for valuation purpose for the export of garments, Customs take into consideration the certification of valuation of garments from the Garment Association of Nepal, and for export of handicrafts from the Handicraft Association of Nepal.

Export Payment

According to the Foreign Exchange Regulation Act, 1962 and Rules, 1963, an exporter is responsible to realise the total payment for exported goods in terms of any convertible currency within six months from the date of shipment from Nepal. No export transaction can be effected on the consignment basis. Payment for the export of any product should be made either in advance of shipment or on the basis of irrevocable letter of credit.

Export Formalities

Any person wishing to export any goods or materials, should complete a Customs Declaration Form as prescribed and submit it to the Customs Officer at the customs point of the country. Only after the customs officer is satisfied that all documents and other formalities are complete can the goods be exported.

Foreign Exchange Act, 1962 and Rules, 1963

The exporter should declare the value of export goods in a prescribed form and submit it to the customs officer for certification. As per the act, an exporter can receive total payment for goods exported in terms of any convertible currency within six months from the date of shipment from Nepal. This rule, however, does not apply in the case of export to India because the trade between these countries is done in non-convertible currency. The exporter has free disposition of the foreign currency generated by its activities.

Documents for export clearance

An exporter has to submit the following documents to the Customs Officer along with the goods at the exit point :

(i) Customs Declaration Form

(ii) Invoice (in the case of Handicraft Products, certified by the Handicraft Association)

(iii) Packing List

(iv) Certificate of Origin from the local Chamber of Commerce

(v) Certificate of Payment or L/C received from the bank

(vi) Firm/Company Registration Certificate

(vii) Income Tax Registration Certificate

(viii) Phytosanitary Certificate for agricultural products/plants

(ix) GSP forms (in case of export to advanced countries which have unilaterally introduced the scheme of such preferences)

(x) Foreign Exchange Declaration Form of Central Bank

(xi) Letter of Authority to clear the consignment

(xii) Visa authorization certificate from the Garment Visa Office of the National Productivity and Development Center of the Ministry of Industry in case of export of garments to UNITED STATES and Canada

(xiii) Certificate from the Department of Archaeology for the export of status, arrangement works, carvings of archaeological value, etc.

HMG expects that after joining the WTO, all restrictions on the export of garments and other textile products will be gradually abolished in accordance with the agreement reached by country Members in the Uruguay Round.

(f) Export financing, subsidy and promotion policies

Earnings from export transactions are free from income tax. Trade promotion activities are carried out through the Trade Promotion Centre, which organizes seminars/conference and provides market information to the interested parties.

(g) Export performance requirements

There are no export performance requirements either for Nepali producers or for foreign entrepreneurs.

(h) Import duty drawback system

The Industrial Enterprises Act has the provision of refunding the customs duties/if any, sales tax (VAT), and excise duty levied upon raw materials used by any industry in connection with its products for export. Such reimbursement should be made within sixty days after an application to that effect has been duly submitted. No reimbursement is made if the application is not submitted within one year from the date of export. Industries producing intermediate goods that are utilized in the production of exportable goods are also entitled to the reimbursement of duties and taxes levied on raw materials.

3. INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS

(a) Industrial policy, including subsidy policies

Nepal follows a general policy of promotion of investments in all sectors of economic activity. The Foreign Investment and Technology Transfer Act 1992, the One Window Policy 1992, and the Industrial Enterprises Act 1992 apply to the industrial sector, primary sector as well as to services. These policies and acts aim at making the environment and industrial investment congenial, straightforward, encouraging, and transparent. Some of the distinctive features of current policies are: (i) non-discriminatory treatment for both local and foreign investment; (ii) simple and debureaucratised administrative procedures; (iii) sound and lucrative incentive package; and (iv) quick and efficient One Window Service.

Subsidy policy is designed to improve the economic security of the poor. Nepal provides subsidies in food, fertilizers, transport, irrigation, and credit. With the introduction of the structural adjustment programme, expenditure on subsidy programme has been reduced. Agricultural credit subsidies aim at providing incentives for agricultural investment. Subsidized agricultural credit is channelled through the Agricultural Development Bank (ADB) in order to increase investment in agriculture. Transport subsidies are provided to compensate the high cost of transport of food grains and fertilizer to the hills for the purpose of social safeguards.

As per the general policy of market oriented economic policy and liberalization, and in order to develop sound commercial practices in the import and distribution of chemical fertilizers, a fertilizer unit has been established under the Monitoring and Evaluation Division of Ministry of Agriculture. Under this new arrangement, the private sector is encouraged to participate in the supply of fertilizers.

However, for the current fiscal year (1997/98), HMG has decided to provide NRs 4,198 (US$66) per metric ton to the importers who have already opened letter of credit and have declared to import before 055/2/4 (July-Aug 1998). But the government still holds a policy of gradual slashing of subsidy on fertilizers to zero. Besides, the government has provision for subsidy on seeds and plants. Furthermore, there is a provision also for subsidy on pipe and pumping sets intended for use in irrigation.

(b) Technical regulations and standards, including measures taken at the border with respect to imports.

The Bureau of Standards and Metrology is the office responsible for all products except for health and food products. Standards and technical regulations are approved by the Nepal Council of Standards headed by the Ministry of Industry. The Bureau is responsible for the implementation of the Standards, Weights and Measurement Act, and the Quality Certification Mark and Rules Act. The Bureau is the body corresponding to the international organization for legal metrology and to ISO.

In drafting standards and technical regulations, when possible, international standards and regulations are used. Draft standards and technical regulations are submitted for review to the relevant national institutions. When approved by the Council, they are published.

Nepal relies more on standards than on technical regulations. There is a very limited number of technical regulations that apply basically to raw wool, cement, iron bars, mineral water, and LPG cylinders. In the case of wool, it applies to guarantee the quality of Nepalese carpet exports; in other cases it functions on the basis of consumer safety.

Standards and certification

Import of plant and plant products has to meet the standards laid down by the Division of the Plant Protection of the Department of Agriculture. The Division examines samples of the non-food item before a permit is issued by the customs for import.

(c) Sanitary and phytosanitary measures, including measures taken in respect to imports

Food items should meet the conditions prescribed by the Food Research Laboratory. After standards of goods imported into Nepal are found well within the conditions laid down, permit is issued to importers.

Medicines imported into the country should comply with the standards laid down by the Ministry of Health.

The export and import of plant and plant materials such as seeds, saplings, and seedlings are subjected to phytosanitary measures at the border checkpoints and at the Tribhuvan International Airport, Kathmandu as per the Plant Quarantine Act 1972 and Plant Quarantine Rules 1975. These materials are examined for the possible presence of any obnoxious or restricted pathogens, biotic agents, and weed seeds on the basis of the items listed in the act and rules which are periodically updated following the recommendations of the Regional and International Plant Quarantine conventions and the findings of national surveys and surveillance. At present, seven plant quarantine checkposts including one at the International Airport, Kathmandu are in operation. These checkposts are under the jurisdiction of a central level Plant Quarantine Section of the Plant Protection Division in the Department of Agriculture.

Similarly, the existing Contagious or Infectious Disease Act, 1963 authorizes the government to intercept any person, animal, animal products, and feeds suspected of carrying an infectious disease or agent at entry points. Such a person and animal may be hospitalized or isolated for "examination and control" as per the act. At present, there are 24 animal quarantine checkposts located at the border areas, coordinated and administered by the central levels. A separate act governing the Animal Quarantine and Veterinary services is in the process of enactment.

Minimum standards or specifications have also been fixed for certain categories of agricultural products (food products—processed and unprocessed) and animal feeds under the Food Act, 2023 (1967) and Food Rules, 2027 (1970) and the Animal Concentrate Act, 1976 respectively. The export and import of such products must comply with these fixed standards. The responsibility to implement these laws lies with the Central and Regional Food Laboratories in association with the local administration. Very recently, His Majesty's Government of Nepal has pesticides Act, 1991, and pesticides Rules, 1994 to regulate the export and import of pesticides with a view to protect the environment and ensure sanitary measures. These acts and rules authorize the Ministry of Agriculture to ban and/or restrict any public pesticides that are potentially hazardous to health.

For Drug Policy and Regulatory Service, HMG constituted the Department of Drug Administration in 2036 (1989 AD) and assigned to it the responsibility of implementing the Drug Act, 2035 (1978) and the Drug Rules, 2038 and 2040. The department with the aid of various regulations has been implementing the provisions of the act. In accordance with the objectives of the "Health for all" and to improve and manage coordination among the governmental, non-governmental and private organizations involved in the activities related to drug production, import, export, storage, supply, sales, distribution, quality assessment, regulatory control, rational use, and information flow, the National Drug Policy 1995 has been promulgated and is being implemented. It has put its emphasis upon maintenance safeguarding and promotion of the health of people by making the country self-reliant in drug production; ensuring the availability of sale of effective, standard, and quality drugs at affordable price in quantities sufficient to cover the need of every corner of the country, and to cover effectively all the drug-related activities including production, import, export, storage, safety, supply and distribution in the country.

(d) Trade related investment measures

None

(e) State trading enterprises

There are some State-owned enterprises that play a substantial role in the trade of important import and export products of Nepal. However, these companies except one have not been granted any exclusive or special rights or privileges, including statutory or institutional powers through the exercise of which they influence the level or direction of imports and exports. However, their purchases or sales represent a substantial part of trade in the respective goods and obviously may not be neglected in analysing the market situation of the respective products.

