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**Working Party on the
Accession of Nepal**

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ACCESSION OF THE KINGDOM OF NEPAL

Questions and Replies to the Memorandum on the Foreign Trade Régime (Document WT/ACC/NPL/2)

In a communication, dated 26 February 1990 (WT/ACC/NPL/1), the Government of the Kingdom of Nepal applied for accession under Article XII of the Marrakesh 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 the Kingdom of Nepal to the GATT 1947 continued as a WTO Working Party with the following terms of reference: "To examine the application of the Government of the Kingdom of Nepal to accede to the WTO Agreement 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 document WT/ACC/NPL/2, Members had been invited to submit questions in writing concerning the foreign trade régime of Nepal. The questions submitted by Members and the replies thereto provided by the authorities of Nepal are reproduced hereunder. The attachments mentioned in this document submitted to the Working Party are listed in documents WT/ACC/NPL/3/Add.1 and Add.2 and are available in the Secretariat (Accessions Division, Room 1126) for consultation.

Delegations wishing to raise additional questions concerning the foreign trade régime of Nepal might inform the authorities of Nepal (with a copy to the Secretariat) of such questions in advance of the next meeting of the Working Party, so that considered replies can be made available by Nepal to Members at the time of the Working Party meeting.

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WORKING PARTY ON THE ACCESSION OF NEPAL
CONSOLIDATED LIST OF QUESTIONS

II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

1. Economy

(b) Current economic situation

Question 1.

The Government of the Kingdom of Nepal had committed itself to increased revenue mobilization by lowering tax rates while widening the tax net. Apparently these measures have not been successful. How do the Nepalese authorities intend to improve revenue collection?

Answer:

Nepal is committed to mobilise internal resources through income and property as well as consumption taxes such as VAT. In order to improve revenue collection, Nepal has seriously taken steps to both expanding tax net as well as lowering tax rates. Together, to make these taxes more transparent, efficient and effective reformation in revenue administration is underway.

2. Economic Policies

(a) Main directions of ongoing economic policies

Question 2.

Could you provide details of the privatization plan?

Answer:

The privatization programme was launched in order to utilize the resources currently invested in public enterprises in a more efficient and effective manner. The long term objective of the privatization programme is to set the economy on a dynamic growth path by transferring public enterprises to the private sector and enhancing private sector participation, particularly in manufacturing and services. However, government shall take all necessary measures to ensure that the private sector shall not use market power to obstruct market mechanisms. Nepal intends to concentrate government activities to provide basic infrastructure, health and education services to the population and to deal with the shortcomings of the market mechanism rather than in the production and distribution of commercial products and services.

Question 3.

Are there any restrictions to foreign participation in the privatization programme (e.g. specific sectors excluded, ceiling level of participation)? If so, do these restrictions also apply to potential domestic investment?

Answer:

The Privatization Act 1992, in general, does not discriminate between national and foreign investors. However, while evaluating proposals, if the proposals of two or more investors are found to be identical, priority shall be given to the national investor or the group of national investors.

Question 4.

The strategy for achieving the objectives of the Nepal Agricultural Perspective Plan (APP) includes "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". Please describe the policy measures that are available under the APP to concentrate efforts to facilitate intensification of agriculture.

Answer:

The Agricultural Perspective Plan (APP), formulated in 1996, is being implemented by Nepal since the Fiscal year 1998/99. The APP has prioritized four policy areas in which work will be undertaken to attain increases in productivity of cereal and cash crops in the tarai, and high value crops, livestock and forestry products in the hills. These policy areas are:

Fertilizer : The contribution of fertilizer to crop productivity growth is estimated at 40 per cent. Under the prevailing policy regime the required annual fertilizer use targets for the agricultural sector could not be supplied. Therefore the APP proposed the phasing out of subsidies in fertilizers and the participation of the private sector in the supply. Nepal has initiated the reform of its fertilizer policy, and fertilizer trade is planned to be deregulated by the end of FY 1998/99. The subsidies on phosphatic and potassic fertilizers have already been fully withdrawn, and a substantial reduction of the subsidy for urea has been affected. Now the private sector participates in fertilizer imports, and distribution, on equal footing with the Agricultural Inputs Corporation (AIC), the public undertaking which monopolized fertilizer imports and distribution in the past.

Research and Extension: Quality seeds and improved farming methods are key elements of the APP. The APP emphasizes: (i) increased investment in agricultural research; (ii) adoption of farm problem-based research; (iii) increase in the production of quality foundation seeds; and (iv) participatory extension on key output. The Agricultural Research and Extension Project, to be founded by the World Bank, will be instrumental for these purposes. A new pocket-package strategy has also been developed for this purpose.

Irrigation: The APP calls for well-controlled year-round irrigation. For this purpose shallow tube wells in the tarai and improved and participatory management of surface systems in the hills and also in the tarai have been emphasized. Donor support on irrigation has begun to be mobilized in this direction.

Rural Transport: Rural transport has been given due recognition in the APP in order to facilitate the flow of inputs and output to and from the market. The basic components of the APP in this area are: (i) rural roads for product and input flow in targeted production pockets, (ii) extension of electric grids for energizing agricultural operations. Nepal has already established the Department of Local Infrastructure and Agricultural Roads for achieving these objectives. This effort is also being complemented by the World Bank in the form of a proposed Rural Infrastructure Project (RIP).

In order to monitor and act upon the unfolding policy and operational problems during the implementation of the APP the Independent Analytical Unit (IAU), proposed by the APP, has already been instituted within the National Planning Commission.

Question 5.