The State-owned enterprises in Nepal are independent entities under the general supervision of the concerned ministries. They have been established essentially with the objective of ensuring adequate supply of raw materials and essential goods. These enterprises operate on commercial considerations and provide equal opportunities for all suppliers. The government has made statutory provisions for transparency and cost-consciousness in the operations of these enterprises. For example, they are obliged to call for at least three quotations for procurement and adopt competitive bidding for any contract.

The information on the following enterprises should not in any way be interpreted as defining them as State-trading ones with exclusive rights or privileges:

(i) Nepal Food Corporation mainly procures food grains to stabilize prices and supply of food grains in deficit area.

(ii) National Trading Limited imports essential goods such as cement, sugar, clothes, and iron rods with a view to stabilize price.

(iii) Nepal Oil Corporation imports aviation fuel, furnace oil, LP gas, diesel and kerosene.

(iv) Salt Trading Corporation imports salt and sugar. (Government share is offered for sale.)

(v) Agricultural Input Corporation imports fertilizers and agricultural inputs essential to farmers. Now the Government has published a new policy, which opens the door to the private sector to import fertilizer and agricultural inputs essential to farmers.

(vi) Cottage & Handicraft Emporium imports handloom and knitting machinery and cotton and synthetic yarns for cottage industries.

(vii) Nepal Coal Company imports coal for manufacturing firms**.** (underway to liquidation)

(viii) Nepal Transit and Warehouse Company functions as an autonomous body responsible for clearing and forwarding cargo.

Of the above-mentioned enterprises, only the Nepal Oil Corporation enjoys monopoly over its services. All other enterprises must compete with the market.

(f) Free zones

None

(g) Free economic zones

No export-processing zone has yet been established.

(h) Trade related environmental policies

Some export restrictions have been put into effect for the export of wildlife forest products to protect wild life and the forests.

(i) Mixing regulations

None.

(j) Government-mandated counter-trade and barter

No government enforced provisions are in effect in Nepal. However, border inhabitants along the border with Tibet, Autonomous region of China, trade in barter to some extent.

(k) Trade agreements leading to country - specific quota allocation

There is no agreement which provides specific quota allocations for the import of any product from any country. However, the agreement with India guarantees for Nepal the supply of minimum viable quantities of some basic products (cotton, coal, sugar, etc.) in times of scarce availability and supply. Under the current trade agreement with India, Nepal imports some goods on a quota base (cotton, baby food, milk and sugar etc.).

(l) Government procurement practices, including general legal regime and procedures for tendering, dealing with tenders and award of contracts

Government procurement is governed by the Financial Administration Regulation. Tenders should be published in the newspapers providing sufficient time up to three months before the commencement of the contract. In applying for the tender Nepalese citizens have to deposit up to 5 per cent of the tender value and foreigners 10 per cent. A Nepalese contractor can deposit the amount for tender in three instalments. A Nepalese contractor who has won the tender has to furnish security up to one-third of the tender value depending on the class of the contractor. A foreign contractor has to deposit one-fourth of the value of the contract applied for. The security may be in the form of immovable property, bonds or cash deposit.

Contractors pay a value added tax.

A foreign contractor does not have to pay value added tax in the following circumstances:

(i) if the contract is for the delivery of services to a person residing abroad;

(ii) if the contract is for the export of goods from the kingdom to an agency abroad.

In procurement of the goods, government offices should follow the following rules:

(i) goods up to US$80 can be procured directly from the market;

(ii) goods above US$80 up to US$800 can be purchased on quotation. At least five quotations must be submitted by registered firms;

(iii) goods above US$800 should be purchased through sealed tender with at least three participants.

(iv) construction goods up to US$2.4 thousand can be purchased on quotation.

The above provisions shall not be applicable in the following circumstances:

(i) purchase of goods from the foreign government or from foreign government enterprises;

(ii) purchase of goods under bilateral or multilateral intergovernmental agreements;

(iii) purchase of goods from the authorized agent of a company in which government equity exceeds 50 per cent.

Procedures may be simplified when usually there are not many suppliers for a specific product. In this case, upon recommendation of a special Valuation Committee under the Ministry of Industry products can be bought in the following ways:

(i) in case it is certified that there are no other industries except the one in the area goods can be purchased without a tender;

(ii) ministries can keep lists of well-known foreign dealers and manufacturers. In special circumstances, goods can be bought from them directly through sealed quotation, but the latter has to be approved by a special committee formed under the Ministry;

(iii) the government can request for quotation at least from five firms and purchase goods from a firm which offers goods at the lowest price.

Designs, specifications, norms, and rates concerning projects need to be approved. Cost estimates for these projects are examined by a group of senior technicians. Then the approval has to be sought from the following officers:

(i) up to US$39,682.50 from the class three gazetted officer.

(ii) up to US$79,365.07 from the class two gazetted officer.

(iii) up to US$0.1587 million from a class one gazetted officer.

(iv) up to US$0.4755 million from the Regional Director.

(v) above US$0.4755 million from the Departmental Head.

In special circumstances the ministries may offer public works on contract to any qualified party.

When inviting tenders, cost estimates up to US$47,620 need to be published giving information on construction materials, rates, etc. Contingency and overhead costs will not be included in this amount.

Prior to the invitation of tender for public works or heavy equipment above US$0.1587 million, pre-qualification (PQ) application will be sought from classified contractors. Contractors are classified into four categories depending on their financial and technical capacity. The criteria for classification are specified in the Contractors Classification Act. The duration for the submission of an application for pre-qualification will range from 30 to 90 days. Tenders could be invited from contractors fulfilling the conditions laid down in the pre-qualifications. Time for the submission of tender will be 15 to 80 days.

Participants in tenders should provide the following information to the government:

(i) agent/representative appointed in Nepal;

(ii) the name and address of the agent or representative;

(iii) the amount/rate of commission; and

(iv) any other terms agreed upon between the foreign company and the agent.

Contracts up to US$0.7935 million for the goods and services of Nepal origin and construction work should be given to Nepalese citizens. Approval would be necessary from the ministry if such contract is to be awarded to foreigners.

(m) Regulation of trade in transit

Traffic in transit destined for third countries is allowed to operate through 15 routes on Nepal-India border. To facilitate transit cargo further, a Transit Treaty has been signed between HMG of Nepal and the Government of the Republic of India. Both have agreed to provide the points of entry, exit as well as storage facilities for the safe and speedy movement. Further, two additional routes namely, Radhikapur and Phoolbari, for Nepal's Trade with and through Bangladesh has also been allowed for its trade. Specific provisions of this treaty are as follows:

Traders have to comply with transit procedure as specified in the Treaty. Exporters fill out Customs Transit Declaration form (CTD). After a check, the Indian Custom Officer at the border shall endorse all the copies of CTD.

With respect to export, an exporter or his agent fills up a Customs Transit Declaration form. The exporters are required to fill up four copies of Customs Transit Declaration (CTD) which should be presented to the Customs house. The original copy shall be handed over to the exporter and the duplicate and triplicate will be sent by post to the Collector of Customs office, Calcutta. In order to avoid delay in postal transmission, duplicate and triplicate copies of the CTDs shall be handed over to the exporter or his authorised representative in a sealed cover, if he so desires. These facilities shall however be denied to the exporter who defaults in the production of these documents within a reasonable time to the Indian Border Customs Office.

Goods moving by rail and road are covered by an insurance policy. Recently, under a Letter of Exchange between Nepal and India, the Indian customs authorities posted at Seaport/ Border Land customs Stations, as the case may be, shall merely check the one-time lock of the container put on by the shipping company, and if found intact, shall allow transportation of the containerized cargo both on import and export moving to and from Seaports and Land customs Stations in India. The Customs Officer at Calcutta and Land customs Stations check goods under locks and seals in order to insure that they have not been tampered with.

With respect to imports, an importer or his agent fills up a Customs Transit Declaration forms. The importers are required to fill up six copies of Customs Transit Declaration (CTD) which should be presented to the Customs house. The original copy shall be handed over to the importer. The duplicate and triplicate will be sent by post to the Indian boarder customs officer and the remaining copies shall be retained by the Customs house. In order to avoid delay in postal transmission, duplicate and triplicate copies of the CTD along with copy of the original railway receipt shall be handed over to the importer or his authorised representative in a sealed cover, if he so desires. These facilities shall however be denied to the importer who defaults in the production of these documents within a reasonable time to the Indian Border Customs Office.

In order to facilitate the transit of containerised traffic Nepal and India have exchanged letters in December 1996 for simplifying the relevant custom procedures for such traffic. This exchange of letters is a good basis for the expeditious development of multimodal transport arrangement and facilitation of transit of Nepalese goods through India.

4. POLICIES AFFECTING FOREIGN TRADE IN AGRICULTURAL PRODUCTS

General Background

Agriculture, which is the dominant sector of the Nepalese economy contributing more than 40 per cent to GDP (current price) at factor cost (FY 1995/96), is basically a private sector activity in which the government plays a supportive and facilitating role to enhance agricultural production and productivity.

Nepal imports significant quantities of high value agricultural products such as fruits, vegetables, livestock, and processed products mainly from India. The import of foodgrains, however, is made only during drought years.

Nepal's major export items comprising basically of agricultural products include maize, mustard, ghee, ginger, pulses (lentil and gram), broom grass, live animals, wheat flour, oil cake, jute, fresh vegetables and vegetable seeds, orthodox tea, niger seeds, hide and skin, rice bran, vegetable oil, spices, cardamom, and fruits.