Agricultural Perspective Plan: Cost-recovery of certain agricultural inputs (e.g. fertilizers) is of paramount importance in order to ensuring long-term agricultural sustainability and productivity. Is the Government of Nepal prepared to progressively apply such a cost-recovery approach?

Answer:

Yes, through private sector participation

Question 6.

Nepal states that its current industry policy allows for development of almost all industrial ventures without licence. Can Nepal detail which industrial ventures require a licence, what the licence requirements are, and where the requirements are detailed? Are there any manufacturing or service sectors where foreign investors are required to obtain a licence and local investors are not? Are there restrictions on foreign investment that are imposed under the Foreign Investment and Technology Transfer Act?

Answer:

As per the Foreign Investment and Technology Transfer Act of 1992, Article 3, permission from the Department of Industries is required for all foreign investment. As provided by the Industrial Enterprises Act of 1992, permission for domestic investment is only required only for industries producing explosives, including arms, ammunition and gun powder, security printing, bank notes and coin industries; cigarette, bidi, cigar, chewing tobacco, khaini industries and industries producing goods of a similar nature utilizing tobacco as the basic raw material and alcohol or beer producing industries. The specific requirements to get the permission are not detailed in either of these Acts.

Question 7.

Are there goods subject to a regulatory price control? If so, please give details of these goods (HS coding, description of goods, minimum and maximum prices).

Answer:

As per the Foreign Investment and One Window Policy 1992, the Government does not intervene in fixing the prices of industrial products either by the private sector industries or SOE's.

(b) **Monetary and fiscal policy**

Question 8.

In the Nepal-Aid group meeting of April 1996 in Paris, the Government of Nepal announced reforms on taxation through the introduction of value added tax (VAT). What is the present situation on that reform?

Answer:

The Value-Added Tax (VAT) has been fully implemented.

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

Question 9.

Could Nepal explain, in detail, the current regime on international payments and on capital movements and give, where applicable, the reference to your legislation?

Answer:

The current international payment regime consists of different provisions for payments made through convertible currency and non-convertible Indian Rupees. For countries other than India, payment is made through convertible currency - mainly US Dollar. However, some selected commodities could be imported from India through US Dollar payments as well. There is no payment restriction on current account transactions.

Nepal is also a member of the Asian Clearing Union (ACU). The trade transactions among ACU members are cleared through the Asian Currency Unit Dollar which is equivalent to the US Dollar.

As far as capital transaction is concerned, the Ban on Investments in Foreign Countries Act of 1964 prohibits any form of investment including purchase of property, bank deposit, investment in share and bonds by Nepalese citizens in foreign countries. The repatriation of capital movements by foreigners is free, as per the Foreign Investment and Technology Transfer Act 1992.

Question 10.

Please give details of restrictive measures the Government of Nepal could resort to in case of the emergence of balance of payments.

Answer:

As Nepal has accepted Article VIII of IMF, it shall avoid restrictions on current payments and discriminatory currency practices. However, Nepal may restrict the quantity or value of imports as well as capital movement in order to safeguard its external financial position and its balance of payments.

Question 11.

What is the present situation of the Nepalese request to enter into an enhanced structural adjustment facility with the International Monetary Fund?

Answer:

Mid-term Reviews of the Enhanced Structural Adjustment Facility (ESAF) were held in 1995 and 1996, but could not be concluded due to political instability in the country. Nepal raised the issue of re-entering into ESAF during the visit of an IMF Mission in November 1998.

Question 12.

The Enhanced Structural Adjustment Facility (ESAF) with the International Monetary Fund was discontinued in FY 1994/1995 due to some political changes. Has the Government of Nepal been successful in its efforts to re-enter ESAF?

Answer:

See Answer 11.

(d) Foreign and domestic investment policy

Question 13.

What policy mechanisms does the Government of Nepal use to encourage technology transfer in all public enterprises of industries?

Answer:

There are no specific mechanisms in effect. It is expected that technology transfer will be enhanced through privatization.

Question 14.

Are the conditions set down in the Industrial Enterprises Act 1992 and the Foreign Investment and Technology Transfer Act 1992 identical for domestic and foreign enterprises? If not, would Nepal provide details on the differences?

Answer:

There are no substantive differences with regard to the treatment of domestic and foreign enterprises in Industrial Enterprise Act 1992 and Foreign Investment and Technology Transfer Act, except that described in answer to Question 6.

Question 15.

Nepal states that "foreign investors will be granted a business visa until their investment is retained". Would Nepal explain what this means in practice?

Answer:

The visa will end when a foreign investor withdraws investment from Nepal, and claims for the repatriation of the realized amount by the sale of investment in the country.

Question 16.

Could you provide exhaustive information about the sectors not open to foreign investment, and the reasoning for these sector restrictions, as well as information about the conditions and procedure of the authorization procedure for foreign investment?

Answer:

Sectors listed *infra* are not open for foreign investment. Most of these sectors are reserved for nationals, mainly in order to promote the activities of small entrepreneurs who generally use indigenous skills, resources and technology. Some sectors are restricted for national security reasons.

- Cottage industry;
- Personal service business (business such as hair cutting, beauty parlour, tailoring, driving training, etc.);
- Arms and ammunitions industries;

- Explosives, gunpowder;
- Industries related to radioactive materials;
- Real estate (excluding construction industries);
- Motion picture industries (produced in national languages and the language of the nation);
- Security printing;
- Currency and coinage business;
- Retail business;
- Travel agency;
- Trekking agency;
- Water rafting;
- Pony trekking;
- Horse riding;
- Cigarette, *bidi*, alcohol (excluding those exporting for more than 90 per cent);
- Internal courier services;
- Atomic energy;
- Tourist lodging;
- Poultry farming;
- Fisheries;
- Bee keeping;
- Consultancy services such as management, accounting, engineering and legal services etc.

Approval from the Government is required for foreign investment in these areas. Interested foreign investors should apply in writing, in the prescribed format, to the Department of Industry or Department of Small and Cottage Industry or any other office as prescribed by the Government. The decision on the application shall be communicated to the applicant within 30 days from filing of the application.

Question 17.

Are the conditions to grant an approval from the Department of Industry laid down in the FITTA or subject to the discretion of the Industrial Promotion Board?

Answer:

The conditions to grant an approval from the Department of Industry are not laid down in the FITTA.

Question 18.

Does the Foreign Investment and Technology Transfer Act provide an appeal procedure against non-successful application?

Answer:

No.

(e) Competition policy

Question 19.

Nepal indicates there is a need to introduce legislation to guarantee free and fair competition. Can Nepal please elaborate on plans to introduce legislation on competition?

Answer:

Nepal does feel the need for legislation to guarantee free and fair competition. However, Nepal has not yet outlined the plan to introduce such legislation.

Question 20.

Nepal does not have a competition policy. Are there any plans to introduce one and what could be the timetable?

Answer:

See Answer to Question 19.

(f) Privatization policy

Question 21.

According to information provided in Section II.(2)(a) "Main directions" of the Foreign Trade Memorandum, Nepal was analyzing the privatization of six public enterprises, which would possibly be privatized in FY 1997/1998.

Were these enterprises privatized as planned? Please identify the enterprises. What are the Government of Nepal's plans for continuing its privatization efforts. Please identify any enterprises that are slated for privatization in the coming year.

Answer:

Yes, all public enterprises have been privatized as planned. The following enterprises have been privatized after the implementation of the privatization programme:

1. Bhrikuti Pulp and Paper Factory;
2. Leatherge Bansbari Tannery and Shoe Factory;
3. Harisiddhi Bricks and Tiles Factory;
4. Nepal Film Development Company;
5. Nepal Lube Oil Limited;
6. Bitumen and Barrel Industries Ltd.;
7. Balaju Textile Industry Ltd.;
8. Raw Hide Collection and Development Company;
9. Tobacco Development Company;
10. Nepal Jute Development and Trading Company;
11. Nepal Foundry Industry;
12. Raghupati Jute Mills;
13. Biratnagar Jute Mills;
14. Nepal Bank Ltd.;
15. Agriculture Tools Factory Ltd.;
16. Bhaktapur Brick Factory.

The following enterprises are nearly completed or in the final stage of privatization.

1. Nepal Tea Development Corporation;
2. Himal Cement Company;
3. Butwal Power Company;
4. Rastriya Banijya Bank.

Necessary work is under way in the Nepal Telecommunication Corporation (NTC) and the Royal Nepal Airlines Corporation (RNAC), Nepal Oriend Magensite Company and Janakpur Cigarette Factory (JCF) to develop appropriate privatization strategies. It is expected that NTC's work should be completed before year 2000. However, telecommunication value-added services will be open to competition very shortly. All restrictions on services like e-mail, data communication, video conference and VSAT will be lifted.

With regard to the privatization plan please see answer to Question 2.

Question 22.

Is the purchase of enterprises undergoing privatization open to foreign investors?

Answer:

See Answer to Question 3.

Question 23.

Are there any restrictions on the extent to which foreign enterprises can participate in Nepal's privatization process?

Answer:

See Answer to Question 3.

Question 24.

Does any differentiation exist between foreign and domestic investors in privatization programmes and, if so, what is the justification?

Answer:

See Answer to Question 3.

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

2. Government entities responsible for making and implementing policies affecting foreign trade

Question 25.

We note in part III, paragraph 2(b) that the Ministry of Finance is responsible, *inter alia*, for the general pricing policies of state-owned enterprises. Can Nepal please provide more information on the pricing policies applied to these SOE'S? Can Nepal provide the Working Party with an undertaking that all Nepal's SOE's will operate solely in accordance with commercial considerations, and in a manner that is consistent with Article XVII of GATT 1994?

Answer:

SOE's are autonomous. The Ministry of Finance does not intervene in the SOE's pricing policies. Prices are fixed by the market. Electricity and telephone rates are determined by the Utility Commission in consultation with the private sector which affects ongoing market prices. The Nepal

Oil Corporation is the only state trading enterprise in Nepal as defined in paragraph 1 of the Understanding on the Interpretation of Article XVII of the GATT 1994. When becoming a WTO Member, Nepal will fulfil its obligations as derived from Article XVII of GATT 1994, and the Understanding on the Interpretation of Article XVII.

Question 26.

Also, we note that the Ministry of Agriculture is responsible for marketing and price regulation of basic agricultural products. Can Nepal please provide more information on these marketing and price policies and their operation?

Answer:

Support indicative prices are established for sugar cane, tobacco and cotton. These prices are determined by the respective commodity associations. There is a price subsidy on urea that is planned to be eliminated by the end of 1999.

3. Division of Authority Between Central and Sub-Central Form of Government

Question 27.

"The laws of the country provide for Delegation of authority to the local authorities as and when required." Does this delegation of authority concern trade policy or fiscal policies? If so, please specify.

Answer:

In matters of trade policy or fiscal policies, the law does not provide for delegation to local authorities.

4. Any Legislative Programmes or Plans to Change the Regulatory Régime

Question 28.

Does Nepal intend to submit to the WTO Working Party members, for comment, the revised legislation related to customs and excise whilst it is still in a draft form?