In the fiscal year 1997/98, HMG has allocated NRs. 600 million (US$10 million approx.) for subsidy on the import and transport of chemical fertilizers and US$12.7 thousand have been allocated to subsidize for soil tests to be carried out on the request of farmers to establish the best crop for their plant of land.

(a) Imports

In imports, the phytosanitary measures as described earlier are in place. There are generally no major prohibited items in the import of agricultural products. A few restricted items, however, and the underlying reasons thereof have been presented in the table below:

Restriction on import of agricultural products

Items	Reason
Citrus sapling/ plants	To prevent citrus decline syndrome as per PQ Act 1972
Bread fruit plants	To prevent citrus canker disease as per PQ Act 1972
Potato tuber from Indian wart-affected areas	To prevent wart disease as per PQ Act 1972
Lathyrus sativus	Because of high content of BOAA (B-N-Oxalyl/Amino-L-Alanine) responsible for causing Lathyrosis diseases (published in *Nepal Gazette*,1992)
BVO containing drinks	For health reason (Food Act, 1967)
DDT, Methyl parathion	For reasons of health and environment protection (Public Enterprises Act, 1991)
Beef	For religious reasons

As per the provision of the treaty of trade with India, 14 groups of agricultural products have been listed under the preferential treatment for duty-free entry on a reciprocal basis. These products take account for more than 50 per cent of both Nepalese imports and exports to and from India. Other unlisted items are subject to concessional duties.

(b) Exports

Agricultural products, apart from the two major export items – carpet and ready-made garments, make the bulk of other exports of Nepal. To India Nepal exports mainly jute goods, pulses, hides and skins, and cardamom. To overseas countries, pulses, niger seeds, goats skin, woollen goods, and hides are the major exports.

(c) Export prohibitions and restrictions

The prohibitions or restrictions on export of agricultural commodities are listed with reasons in the table below.

List of Agricultural Products Restricted for Export

Item	Reason
Raw wool	For protecting local wool processing establishments
Seeds	Export and import of only notified seeds as per the Seed Act, 1988 to maintain seed quality

(d) Export credits, export credit guarantees, etc.

There are no specific incentives for the export of agricultural commodities. The government, however, facilitates the exporters by providing market information and easy access to foreign exchange as a general policy. For this purpose, the government provides to exporters technical facilities of opening foreign currency account out of the income generated from export. Information-oriented services available for exporters are not subsidy-type facilities.

(e) Internal policies

The government has been fixing the minimum support price for rice, sugarcane, tobacco, and cotton. The Ministry of Supplies announces support price for rice, where as the support prices for other commodities mentioned above are determined and executed by the commodity/management committees of the State-owned enterprises concerned, described under Section IV. 3 (f).

In the case of fertilizers, there is a price subsidy on urea. On other fertilizers, the price subsidy was eliminated in 1993. In the hilly districts, there is a transportation subsidy on fertilizers. The private sector is also engaged in fertilizer procurement and has excess to fixed amount of subsidy on urea import.

Production of Principal Agricultural Commodities and Livestock

S. No.	Item	Unit	1993/94	1994/95	1995/96	1996/97
1.	Food grains	‘000 MT				
	Paddy		3,496	2,906	3,579	3,711
	Maize		1,254	1,302	1,331	1,317
	Wheat		899	942	1,013	1,072
	Millet		246	253	282	289
	Barley		35	37	41	37
2.	Cash Crops					
	Sugarcane		1,293	1,469	1,569	1,629
	Oilseeds		108	116	116	119
	Potato		749	839	898	997
	Tobacco		6	5	6	4
	Jute		11	12	15	14
	Pulses		195	202	215	223
3.	Livestock					
	a. Meat					
	Buffaloes	MT	100,383	104,070	104,830	113,482
	Mutton/Goat	MT	33,757	33,975	34,900	37,450
	Pig	MT	10,642	11,027	11,800	12,374
	Poultry	MT	9,561	9,676	9,990	10,962
	Fish	MT	16,549	21,180	21,879	23,200
	b. Milk	'000 MT	919	941	962	1,012
	c. Eggs	No. '000	378,079	383,122	396,400	421,460
	d. Wool	MT	621	625	618	624

Source : Ministry of Agriculture and Central Bureau of Statistics, HMG.

5. POLICIES AFFECTING FOREIGN TRADE IN OTHER SECTORS

(a) Textile regime

It is a labour-intensive industry. US is the major export market for textile products. The government has adopted the following policies with respect to textiles :

Diversify ready-made garment market.

Distribute quota export of textile products under the agreement with the US on the first come first serve basis.

Provide duty drawback and bonded warehousing facilities in the import of raw materials for the garment exporters.

(b) Policies affecting foreign trade in other major sectors

Carpets

It is a major foreign exchange earning and labour intensive industry. Germany is the major export market for carpet. Under MOC there is a committee for the development and facilitation of the export of Nepalese carpet named Carpets and Wool Development Council with representation from government and non-government agencies. The government has adopted the following policies with respect to carpet :

(i) to increase value addition;

(ii) to diversify the market in accordance with the needs of the international buyers;

(iii) to make carpet industry environment-friendly.

Provide duty drawback and other facilities for the exporters through one-window system.

Leather

The export of finished leather is going to be progressively promoted. The government has already announced a ban on the export of wet blue skin from 2006/07 onwards. For the period between 1996/97 and 2005/06, an export ratio for each year has been fixed separately for wet blue and crushed/finished skin. The exporters of leather are required to export their products as follows:

Export Ratio for Leather Products (1996/97-2005/2006)

Fiscal Year	Crushed or finished product(%)	Wet blue skin (%)
1996/97-1997/98	15	85
1998/99-1999/2000	30	70
2000/2001-2002/2003	50	50
2003/2004-2005/2006	75	25

V TRADE - RELATED INTELLECTUAL PROPERTY REGIME

1. General Introduction

(a) Intellectual property policy

The policy objective of the His Majesty's Government in this area is to provide effective and adequate protection to all categories of intellectual property in conformity with the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights. Industrial property rights legislation has already been drafted and is in the process of enactment.

(b) Agencies responsible for policy formulation and implementation

The formulation of industrial property policy and necessary regulations is under the purview of the Ministry of Industry. The implementation and execution of the policy and regulations are the responsibility of the Department of Industry (DOI) within the ministry and thus it is the Patent Office of the country, possessing executive power and a quasi-judicial status. Under the existing law, the Nepal National Library is the authorised agency to register intellectual property other than industrial property. Recently, the Government has delegated its authority of administering copyrights to the Youth, Sports and Culture Ministry. The Ministries of Industry and Youth, sports and Culture are responsible, in the last instance, for the enforcement of intellectual property rights.

(c) Membership of international intellectual property conventions and of regional or bilateral agreements

Effective from 4 February 1997 Nepal has become a formal member of the World Intellectual Property Organization (WIPO). Recently, Nepal has also signed a Cooperation Agreement with the European Union (EU) that incorporates provisions on intellectual property. (Act 4, Cooperation Agreement between Nepal and the EU).

(d) Application of national and m. f. n. treatment to foreign nationals

Nationals of other countries are accorded no less favorable treatment than the one accorded to Nepalese nationals. With regard to protection of intellectual property, nationals of any country are accorded the same treatment. Both national and foreign citizens have to register the brand, trademarks, patent, and art work with the responsible agency. If foreigners have already registered an industrial property in their countries, the Department of Industry *may* not conduct any inquires if such application is filed for registration along with certificates of their registration in the country of origin.

(e) Fees and taxes

There are no taxes on intellectual property and fees are nominal. Refer to chart:

Registration and Renewal Fees (w e f. 16 July 1996)

S. No.	Particulars of Fees*	Patent (NRs.)	Design (NRs.)	Trademark (NRs.)
1.	Application	1,000	500	500
2.	Application Amendment	200	200	200
3.	Registration	5,000	2,000	1,500
4.	Transfer of Ownership	2,500	1,000	750
5.	Endorsement and Recording other than Transfer of Ownership	1,000	500	500
6.	Details of Registration	500	500	200
7.	Opposition and Case Filing	500	200	200
8.	Copy of Registration Certificate	1,000	500	500
9.	Renewal (Annual Rate)			
	a. For the First Term	2,000	400	-
	b. For the Second Term	4,000	800	-
	c. Perpetual Annual Rate	-	-	200

* Above mentioned fees are for the Nepalese nationals. Foreigners have to pay double the rate indicated above except for penalty charge. Foreigners are required to make payments in convertible foreign currency.

2. SUBSTANTIVE STANDARDS OF PROTECTION INCLUDING PROCEDURES FOR THE ACQUISITION AND MAINTENANCE OF INTELLECTUAL PROPERTY RIGHTS

(a) Copyright and related rights, including rights of performers, producers of phonograms, and broadcasting organizations

Copyright and related rights are covered by the Copyright Act, 2022 (1965). Under this act, a person shall acquire a copyright only on the works registered pursuant to the act. For the purpose of the act, the term 'work' means literary works such as article, essay, story, poem, novel, epic, etc., and artistic works like drama, cinema, drawing, map, photograph, musical notation, sound record and any other work relating to literature, art, and music.

The copyright of any work registered under the act shall be valid throughout the life of the person in whose name it is registered and shall continue for fifty years after his/her death. In the case of a work registered in the name of two or more persons, the copyright shall be valid only for a period of fifty years after the death of the person who ever dies first among them. The copyright act provides license provisions for publication, translation, exhibition, and for public library purposes. The act also provides punishment and imposes fines if any works are published or copied without obtaining licence from the copyright holder or contrary to the terms and conditions of the licence or import into the kingdom.

(b) Trademarks including service marks

Trademarks, including service marks, are covered by the Patent, Design and Trade Mark Act 2022 (1965). Any person wishing to have trademark of his business registered should submit to the Department of Industry an application according to the specimen form indicated in Schedule I(c)of the Act, along with four copies of such trademark. After completing this process the department will register such trademark in the name of the applicant and then issue him/her a certificate. If the trademark filed for the registration is observed to be hurting the prestige of any individual or institution, or adversely affect public conduct or morality, or undermine the national interest, or the reputation of the trademark of any other person, or in case such trademark is found to have already been registered in the name of another person the registration can be denied. Service mark is also subject to the same rule. The act provides for exclusive rights for the person who has registered the trademark or service mark. Trademarks and service marks are initially registered for a period of seven years, and they can be renewed for an indefinite number of years after every seven-year interval.

(c) Geographical indications, including appellation of origin

The Patent, Trademark and Design Act, 1965 does not contain any provision on geographical indication including appellation of origin.

(d) Industrial design

Industrial designs are covered by the Patent, Design and Trademark Act, 2022 (1965). Any person desirous of having the design of any article to be protected should submit an application to the Department of Industry along with the specimen as indicated in Schedule 1 (b) of the Act, together with four copies of such design and maps, and drawings and particulars thereof. On receipt of such application, the Department will register the design in the name of applicant and issue him/her a certificate. In case such design hurts the prestige of any individual or institution, or adversely affects public conduct or morality, or undermines the national interest, or in case such design has already been registered in the name of any other person, registration can be denied. Industrial designs are initially registered for a period of five years and can be renewed for two more terms at an interval of five years.

(e) Patents

Patents are covered by the Patent, Design and Trademark Act, 2022 (1965). Any person desirous of obtaining rights over any patents should register such patents in the department by filling in an application according to the specimen specified in Schedule I(a) containing the particulars mentioned below along with the evidence available on the following in his possession:

(i) name, address, and occupation of the person inventing the patent;

(ii) if the applicant himself/herself is not the inventor, how and in what manner he has acquired the title for the invention;

(iii) process of manufacturing, operating or using the patent;

(iv) the theory or formula, if any, on which the patent is based.

Along with the application, the applicant should also submit maps and drawings along with particulars of the patent as well as the fee specified in Schedule 3. On receipt of such application, the department will conduct investigations or studies to ascertain whether the patent mentioned in the application is a new invention and thereafter decide whether or not to register such patent. If it is found to be a new invention, the department will issue a registration certificate according to the specimen form indicated in schedule 2(a). In case of patents registered in other countries, DOI will accept the examinations conducted for the granting of the patent in that country. The department can deny registration of patent under the act in the following circumstances:

(i) in case the patent is already registered in the name of any other person;

(ii) in case the applicant himself is not the inventor of the patent or he has not acquired the rights from the original inventor;

(iii) in case the patent sought to be registered is likely to adversely affect public health, conduct or morality or the national interest; and

(iv) in case the registration of the patent will constitute a contravention of the existing Nepal law.

Patents are registered for an initial period of seven years and then can be renewed for two more periods of seven-year intervals. No invention is explicitly excluded from patentability.

(f) Plant variety protection

The Patent, Design and Trademarks Act, 1965 does not contain any provision on protection of plant variety.

(g) Layout designs of integrated circuits

The Patent, Design and Trademarks Act 1965, does not cover layout designs of integrated circuits.

(h) Requirements for undisclosed information, including trade secrets and test data

The Patent, Design and Trademarks Act does not have any provision in this respect.

(i) Any other categories of intellectual property

None.

3. MEASURES TO CONTROL USE OF INTELLECTUAL PROPERTY RIGHTS

No specific measures, or legislation to control the use of intellectual property rights are currently in effect.

4. ENFORCEMENT

(a) Civil judicial procedures and remedies

The Department of Industry is empowered to issue any order or make decision in the execution of Patent, Design and Trademark Act, 1965. Any person not satisfied with an order or a decision of the department may file an appeal to the local Appellate Court within 35 days of such an action. The court thereupon proceeds with the case under the Judicial Administration Act 2048 (1991) and the Appellate Court Rules, 2048 (1991). The court starts judicial proceedings under the Summary Trial Act, 2028 (1972). Normally, the court has to finalise the case not later than 90 days of the receipt of the case file. The court may confirm or defer fully or partly the order issued or decision made by the department or make any order justified. Besides, if the case demands, it may issue order of mandamus or injunction. The Supreme Court has also been empowered to hear an appeal, or review, or make a revision of the judgement made by the Appellate Court in rare instances, in case there are material differences in decisions between the department and the court, or if some serious mistake in the interpretation of the constitution and law has been caused, or the precedents made by it have been ignored or wrongly interpreted.

But in the case of copyright, an appeal lies on HMG (Ministry of Youth, Sports and Culture) against any order issued or decision made by the Registrar within 35 days. The time limitation to file a suit against infringement on copyright is six months from the occurrence of such an event. Cases under Copyright Act, 1965 are also to be processed under summary trial.

The current legislation provides for the following remedies:

(i) any abuse of patent right is punishable under this act with a fine not exceeding US$32 as well as confiscation of all articles or goods connected with such offence on the order of the department;

(ii) any abuse of design is punishable with a fine not exceeding US$13, as well as confiscation of all articles and goods connected with such offence on the order of the department;

(iii) abuse of any trademark is punishable with a fine not exceeding US$16 as well as confiscation of all articles and goods connected with such offence on the order of the department.

The Department of Industry, an agency responsible for administration of patent, trademark, design, and other industrial property, pursuant to the act, may impose a reasonable amount of fine on the loss incurred through the violation of registered patent, design, and trademark by anybody, to be paid to the person who has really suffered from such loss and in whose name the patent, design or trademark was registered, by the person involved in such violation, as a compensation.

(b) Provisional measures

The law in the enforcement of these acts provides no provisional measures.

(c) Any administrative procedures and remedies

No extra administrative procedures and remedies are available other than those expressly provided above.

(d) Any special boarder measures

Importation of unauthorized (unlicensed or breaching the terms and conditions of license) copies of publication (except a single copy for personal use) is prohibited. Contravention of such restriction will lead to confiscation of such unauthorised copies and a fine of NRs. 100/- to 500/-. The owner of a copyright may recover damages from the person importing knowingly such an unauthorized publication.

After due process, the courts can provide for broader measures.

(e) Criminal procedures

Cases of Copyrights, Patents, Designs, and Trademark, do not fall under criminal procedures since they are treated as civil cases.

For residents, fees and charges are just half of those for non-residents except for penalty charge. Non-residents are required to make payments in convertible foreign currency.

5. LAW DECREES, REGULATIONS, AND OTHER LEGAL ACTS RELATING TO THE INTELLECTUAL PROPERTIES MENTION ABOVE

(i) Patent, Design and Trademark Act, 2022 (1965)

(ii) Copyright Act, 2022 (1965)

(iii) Copyright Rules, 2046 (1989)

(iv) Actions taken by the Department of Industry.

6. STATISTICAL DATA ON APPLICATION FOR AND ON GRANTS OF INTELLECTUAL PROPERTY RIGHTS AS WELL AS ANY STATISTICAL DATA ON THEIR ENFORCEMENT

By mid 1997 some 11,000 trademarks have been registered in Nepal of which 2,000 have not been renewed. There have been very few applications for patents. Only around 50 patents have been granted.

VI. TRADE-RELATED SERVICES REGIME

1. GENERAL INTRODUCTION

The service sector in Nepal has witnessed significant growth over the last two decades. It accounts for 32.3 per cent of GDP and provides employment to almost 18 per cent of the total labour force. In 1985 the service sector accounted for 26 per cent share in GDP, evidencing the growth of this sector over the years.

During the period 1991-95 the service exports from Nepal amounted in average to US$200 million a year. Nepal is a net service exporter. The introduction of open and liberal policies, combined with full convertibility on current account transactions, explains the significant growth of the service sector. However, the contribution of the Nepalese service sector to the total invisible exports is the lowest in South Asia.

Different public enterprises of services are available in Nepal such as business, transport and communication, distribution, educational, environmental, financial, health-related, social, tourism, and travel related services, and recreational and sporting services. Due to the keen interest of the government in road development, transport services have grown significantly. Recently, the open and liberal policy has transformed the financial sector as a leading service sector in Nepal. However, there is still a miserable paucity of data pertaining to the nature, type, and size of the existing service sector in the country, Hence, information on the sector used in this Memorandum is mostly qualitative. Quantitative data, where available, are provided.

The following paragraphs describe the overall market and regulatory structure of the principal service sectors in Nepal. The enumeration of the Services Sectarian Classification List, in Annex 7 of WT/ACC/1, has been followed.

I. Business Services

1. Professional Services

(a) Legal services

As provided by the Foreign Investment and Technology Act, 1992 (FITT, 1992), no permission is granted for making foreign investment in the legal services. The provision of legal services *(consultancy*) in Nepal is governed by the Nepal Bar Council Act, 2050 (1993). According to the act all legal practitioners must be registered with the Bar Council to exercise the profession. The Bar Council grants the licence to practice law in the country. Only Nepalese citizens who have passed the Legal Practitioner Examination can be registered with the Bar. The Bar Council takes the examinations. There are three public enterprises of legal practitioners in Nepal: (i) senior advocate, (ii) junior advocate, and (iii) assistant junior advocate. There are different requirements to be met to be registered in each one of these categories of legal practitioners. The Supreme Court confers the title of Senior Advocate. It can be granted after 15 years of practising the legal profession in Nepal.