Answer:

The Custom Act 1962 was amended in 1997. The Custom Act, as amended, is enclosed herewith (WT/ACC/NPL/3/Add.1).

6. Description of Judicial, Arbitral or Administrative Tribunals or Procedures, if any

Question 29.

According to the Memorandum on Foreign Trade Regime, there are no special courts or tribunals so far to adjudicate trade disputes in Nepal. There is, however, the Arbitration Act of 1981, under which disputes of a commercial nature arising out of an agreement may be settled through arbitration as provided for in such an agreement. Do commercial trade disputes have to go through arbitration or can they be taken directly to Nepalese Courts for resolution? Can arbitrated decisions be appealed to the Nepalese Courts?

Answer:

The scope of the Arbitration Act covers only those disputes which are indicated in the contract concerned. Thus, any other commercial dispute may fall under the jurisdiction of courts of law. They may be reviewed by the Appellate Court pursuant to Section 21 of the Arbitration Act 1991. Parliament has recently adopted a new Arbitration Act which is based on the Model Commercial Law adopted by UNCITRAL in 1985.

Question 30.

There is a special permanent tribunal to adjudicate and resolve revenue disputes (Revenue Tribunals).

Are decisions relating to customs duties appealable directly to the Revenue Tribunals? Please describe fully the procedures for appealing determinations made by the Customs authorities.

We would appreciate a report from Nepal on its current arrangements for dealing with judicial appeals from administrative rulings on customs matters, as provided for in Article X of the GATT, or as necessary, its intentions for establishing such institutions in the context of its accession to the WTO.

Answer:

There is a permanent Revenue Tribunal to adjudicate and resolve revenue disputes, including custom duty assessment. There are four District Tribunals that see cases arising under their jurisdiction. With regard to decisions related to custom duties, the Custom Act of 1962 as amended, also provides for appeal against orders of custom duty assessment or punishment issued by customs to the Revenue Tribunal. Nepal will examine the compatibility of its current procedures with Article X:3(b) and (c) of GATT 1994.

Question 31.

Can Nepal explain the existing arrangements that are available to enforce private contracts, including loan agreements? What steps do Nepal have in place to improve compliance with such contracts?

Answer:

The infringements of private contracts have to be taken by the concerned party to the dispute resolution mechanism as incorporated in the contract concerned. In other cases, a dispute under the contract falls under the jurisdiction of the courts of law.

IV. POLICIES AFFECTING TRADE IN GOODS

1. Import Regulation

(a) Registration requirements for engaging in importing

Question 32.

In the Memorandum on Foreign Trade Regime, Nepal states that “Foreign-owned companies, or joint companies with foreign participation, ... are required to make an application to the

Ministry of Industry for obtaining permission to engage in industrial business in Nepal”. Please further define “industrial business”. Does this include the right to import or export?

Answer:

All companies, national or foreign, have to be registered with the competent authority to engage in business in Nepal. This includes export and import activities. Limited liability companies, including joint venture agencies, sole proprietor and partnerships, business undertakings for industrial ventures, register at the Ministry of Industry. But agencies, sole proprietor undertakings and partnership businesses for trading are required to register at the Department of Commerce.

Question 33.

Please confirm that foreign or domestic individuals or firms may import for industrial, wholesale or retail purposes into Nepal, and that the proper registration requirements for such activities do not differ from those for the conduct of purely domestic business.

Answer:

All registered companies can import goods for business purposes. Individuals can import for business as long as they are registered as sole proprietor undertakings. Retail businesses are reserved for Nepalese nationals (refer to the answer to Question 16). Registration requirements are the same for those companies that conduct purely domestic activities than for companies engaged in import and export activities.

Question 34.

Are the registration requirements and fees for foreign individuals or firms identical to those for Nepalese individuals or firms? If not, how do they differ? What is the amount of the fee?

Answer:

Registration requirements are the same for both national and foreign firms. The amount of registration fees range from NRs 125.00 to NRs 7,800.00 depending upon the capital of the firm.

(b) Characteristics of national tariff

Question 35.

Nepal states that imports “ ... 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 taxes range from 15 to 40 per cent for some specified goods.” Please provide a list of all imported products, including HS numbers, subject to equalizing duty rates. For each item, please provide the applied equalizing duty rate, the applied tariff rate, and the applicable excise tax rate for the same domestically-produced product. Are imports of these products from preferential trading partners subject to the equalizing duties?

Answer:

All imports of goods, whatever the origin, are subject to excise taxes and are charged in the form of equalizing duty as follows:

S.No.	HS Code	Items	Tariff Rate
1.	1703.10	Can molasses	20
2.		Raw sugar in solid form	20
3.	2106.90.20	Betel/Areca (Pan Parag) nuts mixed with catechu and lime with or without nicotine	20
4.	2204.29	Wine or fresh fruits not exceeding 17 per cent alcoholic content	
5.	2306.00	Cider	NRs 275 per ltr
6.	2203.00	Beer	2203.00
7.	2206.00	Country Beer (chhyang)	2206.00
8.	2207.20	Denatured spirits	40%
9.	2207.20	Thinner	40%
10.	2208.00	Industrial spirits with 57.38 to 80 per cent alcohol content by volume, to be used as raw material for spirituous drink	40
11.	2207.10	Rectified spirit, silent spirit (ENA) used as raw material for alcoholic products with an alcoholic strength of 80 per cent or higher by volume	40
12.	2208.20.90 2208.30.90 2208.50.90	<u>All alcoholic products</u> a) Up to strength of 40 up b) Strength of 30 to 40 up c) Strength 40 % higher	Per Lit. 275/-
13.	24.02.20	<u>All kinds of cigarette</u> i. Cigarettes up to 70 mm in length a) Without filter b) With filter ii. 70 mm to 75 mm (with filter) iii. 76 mm to 85 mm (with filter) iv. More than 85 mm (with filter)	Per thousand sticks NRs 675/-
14.	2402.10	All kinds of cigar	Per thousand sticks NRs 675/-
15.	2403.10.10	Pipe tobacco	80%
16.	2403.99	Tobacco extracts and essences including chewing tobacco	40%
17.	2403.99	Raw chewing tobacco	40%
18.	2710.74, 75 & 79	Lubricating oils, engine oils and mobil	20 to 30%
19.	2710.75	Greases	20%
20.	8702, 3, 4	<u>Vehicle fuelled by petrol or diesel</u> a) Motor vehicle for transport (single cab pick up) b) Light vehicles, jeep and car (up to 14 seats)	30 to 80%