(b) Accounting, auditing and bookkeeping services

Accounting, auditing, and bookkeeping services in Nepal are ruled by the FITT Act, 1992, and by the Nepal Chartered Accountants Act, 2053 (1997). According to the FITT Act, 1992, no permission is granted for the establishment of foreign enterprises, or for foreign investment, in the accounting business. The Nepal Chartered Accountants Act provides for the establishment of the Institute of Chartered Accountants of Nepal, an autonomous body that works as a regulatory body for the accounting and auditing services, as well as for the setting service conditions of the professionals. This Act enacted for the promotion of auditors service, provides for the establishment of an autonomous body called "The Institute of Chartered Accountants of Nepal". The Institute works as a regulatory body for promoting the audit services and service conditions of audit professionals. A council as a central body is responsible to look after the affairs of the Institute. The council is mandated, among other things, to conduct examination for those entering the audit profession, issue license to them, provide membership of the institute, follow the guidelines of the international Accounting Standards, International Auditing and International Federation of Accountants, and to execute the code of conduct of Auditors. Membership of the institute is classified as Chartered Accountants and Registered Auditors. But a foreign auditor or accountant is not eligible to get the membership of the institute. The council may cancel the registration of membership or a license issued to a person if it is found to have been made by mistake. The council is also empowered to take help from foreign Chartered Accounts Associations or foreign experts or foreign universities or associations for conducting auditors examination. The council may recognize foreign auditors' licence or foreign-chartered institutes or foreign auditor’s examination with the prior approval of HMG. No one is allowed to engage in the auditor’s profession without obtaining an auditor’s license. The Institute has to publish the complete name-list of its members and of the Auditors each year. For obtaining a license, a fee as prescribed shall have to be paid. All the members and auditors shall have to abide by the code of conduct provided in the act. Whoever works as an auditor without obtaining a license commits an offence will be imposed upon a fine not exceeding Rs. 2,000/- or an imprisonment for a term not exceeding 3 months. The council may also invite participation of an expert foreign auditor in the council meeting as an observer. The act does not make any specific mention about foreign auditors working in Nepal.

The Council of the Institute conducts the examination for those entering into the profession, issues the respective license, provides membership of the institute, and follows the guidelines of the International Accounting Standards and of the International Auditing and International Federation of Accountants. Membership of the Institute is classified as Chartered Accountants and Registered Auditors. A foreigner is not eligible for membership of the institute. The council may recognize foreign auditors' licenses or foreign chartered institutes, or foreign auditors' examination with the prior approval of HMG. No one is allowed to engage in the profession without obtaining a license. The institute publishes the list of all its members and of the auditors each year. For obtaining a license, a fee as prescribed should be paid.

Foreigners can not work as accountants in Nepal, and the act does not make any specific mention of the work of foreign auditors in Nepal. However, the Company Act, 2021 (1964, as amended in 1997) provides that in case a company appoints any foreign national as an auditor, it shall also appoint as co-auditor a Nepalese citizen possessing the required qualifications.

(c) Engineering services

As provided by the FITT Act 1992 (as amended in 1997), no permission is granted for the establishment of a foreign company, or for foreign investment, in the engineering consultancy services. However, there is no restriction on the establishment of engineering related manufacturing industries.

(d) Veterinary services

The majority of the veterinary services are provided by the public sector through veterinary hospitals, veterinary laboratories and services centres at various locations under the Department of Livestock Services. However, a growing number of private veterinary clinics are being involved in this activity, especially in the urban areas. Private firms, hatcheries, and individuals (midlevel technicians, animal health workers) are also involved in this business. Mandate for veterinary research lies with the National Agricultural Research Council, an autonomous body, under the Ministry of Agriculture.

None of the existing laws, regulations, rules, and measures affects the trade of veterinary medicines, vaccines, chemicals, and other ingredients related to veterinary services. Private sector or government agencies can freely import, export, and market veterinary drugs and their ingredients.

There is no domestic subsidy, tax incentive or promotion scheme affecting trade in veterinary medicines. Importers and dealers can easily import and distribute the commodities through various distribution channels. Government agencies also purchase certain quantities of veterinary drugs, which are used in the process of treating or preventing animal diseases through various veterinary hospitals and centres. There is no specific veterinary service act/regulation. Individuals and persons operating as firms and companies conduct veterinary service in the private sector. Mostly the veterinary service technicians who have retired from or left the job of government veterinary hospitals or those who are still in job before or after official hours provide veterinary service to the customers by organizing themselves as a legal firm or otherwise.

2. Computer and Related Services

Computer and related services constitute a fast growing activity within the service sector in Nepal. With the increasing informatization of enterprises and government, and with the introduction of computer courses at the school level, this sector is expected to be one of the leading services in Nepal in the near future. Currently, some private firms are stepping up efforts to export software. There is no up-to-date, specific legislation and regulations regarding the computer and related services in Nepal.

3. Real Estate Services

As provided by the Foreign Investment and Technology Transfer Act, 1992, no permission can be granted for the establishment of a foreign company, or for foreign investment, in the real estate business.

4. Other Business Services

(a) Management consulting services

As provided by the Foreign Investment and Technology Transfer Act, 1992, no permission can be granted for the establishment of foreign companies in the management consulting business under section 3(4) and the Annex of the Foreign Investment and Technology Transfer Act, 1992.

(b) Placement and supply services of personnel

There are no specific regulations on placement and supply services of personnel in the domestic market. However, the placement of Nepalese workers in foreign countries is regulated by Foreign Employment act, 2042 (1985). This act (with its latest amendment in 1992) aims at controlling and regulating the business and trade of arranging employment of Nepalese citizens in foreign countries. No one is allowed to operate this business without obtaining a licence. Such a licence is issued only to the body corporate established under the existing law after collecting a licence fee and security deposits in advance from the licensee. A license contains certain terms and conditions, any default of which or of the existing acts or issues ordered may cause cancellation of such license. However, in certain special situations HMG may cancel a license at any time. Supply of Nepalese labour can be made only in those countries as notified by HMG, in the official gazette. Ownership and liability of the business concern can not be transferred or changed without the permission of HMG. A licensee has to secure prior permission from HMG for the selection of workmen to be sent for foreign employment, for which it has to apply by furnishing the required particulars. After scanning such permission the licensee has to publish a public advertisement for selecting the workers. Each selection has to be made impartially and in the presence of government representative and the representative of the foreign employer, in case it wishes so. But in no case shall minors and females be provided foreign employment without the consent of their guardians.

A licensee is entitled to obtain a prescribed amount of service charge from the workman for getting foreign employment. HMG may give permission to the licensee to send workers for foreign employment only after a formal copy of contract document signed between the licensee and the employee is produced before HMG. The employee has to be made fully aware of the background details of the foreign country of employment. A detailed record of the workmen sent abroad has to be presented by the licensee and HMG may inspect it. Any irregularity found in the process of foreign employment may be investigated by HMG. The licensee should follow the directives given by HMG in this regard. A licensee has to renew the licensee every year. The act provides for the formation of an advisory committee to advise HMG in matters of foreign employment. HMG may formulate rules as necessary to enforce the act.

5. Communication Services

(a) Postal services

Postal services in Nepal are governed by the Post Office Act, 2019 (1962) and the Post Office Rules, 2020 (1963). The Department of Post, HMG, Nepal, provides this service.

(b) Courier services

Private service agencies provide the courier services. There are few international companies operating in Nepal.

(c) Telecommunications services

His Majesty's Government of Nepal formulated a communication policy in the year 2049(1992). The policy encourages private sector participation in the development and operation of telecommunications services. It also recommends introduction modern communication technology to provide efficient, reliable, and unhindered communication services to the people.

In line with its communication policy, HMG has enforced the Telecommunications Act, 1997 and Telecommunication and Regulation 1997 to involve national and foreign sectors investors in the development and operations of telecommunications services within the country. The act provides for the establishment of an autonomous regulatory body—Nepal Telecommunication Authority (NTA) to regulate and facilitate healthy competition among the service providers. Besides providing licences to establish and operate the services, it also approves and regularises the tariffs, prescribes the quality standard of the plant and equipment, and suggests the policies, plans, and programmes to be adopted by the HMG/N.

Initially, the licences are issued for a period of not more than 10 years that can be renewed before the expiry of the period. The licence will be renewed for a period of not more than 5 years at a time. The period of license shall be 25 years at the maximum.

The land, building, plant, equipment and other structures related to telecommunication services developed with more than 50 per cent of investment by a foreign person or corporate body shall be under the ownership of HMG/N after the expiry of the period of licence. The licensee may purchase the assets to operate upon the payment of a price fixed by the Government. However, in case the equity participation in telecommunications services operated with the investment of a foreign person or corporate body is up to 50 per cent, the licensee may operate the service by obtaining new a licensee.

The licensee shall invest 15 per cent of his/her total investment on the development, extension, and operation of telecommunications services in the rural areas. The Nepal Telecommunication Corporation (NTA) shall create a fund for the development of rural communications and the licensee shall deposit every year an amount specified by the NTA out of its annual income.

The licensee shall be allowed to interconnect with another licensee's telecom system on the terms and conditions mutually agreed between the licensees. Licensees may get exemptions from income tax for a specified period and also may get exemptions on the customs duty, sales tax, and other charges to be levied on the import of equipment if HMG/N deems it necessary to encourage investment by publishing notification in the Nepal Gazette.

All the telecommunication services are to be operated by the licensee and the existing monopoly operator Nepal Telecommunication Corporation (NTC) have to obtain the licence within one year.

All the telecommunication services sector will be opened for licence. The NTA will, before issuing any licence, determine the type of services and number of licences to be issued by a public notification. Recently, the NTC has awarded a contract for mobile telephone services to a foreign company after evaluating several tenders submitted by different suppliers.

(d) Audiovisual services

(i) Motion picture production, distribution and exhibition

The motion picture industry in Nepal is regulated by the Motion Pictures Rules, 2046 (1989), and the Motion Picture Production, Distribution and Exhibition Act, 2046 (1989). The only limitation is that according to the FITT Act, 1992 foreign investment can not be approved for motion picture business to produce movies in the national languages. According to the provisions of the Motion Pictures Production, Distribution and Exhibition Act, 2046 (1989), a license is required for producing, distributing, and exhibiting motion pictures in Nepal. The Ministry of Communications grants the licences. The Motion Pictures Rules, 2046 (1989) provides for all the procedural aspects of licensing, fees as well as the terms and conditions to be met by the licensee. The fees are different for nationals and foreigners. The exhibition of a movie in Nepal requires the permission of the Censor Board.

(ii) Radio and television services

His Majesty’s of Government of Nepal (HMG/N) has promulgated a new National Communications Policy (NCP) with a view to accomplish the objectives which govern the freedom of expression and right to information of the people and to encourage the people's active participation from the private sector in the development of communication.

In pursuance of the new communications policy, (HMG/N) has also enforced the National Broadcasting Act, 2049 (1992) and National Broadcasting Regulation 2052 (1995).

According to the NCP and the existing laws and regulations corporate bodies from the private sector shall also be permitted to set Frequency Modulation (FM) broadcasting system in any defined area which is one of the milestones in the process of liberalization in the broadcasting sector. In accordance with the laws and regulations, HMG/N has issued two licences. One is for Radio Nepal, which is a national broadcasting organization, another is for the Sagarmatha FM station, which is private.

Besides this, HMG/N has also enacted the Radio Act 2014(1958) and Radio Communication (Licensee) Regulation 2049 (1992) to provide licence to those who need to use, keep, and manufacture radio equipment within the territory of Nepal.

Television broadcasting services are provided by Nepal Television. At present seventeen private companies are operating cable TV services.

As provided by the National Broadcasting Act, 2049 (1992), a licensee is required to engage in broadcasting services. Any person, either a national or a foreigner as an individual or companies under joint venture arrangements, may seek a licence from HMG to install a satellite or cable television or any other broadcasting service. Permission to broadcast is granted if all requirements are fulfilled and the prescribed fee has been paid. The act provides for regulation of the installation of satellite broadcasting earth stations, and other matters relating to broadcasting. The act also outlines the functions, duties, and powers of the broadcaster.

No person including a foreigner is allowed to keep, manufacture or use a radio instrument without obtaining a licence. HMG is fully empowered by this act either to exempt any person or entity from the provisions of this act by framing rules to that effect. Procedures of obtaining a radio licence, the fees payable for the license, and its renewal are provided in detail in the Radio (Licence) Rules, 1970. A person who has been refused a licence may appeal to HMG against the order of refusal issued by the concerned authority within 35 days of such order. The decision made by the HMG on this issue is to be final. An offender keeping or manufacturing or using a radio equipment without obtaining a license may be fined up to Rs. 800/- and this amount may be doubled each time in case the offence is repeated. Repetition of the offence may also lead to confiscation of such radio equipment. Committing an offence repeatedly other than the above shall lead to a fine of Rs. 800/- at the maximum for each repetition. Before confiscating a radio equipment a search warrant is also issued to the offender's place. A person not satisfied with the order or decision made by the HMG may appeal to the local Appellate Court. HMG is also empowered to frame other rules for the implementation of this policy.

6. Construction and Related Engineering Services

There is a large number of registered construction enterprises in Nepal. However, most of them (around 90 per cent) are very small undertakings. An outstanding feature of the construction activity in Nepal is that the majority of the large-scale projects in this field are foreign-aided or foreign-financed projects, which are developed by foreign firms. Nepalese contracting firms are thus only marginally involved. The Nepalese construction firms are mostly involved in residential and non-residential small and medium-size construction activities.

7. Distribution Services

Distribution services in Nepal can be divided into two broad categories: trade in local agricultural and manufactured products; and trade in imported consumer and other goods, involving the network of distributive channels by which products reach the final consumer. Wholesale channels are particularly in evidence in the distribution of some agricultural products, imported raw materials, and other goods. Only a small proportion of trade in consumer goods goes through wholesale dealers. There are no specific provisions regarding the involvement of foreigners in wholesale trade**.** The trade of imported goods is largely handled by fixed establishments which deliver to retailers or act as retailers. Nepal's retail trade is not characterized by the presence of large establishments or multiple stores. Most of the retail trade is in the hands of the small independent retail stores, and independent mobile vendors.

Distribution services are governed by the general laws of the country, such as the Company Act, 2021 (1964, as amended, 1997), the Industrial Enterprises Act, 1992 as amended, and the FITT Act, 1992. According to the FITT Act, 1992 no permission is granted for the establishment of foreign companies or for foreign investment in retail trade.

8. Financial Services

(a) Insurance

The insurance business in Nepal was, until recently, dominated by the Nepal Insurance Company, a government undertaking. With de-regulation, joint-venture insurance companies have entered the insurance market. There are nine insurance companies active today in Nepal, offering different public enterprises of insurance coverage. Licensed insurance agents and adjusting agencies are also operating in the insurance market. The insurance business is regulated by the Insurance Act, 2049 (1992), and by the Insurance Rules, 2026 (1969).

The Insurance Act provides for the formation of an autonomous Insurance Board for regulating and controlling the insurance business in Nepal. The Board is the governing body for the execution of the Insurance Act. A license is required to operate insurance business. National and foreign companies have to apply to the Board to be registered as insurance companies. They must furnish related particulars and pay fee. The Board examines the application, and after permission has been obtained from His Majesty's Government, issues the license to the insurer on a renewal basis each year. The paid capital to establish an insurance company can not be less than US$0.47 million. Registration can be cancelled, *inter alia,* on the basis that a Nepalese insurer is not provided national treatment in the country of origin of an insurer incorporated outside Nepal; or if the insurer fails to establish an office inside Nepal. An insurer is required to appoint an agent in his Nepal-based head office. The act also regulates the licensing of insurance agents and surveyors, which apply both to the nationals and foreigners. According to the Insurance Rules, 2026 (1969), insurers are required to separate their life insurance and other insurance into two separate businesses. There is no limitation on the total number of licenses in the insurance sector. No notification is required concerning the level of premiums and rendering requirements of insurance services. However, there is a mandatory provision for the third party in motor vehicle liabilities. But cross-border supply is not permitted in the insurance services.

It provides for the formation of an autonomous Insurance Board for arranging, regulating, providing, and controlling insurance business in Nepal. Besides the representation of ministries, two insurance experts and one insured person are also included in the Board. The Board is the governing body for the execution of this act. No one is allowed to operate insurance business in Nepal without obtaining a licence. National or foreign insurance concerns willing to operate insurance business in Nepal shall have to apply to the Board for registering as an insurer by furnishing the required particulars accompanied by a required amount of fee. The Board, after examining the application thoroughly and obtaining permission from HMG, issues a licence to the insurer on a renewal basis each year. But no insurance concerned whether a national or a foreign one can be registered as an insurer if registration is sought of a name resembling the name of an already registered insurer, and does not show a paid capital not less than 30 million rupees. Registration of an insurer can be cancelled by duly notifying him/her on the following grounds: in case the insurance business is not started within six months of obtaining a license; if the owner's liabilities exceed his/her assets; in case of default by insurer making good his/her liabilities beyond three months of a final court decree in a case of insurance policy issued inside Nepal; in case the Nepalese insurer is not provided national treatment in the country of head office of an insurer incorporated outside Nepal; if an insurer fails to establish an office inside Nepal; in case of omission or commission of acts made by an insurer. Cancellation of his/her registration is complete only after proper representation is made and the notice of such cancellation is issued in two leading newspapers of Nepal. But no cancellation is retrospective. An insurer after the cancellation of its registration shall have to refund that amount of fund to the insured persons in the manner and time fixed by the Board. An insurer is required to repair the losses made to an insured person. Liquidation proceedings can be ordered by HMG upon the dissolution of an insurance company caused by the cancellation of registration. An insurer is required to maintain his/her books of account and funds. An insurer should allocate a reserve fund for accounting any liabilities to be incurred in the course of running insurance business inside Nepal. An insurer is required to submit annual statement of his insurance business income earned inside Nepal along with copies of the auditor's report to the Board. An insurer is required to appoint an agent in his Nepal-based head office. The act also regulates the licensing of insurance agents and surveyors, which apply both to nationals or foreigners in somewhat the same manner applicable to insurers. Insurance Rules (First Amendment), 1996 require insurers to operate their life insurance and insurance business in the name of two separate business firms. A fine of US$48 to US$160 is fixed for any violation of the legal regulations made by an insurer, or insurance agent or a surveyor or any other person, and for the reoccurrence of such offence US$8 shall be charged for each such person. The fine is US$160 in case of undue handling of business. Punishment for falsifying or not maintaining or not submitting the books of accounts or documents is up to US$477 or two years' imprisonment or both. An appeal against the decision of the Board shall lie on the local Appellate Court within 35 days of such decision. The Board may charge for any service rendered by it to the insurers or agents at the rate of 1 per cent of their annual income. HMG may also constitute an advisory board for determining insurance policy rates.

b. Banking and other financial services

This act empowers the finance companies to undertake merchant banking activities with the prior permission of the Central Bank, which may include payment and money transmission services.