Question 36.

Nepal's tariff rates for most items are levied at 10 to 20 per cent, which are relatively low tariff rates. However certain items, such as cars and jeeps, are currently levied at 80 per cent, which is a high standard (cf. The Evolution of the Customs Tariff Regulation, page 17). Why does Nepal rely on such high tariff rates for cars and jeeps? We would like to know the percentage

of the tariff income perceived from the tariffs levied on cars and jeeps in relation to the total tariff income.

Answer:

Vehicles of personal use are the ones charged with the 80 per cent custom duty. Vehicles for the transport of persons or goods are subject to lower custom duties of 30 to 40 per cent. The tariff income is 4.57 per cent of the total tariff income.

Question 37.

We would like to know when Nepal can submit its initial offer on goods for market access negotiations.

Answer:

Nepal is currently analyzing different alternatives and is conducting the necessary studies and evaluations for the elaboration of its initial offer on market access on goods. It will be submitted to the Working Party as soon as it is ready.

Question 38.

The Memorandum explains that domestic goods are subject to excise tax while like imported goods are subject to an equalizing duty that is equal to the excise tax. Given that these taxes are collected on an *ad valorem* basis, it is important that domestic goods and imported goods are valued in the same way. Can Nepal advise whether the basis for valuation of imported and domestic goods is identical, and whether this will continue to be the case when Nepal fully implements the WTO Customs Valuation Agreement in relation to imported goods?

Answer:

Excise tax is applied on domestic goods on the basis of ex-factory price. Imported goods are valued on the basis of C.I.F price.

Question 39.

Please provide copies of applied rates of customs duty on diskette together with import statistics on a tariff line basis.

Answer:

The diskette of customs tariff will be submitted to the Secretariat.

(c) Tariff quotas, tariff exemptions

Question 40.

Can Nepal confirm that it does not intend in the future to introduce import quotas?

Answer:

When becoming a WTO Member, Nepal will apply import quotas only as provided by the Multilateral Agreements on Trade in Goods.

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

Question 41.

Is the imposition of seasonal taxes limited to certain product sectors?

Answer:

There are no seasonal taxes in effect in Nepal.

Question 42.

Please list all the tariff headings, which are subject to seasonal duties?

Answer:

There are no seasonal duties in effect in Nepal. Applied duties are those established in the Nepalese Custom Tariff 1998/1999.

Question 43.

When are seasonal duties applied?

Answer:

Refer to answer to previous question.

Question 44.

Is a distinction made between imported and domestic products?

Answer:

Refer to answer to question 42.

Question 45.

According to the Foreign Trade Memorandum, the Customs Office charges 1 per cent of the value of the import for an import licence. Is the 1 per cent charge for an import licence calculated on the invoice value of the imported product? When is the charge assessed?

Answer:

The licence fee is calculated on the invoice value. The fee has to be paid prior to the release of goods by customs.

Question 46.

Does the 1 per cent import licence charge apply to goods entering from India under the Treaties of Trade and Transit?

Answer:

The licence fee applies to the import of restricted products originating and coming from all countries; including, be the case, those entering from India under the Treaty of Trade.

Question 47.

Is the import licence charge assessed for fiscal reasons? If for other reasons, please describe. For what service rendered is this charge levied? Why does the Government of Nepal also impose an application fee of 10-60 Nepalese Rupees (NRs)? Is the application fee for a different service?

Answer:

The application fee is nominal. It only amounts, at the current exchange rate, to between US\$0.14 and US\$0.85. The one per cent fee is a service charge for the evaluation that has to be undertaken by different agencies of the request to import restricted products into Nepal. The import licence charge is not assessed for fiscal reasons.

Question 48.

Article VIII of the WTO states that all fees and charges of whatever character (other than import and export duties ...), shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes. Please describe how Nepal intends to change the import licence charge to approximate the cost of services rendered, in accordance with GATT Article VIII.

Answer:

Refer to answer to Question 46.

Question 49.

We note that Nepal charges a fee of 1 per cent of the value of the goods imported for an import licence. What plans does Nepal have to bring this fee into conformity with Article VIII of GATT 1994 which requires that fees and charges (except import taxes and other taxes within the purview of Article III) connected with importation or exportation shall be limited in amount to the approximate cost of providing the service?

Answer:

Refer to answer to question 46

(e) Quantitative import restrictions, including prohibitions, quotas and licensing systems

Question 50.

Under a current trade agreement with India, Nepal imports some goods on a quota basis. What products are covered, what are the limits, what tariffs are applied, and how does this system work?

Answer:

The product list and the quantity under the quota system is decided on a yearly basis as provided by Article II.4 of the Protocol to the Treaty of Trade between Nepal and the Government of India. The quota system operates only for those goods that are restricted for exports, or subjected to price controls, in one of the Parties to the Trade Agreement. The list of products that Nepal imports from India on a quota basis varies significantly depending on the agreement reached every year. For the years 1998 and 1999 the following products were allocated:

	1998	1999	Tariff Rate (%)
Milk powder	1,500 MT	1,500 MT	10
Baby food	500 MT	500 MT	5
Waste cotton	1,500 MT	1,500 MT	0
Cotton	500 MT	500 MT	0
Cotton yarn (cone)	500 MT	500 MT	5
Cotton yarn (hank)	500 MT	500 MT	5
Rutile	1,500 MT		5
Sugar		40,000 MT	10

Question 51.

Why does Nepal ban imports of logs and timber? (Annex 3.1)

Answer:

Nepal does not ban or restrict imports of log and timber. Annex 3.1 presents the list of products banned or restricted for export.

Question 52.

Can Nepal provide further details on the import restrictions that apply to communications equipment, specifically what goods are covered by the phrase "other audio communication equipment"? Does this restriction apply to goods such as TVs, VCRs and computers? Would Nepal please advise how an import licence can be obtained for restricted goods detailed in Annex 3.2 OF WT/ACC/NPL/2/ADD.I?

Answer:

An import licence is not required to import TV's, VCR's or computers. A licence only applies for the kind of communications equipment that has to be controlled because of security reasons. To import restricted communication equipment, authorization has to be obtained first from the Ministry of Communications and then the respective import licence must be obtained from the Department of Commerce. Also refer to answer to Question 56.

Question 53.

Does Nepal produce or manufacture some of the products mentioned in Annex 3.2?

Answer:

Nepal does not manufacture the banned or restricted products of Annex 3.2, other than jewellery and some home-made liquor.

(f) **Licensing procedure**

Question 54.

Please state the contribution to Government revenue that is provided by import licensing fees?

Answer:

During FY 1996/1997, the total revenue generated by the Department of Commerce was NRs7 million, that is US\$116,000. Of this revenue the import licence fee amounted to NRs200,000, that is around US\$3,300 at the average exchange rate for the FY. The value of imports subjected to licence fee were therefore around US\$330,000, out of US\$1.523 billion of total imports.

Question 55.

According to the information provided in this paragraph of the Foreign Trade Memorandum, automatic licensing is applied for information purposes both for the import and export of goods. In the paragraph on import restrictions, it is noted that all items except a few under banned and quantitative restriction, as shown in Annex 3.2 of the Memorandum, are free for import and there are no import quotas at present applied. Does the 1 per cent import licence charge apply to the items subject to automatic licensing? Does the import licence charge apply to the items shown in Annex 3.2? What is the purpose of the import licence charge?

Answer:

An import licence is only required for the import of banned or restricted goods into Nepal, that is only those goods listed in Annex 3.2 of the Memorandum. Import licence is not required for the import of any other goods. For all goods, except those listed in Annex 3.2, the system has been relaxed and the requirement of a licence has been replaced by the presentation of the letter of credit opened for import, and no fee has to be paid in these cases. Only if the importer fails to present a letter of credit, then he is required an import licence and the 1 per cent fee has to be paid. For the purpose of the licence charge, refer to answer to Question 46.

Question 56.

Please identify, including HS numbers, all communication equipment, such as wireless, walkie talkie and similar other audio communication equipment, that is subject to an import ban or restrictions. Please describe the import restriction and the applicable GATT justification.

Answer:

To import restricted audio communication equipment, authorization has to be obtained first from the Ministry of Communications and then the importer has to apply for an import licence from the Department of Commerce. This restriction is justified under Article XXI of GATT 1994. The import of the following equipment requires an import licence:

HS Code	Description
85.28	All types of radio communication system with the frequency range of 30 khz to 300 khz
85.28	Radio transmitter and transceiver
85.29	Television transmitter, FM radio transmitter
85.25	Wireless transceiver

HS Code	Description
85.25	Walkie talkies
85.17	Cordless telephone
85.29	Video sender
85.28	Amateur radio
85.17	Inmarsat terminal (portable satellite hand set)
85.17	Satellite communications equipment
85.17	Radio paging system- paging transmitter, pager
85.17	Communication equipment- cellular telecommunication base station, cellular hand set
85.28	Satellite broadcast receivers
85.28	Satellite receiver (other than broadcast)
85.17	Radio repeater station
85.17	Radio navigation, transmitter/transceiver
85.17	Radio determination transceiver, receivers

Question 57.

Please explain why valuable metals and jewellery are subject to import prohibitions or restrictions.

Answer:

This restriction is justified under Article XX (c) of GATT 1994. It is applied to avert illegal trade. Nevertheless, according to the Baggage Rules any resident staying more than 30 days outside Nepal can bring up to 10 kilogrammes of gold into the country; no import licence is required in this case.

Question 58.

According to the information provided in Annex 3 of WT/ACC/NPL/2/Add.1, the licensing system is automatic in the cases where there are no quotas or bans on imports. At present, all items except a few under prohibition or quantitative restrictions are free for export or import and there are no quotas. Presumably all such items are included in the lists in Annex 3.1 and Annex 3.2.

Is the Government of Nepal requiring automatic import licensing for all import and export items other than those listed in Annex 3.1 and 3.2? If not, please identify the products, including HS number, that are subject to automatic import and export licensing.

Answer:

Refer to answer to Question 54.

Question 59.

May applications for licenses be submitted on any working day prior to the customs clearance of the goods?

Answer:

Yes, applications can be submitted on any working day.

Question 60.

Are all import licenses approved immediately on receipt, to the extent administratively feasible, but within a maximum of ten working days?