There is no clear definition of finance companies. However, the promulgation of a clear-cut definition of finance company is underway.

The Nepalese financial sector has expanded greatly since liberalization in the early 1990's. Before that there were two commercial banks, and some governmental financial institutions. Today the banking system in Nepal consists of the Central Bank, the Agricultural Development Bank, two commercial banks with state participation, one of them fully owned - the Rastriya Banijya Bank (RBB) - and the Nepal Bank Limited with 41 per cent government ownership, 9 private joint-venture commercial banks, around 45 finance companies, and around 130 institutes working in the field of financial transactions, including, among others, cooperative societies.

Banking and other financial services are regulated by the Central Bank, as provided by the Central Bank Act, 2012 (1955), the Commercial Bank Act, 2034 (1974) as amended, and the Finance Companies Act, 2042 (1985). To establish a commercial bank an application must be filled up and submitted to the central bank. The application includes among other things, the feasibility study, credibility of the promoters, and all the documents related to establish bank under the company Act, 2053 and also the documents as specified by the Central Bank. A bank has to be established as a limited liability company under the Company Act. Nationals and foreigners can equally apply for the establishment of a commercial bank. Any foreign commercial bank that desires to open a representative branch office or liaison office in Nepal may register it under the Company Act with the approval of the NRB. The NRB shall obtain the consent of HMG prior to granting the approval. The shares of a commercial bank can not be sold or transferred to any foreign national without approval of the Central Bank.

Approval for establishing a commercial bank is granted if all the conditions set in the Act (refer to Commercial Bank Act - sixth Amendment - 2049 (1992) are met, and on the basis of an economic needs test.

For the establishment of a financial company, an application should be submitted to the Central Bank for recommendation. After the recommendation is made, the company can be registered under the Company Act, 2053 (1997). A registered company is required to obtain a license from the Central Bank prior to performing the financial transactions. Recommendation for the establishment of a financial company is made on the basis of an economic needs test.

Both nationals and foreigners can apply for establishing a financial company in Nepal. However, no share shall be transferred without approval of the Central Bank.

The Securities Exchange Act (second amendment) passed in the Parliament and made effective in January 1997 provides for a clear separation of capital market regulatory authority and functions between the Securities Board and the Nepal Stock Exchange. Under FITTA, foreign portfolio investment is allowed on the Nepal Stock Exchange, subject to an investment limit of 25 per cent of a company's paid up capital. Under the New Securities Investment Trust Act 1996, a provision has been made to allow foreign funds/ assets management company to operate domestic security market. Foreign security firms are permitted to hold up to 40 per cent of the equity in joint-venture brokerage firms.

Regarding the foreign investment in finance company and bank, both of them can be established only on the basis of joint equity ownership (equity framework).

9. Health-related and Social Services

(a) Hospital services

There were a number of institutions involved in the delivery of government health service in Nepal during the fiscal year 2053/54 (1996/97) which included approximately 82 hospitals, 80 primary health centres, 775 health posts, and 3197 sub health posts. There are 872 doctors (working in the Government sector), 4606 nurses, 249 homeopathic doctors, and 5092 health assistants in the country.

Under the Ministry of Health, the government has established through the Department of Health Services a Central Hospital at the central level, regional hospital in the regions, zonal hospitals in the zones, district hospitals in the districts. Primary health centres in the 205 electoral constituencies, health posts in the ilakas (area), and sub-health posts in the VDCs, have been established and arrangements have been made for making available the services of Female Community Health Volunteers.

By the end of the Eighth Five Year Plan there was, at least, one hospital in each district with 15 to 25 beds where outdoor services, indoor services, family planning and maternity and child health services, immunisation services and emergency services will be provided. One zonal hospital with 50 to 150 beds will be established in each zone of the kingdom for specialized services relating to paediatrics, gynaecology, general surgery, general medicine, and eye care.

One regional hospital with 50 to 250 beds in each region will provide specialized services, e.g., dermatology, orthopaedic and psychiatry in addition to those available in zonal hospitals. The central hospitals with 110 to 3000 beds each will be equipped with sophisticated diagnostic to other facilities and provide specialised and super-specialised services in different health fields. The government has also extended specialist services to remote mountain regions as and when required through mobile teams.

Laboratory, diagnostic, and referral system, have been provisioned to strengthen the hospitals at all levels.

Hospital expansion has been done on the basis of population density and patient load. For this purpose, the private sector has also been encouraged to open hospitals, nursing homes and polyclinics in line with the HMG's open and liberal policy after the necessary permission is obtained and subject to the minimum standards prescribed.

Until now, about 84 government hospitals, two teaching hospitals ten private hospitals, 25 private nursing homes and few private polyclinics have already been established in the country. By the end of 1991, there was one hospital for 168,000 persons, and one doctor for 92,000 persons in the rural areas. Likewise, one hospital bed was available for nearly 4,000 persons. Foreigners are allowed to establish hospitals; they can also start their practice after obtaining the approval of Nepal Medical

Council. As far as the incentive for the opening of hospitals inside the kingdom is concerned, the government provides tariff concession on imports of those equipment used for medical purposes.

Nepal Medical Council Act provides for the establishment of a Medical Practitioners Council for the purpose of adequately regulating the health services in the country and registering the names of medical practitioners according to their qualifications. No foreign citizen is eligible to get nominated or elected to the membership or can be a member of the Council. But a foreign medical specialist can be invited to attend the meeting of the Council as an observer. The act allows no person to engage in medical practice without being registered after one year of the commencement of this act. The act is silent as to the registration of a foreign medical practitioner in Nepal. However, the act is yet to come into effect.

(b) Other human health services

Integrated Health Services have been provided through constituency level primary health centres, ilaka level health post, and VDC level sub-health posts. Accordingly, under the Family Planning and Maternity Child Health Services the family planning, immunization and other health services have been provided at the grass-root levels to cover all the couples, pregnant mothers, and children under five. On the malaria eradication front, the malaria-infected area inhabited by a population of 720,000 have been spread with insecticides and upon collection of blood samples, persons found infected by malaria have been given the necessary treatment. In the area of tuberculosis control: sputum tests and treatment of TB cases can be organised. On the leprosy side, lepers have been provided with multi-drug therapy. To reduce infection control of diarrhoea, acute respiratory programme and nutrition programme have also been implemented.

Under the Goiter and Cretinism Eradication Project, there is provision for iodized salt, the sale and distribution for Iodine injection and installation of iodization plants.

In the field of environmental health training of health workers in food preservation technology, help in the construction of toilets in health posts/centres and in building sewerage drainage in and around the infection and disease-prone area has been provisioned.

Control of infectious diseases and AIDS has also got special attention in the country, and for that matter projects have been initiated.

To provide cheap and locally available medicine, the traditional medical practice has also been encouraged by the State. More than 174 Ayurvedic hospitals have been established in the country through the Department of Ayurvedic Health Service under the Ministry of Health and one homeopathic and Unani hospital in the country is also in operation.

Several acupuncture clinics and a traditional Tibetan and naturopathy have also been provisioned and licensed to provide alternative treatment to the people of the country.

(c) Social services

Social welfare is an important sector that can contribute substantially to the acceleration of the overall development programs of the country. Government and non-government agencies are active in providing social services. There are many social service programs in health sectors. Especially after 1990, spontaneous upsurge of NGOs has been evident in delivering wide range of health services in the area of ocular therapy, family planning, cholera control, natural disaster relief work, ayurvedic and yoga treatment, natural therapy and nutrition programmes. A total of 1,550,000 patients were expected to benefit from the eye hospitals; 481,427 from permanent sterilization and 745,397 through temporary methods in family planning; and 140,000 cases in TB. The social service programs also aimed at implementing projects on physical disability, natural disasters, and blood transfusions. Sanitation and drinking water, control of AIDS, and drug abuse programmes are also being implemented. Food aid is targeted to at least 8,950,000 persons.

To coordinate, mobilize, and promote the non-governmental organizations (NGOs) in Nepal, the Social Welfare Council (SWC) was established as far back as in 1977 constituted under the Social Service Act, 1992. Until now 81 INGOs and 146 NGOs in the health sector have been registered and are working under the Social Welfare Council.

There are many associations, national and international clubs, and the Red Cross society in the country actively involved in the delivery of health services. The Government has adopted an open and liberal policy to encourage and enhance the operation of public and private social sector organisations in the delivery of health service in the country.

The Social Welfare Act, 1991 was enacted with a view to bring social welfare activities into close harmony with nation building and development process for the overall development of Nepal and Nepalese society, and therefrom to enable the weaker and helpless persons or sections of the society to live a truly human life, to raise the prestige and dignity of persons and institutions engaged in social service, and to bring coordination among the activities of the various NGOs. Under the framework of this act, the HMG, through the Ministry of Youth, Sports and Culture, Social Welfare Council and NGOs, may launch social welfare and social service programmes directed at the welfare of children, aged, the helpless, and the disabled persons and backward communities, protection of the rights and welfare of women in order to enable them to actively participate in the development process as well as to enable the persons engaged in juvenile delinquency, drug or other addictions and social evils to lead a dignified and respectful life to help the unemployed, poor and uneducated persons to live a respectful life, and help in the proper management of religious trusts and shrines.