Answer:

If documentation is in order licenses are approved immediately by the Department of Commerce.

Question 61.

According to the information provided in Annex 3 of WT/ACC/NPL/2/Add.1, import licenses are only issued for certain purposes in accordance with Rule 6(b) of the Export-Import Rules, 1978. Among the purposes are licenses issued in the name of commercial firms, companies and corporations for commercial purposes. Are import licenses issued to individuals for commercial purposes? If not, why not?

Answer:

Import licenses are not issued to individuals for commercial purposes as import licenses are currently only required for the import of banned or restricted products and an effective control of the use and destination of these goods is necessary. Furthermore, according to current legislation only individuals registered as sole proprietor undertakings can engage in import activities for business purposes. Refer to answer to Question 33.

Question 62.

According to the information provided in Part VI “Conditions of Licensing,” a licence is not transferable between importers, because they are issued to particular persons and for specific purposes.” However, Article 2.1 of the WTO Agreement on Import Licensing provides that automatic import licensing is defined as import licensing where approval of the application is granted in all cases. Please identify any persons or purposes that are not eligible to obtain an import licence. Is the decision to issue an import licence discretionary? Please explain how licenses can be automatic, if they are only issued to particular persons and for specific purposes.

Answer:

Import licenses, as explained *supra* are only required for the import of banned or restricted products into Nepal. Anybody that fulfils the legal requirements for engaging in import activities related to those products is eligible to apply and to obtain an import licence. What is not allowed is for those who obtain a licence to transfer it to another importer.

Question 63.

According to the information provided in Annex 3 of WT/ACC/NPL/2/Add.1, the Export and Import (Control) Act 1957 gives the right to the Government to introduce import controls in the case of BOP problems and in specific cases of Governmental assistance to economic development. Please describe the specific cases of Governmental assistance to economic development which would allow the Government to impose import controls.

Answer:

The specific cases of Governmental assistance to economic development which would allow Nepal to impose import controls under the mentioned Act are basically the same as those recognized in Articles XVIII, and Article XIX of GATT 1994.

Question 64.

Can Nepal confirm that, to obtain a licence to act as an agent for the delivery of imported goods, the only condition is the payment of the licence fee to the customs office? If there are other criteria for the granting of a licence, would Nepal confirm that there is no difference between domestic and foreign eligibility?

Answer:

Any person, firm, or company desiring to work as agent for delivery of goods has to obtain a licence from Customs and pay the prescribed fee. Nepal may prescribe other conditions regarding the issuance of licenses. Preference may be given to nationals. However, the granting of this preference does not infringe any of the obligations under GATT 1994, to be assumed once Nepal becomes a Member of the WTO.

(h) Customs valuation

Question 65.

What are the "existing criteria" used by the custom office to reject the declared value? Do minimum prices exist?

Answer:

There are no minimum prices in effect. Customs refer to international prices, local market price, suggested price lists of manufacturers, recorded prices of previous imports of identical or similar goods, a list of reference prices and other available information when there is reasonable doubt that the invoice price is not the actual transaction price.

Question 66.

We are pleased to note that Nepal is moving towards customs valuation rules that are consistent with the GATT 1994. We would be grateful if Nepal could explain areas in which more work is needed to achieve full conformity with the WTO Customs Valuation Agreement, and provide a timetable for implementing this?

Answer:

As per the Custom Act, as amended in 1997, goods are valued for custom duties assessment on the basis of the invoice price shown in the document provided by the importer. If customs have reasonable doubt that the invoice price does not correspond to the price actually paid for the goods, that is the transaction value, then customs will refer to the value of similar, or identical goods imported into Nepal. If this information is not available, then customs will refer to the other alternatives mentioned in answer to Question 65. Customs are not applying provisions of Article 5 and 6 of the Agreement on Implementation of Article VII of GATT 1994. Furthermore, there are no provisions in current legislation referred to in the case when the buyer and seller are related and how customs should act in those cases; and a reference price list is still used for comparison purposes with the invoice price. Nepal is examining the modifications that would have to be introduced in current

legislation and practice to fully implement WTO Custom Valuation Rules. To attain this objective it will be necessary to train personnel, to prepare implementation measures and upgrade the institutional capabilities and material infrastructure of Customs Administration. The timetable for complete implementation will depend on the progress that can be achieved on those issues. Nepal will welcome technical assistance that facilitates earlier compliance with its future obligations as a WTO Member.

Question 67.

Nepal indicates that it is moving toward GATT 1994 valuation rules. Also please provide a translated copy of the Gazette Notification for Customs Valuation 1997 (Marga 30, 2053) to the WTO Secretariat (WT/ACC/NPL/3/Add.1) for review by members of the Working Party.

Answer:

The Gazette Notification for Custom Valuation 1997 (Marga 30, 2053) has been amended by the Custom Act 1997. The Custom Act is enclosed herewith.

Question 68.

What is Nepal's timetable for the implementation of the WTO Agreement on Customs Valuation no later than the date of accession?

Answer:

Refer to answer to question 66.

Question 69.

According to the information provided in the Memorandum on Foreign Trade Regime, Nepal has adopted the transaction value method of customs valuation. However, the transaction value declared by the owner is compared to "existing criteria" of valuation. Please describe these "existing criteria."

Answer:

Refer to answer to question 65.

Question 70.

According to the information provided in the paragraph "Other customs formalities," in the Foreign Trade Memorandum, importers must provide several documents. Does the owner of goods need to produce any other documentation to substantiate the good's declared value? If yes, please identify and describe the other documents that are required.

Answer:

If the invoice value is not questioned by Customs the importer does not have to present any other documentation.