10. Tourism and Travel-Related Services

Tourism is one of the most important services in Nepal. Contribution of tourism to GDP of the nation was 3.8 per cent and it also provided 18 per cent of the total foreign exchange during FY 1995/96. Tourism is regulated by a whole set of general rules, laws, and industrial acts such as the Tourism Act, 2035 (1978) amended in 2053 (1997), by the Hotel, Lodges, Restaurants, Bar and Tourist Guide Rules, 2038 (1981), the Travel and Trekking Agency Rules, 2037 (1980), the Trekking and Rafting Rules, 2044 (1985), and by the Mountaineering Rules, 2036 (1979).

As provided by the Foreign Investment and Technology Transfer Act, 1992, no permission is granted for the establishment of foreign companies, or foreign investment in the Travel Agencies, Trekking Agencies, Water Rafting, Pony Trekking, Horse Riding, and Tourist Lodging. Foreign direct investment, however, is permitted in the hotel industry, for which HMG's permission is required as provided by FITTA, 1992.

Any person who desires to establish a travel or trekking agency must obtain a licence from HMG and pay the prescribed fee. The Department of Tourism registers a hotel, lodge or bar of tourist standard after a thorough scrutiny after payment of the required fee. The Tourist Act further provides the procedures of registration, renewal, operation, suspension, and cancellation of other tourism-related businesses such as rafting, gliding, ballooning, jungle safari, camping, trekking, bird watching, skiing, and other activities as specified. To work as a tourist guide, it is necessary to be a Nepalese national and obtain a licence. Foreign investment in the hotel sector is open. There is no ceiling on foreign equity participation. But FITTA has reserved 23 items for investment for the Nepalese investors. Foreign investment proposals up to the extent of five hundred million rupees in fixed capital is approved by the Department of Industry. In case of industry with fixed assets in excess of limit is cleared by the Industrial Promotion Board. When there is an application of foreign investment the Department of Industry will inform the applicant of the decision of the board within 30 days from the date of application. Foreign investment will be permitted up to 100 per cent in industries. Pursuant to FITTA, industries classified in Annex 6 shall not be permitted for foreign investment. However technology transfer is allowed in all public enterprises of industries even in the areas, where foreign investment is not permitted. A one window committee is formed to provide facilities and concessions to the industries.

11. Transport Services

(a) Air transport services

HMG recognizes the importance of air transport services for the development of the tourist sector. Therefore, it follows an liberal policy in promoting the involvement of the private sector, both national and foreign, to engage in the air transport business. Currently, the Royal Nepal Airlines and 14 private Nepalese companies provide domestic and international air transport services. Nepal has signed a number of bilateral agreements by which the major international carriers provide international air transport services to and from Nepal.

12. Other Services

As provided by the Foreign Investment and Technology Transfer Act, 1992, all personal service businesses such as beauty parlour, tailoring, driving, training, etc., are reserved for the Nepalese nationals.

2. POLICIES AFFECTING TRADE IN SERVICES

(a) The Ministries of Industry, Telecommunication, Transport, Commerce, Tourism, and Finance are the authentic bodies in the conduct of service activities in Nepal. Besides, there are a number of professional associations in Nepal rendering specialized services. They include, for example, Nepal Medical Association, Chartered Accountants Association, Management Association of Nepal, Association of Travel Agencies, Hotel Association, and Trekking Agencies.

(b) A number of laws in Nepal provide for the settlement of disputes through judicial organs, which range from the district level to the Supreme Court. Cases depending on the public enterprises of services are settled by the respective sectoral agencies under their prevailing laws and regulation.

(c) There are different provisions and requirements to be fulfilled for the supply of services. Under government undertakings, service suppliers have to comply with the conditions laid down by the respective ministries. Private sector agencies have to be registered with the concerned ministries for the supply of services. There is virtually no specific condition applicable to the private sector suppliers.

Under the current economic programme, the government is reducing monopoly powers of the public agencies in the utility sector, including electricity and telecommunications. Monopolistic rights are not granted to any private enterprise. The Government is determined to involve the private sector in developing infrastructure projects in area such as road transport and electricity on the "Build-Operate-Transfer (BOT)" principle.

The Government has adopted a policy to expand trolley bus services in the feasible routes within the country. In the transport sector there is, moreover, a policy to encourage private sector participation.

The Ministry of Works and Transport is responsible for the businesses related, inter alia, to policy on development of inland and waterways transport and management of transportation.

(d) There are no safeguard provisions for trade in services.

(e) The dividends on investment, royalty, technical and managerial services are subject to a 15 per cent tax. Foreigners are free to repatriate their income abroad earned either from investment, or technology transfer contracts, or personal income. There are no restrictions of any form on current account payments.

(f) There are no limitations on capital transactions as provided by the FITTA, 1992.

The Government has reduced subsidies for infrastructure services like electricity, water, health, etc. Tax incentives and facilities are provided by the Government under the Industrial Enterprises Act, 1992.

3. MARKET ACCESS AND NATIONAL TREATMENT

(a) Limitations on the number of service suppliers

There is no limitation on the number of service suppliers. However, the authorization to establish commercial banks and financial companies is based on an economic needs test.

(b) Limitations on the total value of service transaction or assets

There is no limitation currently in effect in Nepal.

(c) Limitations on the total number of service operations or on the total quantity of service output

There is virtually no limitation on the number of service operations and on the total quantity of service output except on certain essential services such as the telecommunications, especially the wired line services.

(d) Limitations on the total number of natural persons that may be employed in a particular service sector

According to the Industrial Enterprises Act, 1992, the manpower required for any industry, including all services, shall have to be recruited from among Nepali citizens. However, foreigners are permitted to work in Nepal on technical ground, in particular with regard to technology transfer. A work permit issued by HMG is required for foreigners to work in Nepal. A foreigner, however, can not be employed for more than 10 years.

(e) Restrictions on or requirement of specific public enterprises of legal entity through which a service may be supplied

Commercial banks and financial companies have to be incorporated as limited liability company, under the Companies Act, 2021 (1964, as amended, 1997).

(f) Limitations on the participation of foreign capital

Some service activities as described above are reserved for the Nepali nationals and companies. Foreign portfolio investment is allowed on the Nepal Stock Exchange subject to an investment limit of 25 per cent of a company's paid-up capital. Foreign security firms are permitted to hold 40 per cent of the equity in joint-venture brokerage firms.

(g) Measures providing for less than the treatment accorded to national services or service suppliers

All foreign investment in services must obtain a prior permission of HMG. Domestic investors do not require such permission. Both the foreign and national companies have to register with the concerned ministry. Foreign tourists have also to pay certain fees not applicable to the Nepali nationals.

4. MOST FAVOURED NATION TREATMENT

Basically, there are no measures in effect in Nepal inconsistent with MFN treatment in the field of services.

VII. INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES

1. BILATERAL OR PLURILATERAL AGREEMENTS RELATING TO FOREIGN TRADE IN GOODS AND TRADE IN SERVICES

As mentioned in section II 3(f), Nepal has signed bilateral trade agreements with 17 countries. These agreements are on most-favoured-nation treatment basis. They basically relate to trade in goods. Details are presented in Annex 8A (WT/ACC/NPL/1/Add.1).

Nepal as a landlocked country is interested in maintaining good neighbourliness on a developed contractual basis for transit and trade relations with India. That is why, Nepal has always tried to develop harmonious relations with India. Nepal considers the treaties of transit and trade as well as the agreement of cooperation to control unauthorised trade signed in 1991 (as amended) provide a good basis for the development and diversification of trade. The two countries have signed these treaties with the aim of promoting trade, facilitating transit and controlling unauthorised trade. They accord each other unconditional most-favoured-nation treatment. They also exempt imports of primary products from duties or any form of quantitative restrictions on a reciprocal basis in the context of their border trade. These products are the typical and traditional raw materials produced usually for the traditional neighbouring market destinations in each others' border area.

The treaty of trade also provides that India grants specially favourable (preferential) treatment to industrial products manufactured in Nepal on the basis of non-reciprocity in order to promote the industrial development of Nepal.

2. ECONOMIC INTEGRATION, CUSTOMS UNION AND FREE-TRADE AREA AGREEMENTS

As mentioned in section II.3(f), Nepal is a member South Asian Preferential Trade Arrangements (SAPTA). The SAPTA agreements are preferential ones. The Ninth SAARC Summit, which took place in 1997 has decided to move from SAPTA to SAFTA (South Asian Free Trade Area) by the year 2001. Details are presented in Annex 8B (WT/ACC/NPL/1/Add.1).

3. LABOUR MARKETS INTEGRATION AGREEMENTS

None

4. MULTILATERAL ECONOMIC COOPERATION, MEMBERSHIP IN THE MULTILATERAL ECONOMIC ORGANIZATIONS, TRADE-RELATED PROGRAMMES OF OTHER MULTILATERAL ORGANIZATIONS

Nepal has been actively participating in many multilateral economic cooperation programmes, especially within the UN System. Many specialised agencies on economic cooperation have their presence in Nepal. The UNDP coordinates the activities of these agencies. The government holds the view that these multilateral cooperation arrangements can not be fully exploited without joining the WTO.

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