Question 71.

What type of documents/evidence does Customs require to "prove the authenticity of the invoice?"

Answer:

Customs basically require documentation on third party evidence.

Question 72.

Is Nepal currently introducing the minimum reference price system for customs purposes? If Nepal is to temporarily introduce it in the context of the transitional stage towards the GATT 1994 valuation rules indicated in VI.1(h), page 19 of WT/ACC/NPL/2, a comprehensive list indicating all the items and the minimum preference prices should be notified to the Working Party (Annex 4).

Answer:

Custom Administration elaborates a reference price list, for those more sensitive products, for internal use of custom officials when evaluating an invoice price presented by the importer. Due to the need to maintain an adequate balance between revenue protection and trade facilitation, Nepal will use a reference price list until it is in the condition to fully implement the provisions of the Agreement on Implementation of Article VII.

(j) Pre-shipment inspection

Question 73.

Nepal currently has no system of pre-shipment inspection. Does the Government of Nepal intend to introduce a pre-shipment inspection system in the foreseeable future?

Answer:

At the moment Nepal is not considering the introduction of a pre-shipment inspection system in the foreseeable future.

(k) Application of internal taxes on imports

Question 74.

The Memorandum mentions Nepal's policy on national treatment on internal taxation but not on regulatory aspects of sale, offering for sale, purchase, transportation and distribution. Please explain how the policy in this area complies with Article III.4 of GATT 1994?

Answer:

There are no laws, regulations or requirements in effect in Nepal that is discriminatory against imported goods with respect to the mentioned activities. Imported goods are accorded no less favourable treatment than the one accorded to goods of national origin in a manner consistent with Article III.4 of GATT 1994.

Question 75.

We would be grateful if Nepal could advise the Working Party on the status of implementation of the VAT and compliance by the business sector. In practice, is VAT being collected uniformly across all sectors (other than those that are exempt)?

Answer:

VAT has been fully implemented as per the Value-Added Tax Act 1995 and the rules and regulations thereof. The compliance by the business sector is quite satisfactory. During the current fiscal year around 6,000 persons have registered with the tax officer, which is more than 90 per cent of anticipated VAT taxpayers.

VAT is being collected uniformly across all sectors, other than those that are exempt.

Question 76.

Exemptions from VAT apply to commodities deemed essential, such as food items, kerosene, sugar, cotton textiles, medicine, pencils, and utensils made of copper, brass and aluminum. Please provide a comprehensive list of all commodities and products exempt from VAT.

Answer:

The following goods are exempted from Value Added Tax (VAT):

1. Basic Agricultural Products
 - (a) Paddy rice, wheat, maize, millet, pulses, flour, and similar unprocessed food materials.
 - (b) Green and fresh vegetables, fresh fruits, fresh eggs and similar products.
 - (c) Unprocessed cereals, oil seeds (tobacco, sugar, cotton, cardamom, jute, soybean, ground nuts, linseed rape seed, sun flower and similar basic agricultural products to be used to make edible oil).
2. Goods of Basic Needs
 - (a) Edible oil (produced through local oils mills).
 - (b) Piped water, including water supplied by tankers.
 - (c) Fuel wood and coal.
 - (d) Kerosene.
3. Live Animals and Animal Products
 - (a) He goat, sheep, yak, he buffalo, bore, pigs, rabbit, and similar other animals; their fresh milk, and uncooked/unprocessed varieties.
 - (b) Cows, she buffalo and she goat.
 - (c) Ducks, hens, cocks, turkey and similar other birds, and their fresh meat, eggs, and similar uncooked varieties.
4. Agricultural Inputs
 - (a) Seeds of any plants listed in Group 2.
 - (b) Manure, fertilizer and soil conditioners.
 - (c) Agricultural hand implements.
5. Pesticides, made mainly for use on crops
Medicine, Medical and Similar Health Services
 - (a) Services provided by any hospital, clinics or other institutions approved by the Government in order to provide medical or surgical treatment.

- (b) Professional services provided by medical practitioners (doctor, nurse, health assistance, etc.) individually or institutionally.
- (c) Goods provided to the recipients in connection with the supply of services listed in group (a) and (b) above.
- (d) Human blood and products derived from human blood.
- (e) Human or animal organs or tissue for medical research.
- (f) The supply of services by persons on the registry of veterinary surgeons and veterinary doctors.
- (g) Medicine for the treatment of human being and animals.
- (h) The supply of goods made for, and suitable only for the use of, disabled persons.

6. Education

- a) The provision of research in a school or university.
- b) The provision, otherwise than for profit, of professional or vocational training or refresher training.
- c) The provision of education in a school or university and supply of goods made in connection with such services.

7. Books, Newspapers etc.

- (a) Books, brochures and pamphlets.
- (b) Newspapers, newsletters and periodicals.
- (c) Maps, and charts.
- (d) Covers, cases and other articles supplied with items (a) to (c) above if not separately charged.
- (e) Radio and television transmissions.

8. Artistic and Cultural Goods and Services, Carving Services

- (a) Cultural and artistic services (painting, carving and related services).
- (b) Cultural programme.
- (c) Admission to libraries, archaeology, museums, zoos and botanical gardens.

9. Passenger Transportation Services

The provision of services for the transport of person from one point in the Kingdom of Nepal to another point in the Kingdom of Nepal (except sightseeing trips).

10. Personal or Professional Service

Personal services rendered by lawyers, auditors, engineers, artists, actors, singers, dancers, sportsmen, authors, writers, designers, professional sportsmen, insurers, booksellers, translators and interpreters institutionally or individually.

11. Other Goods or Services

- (a) Postal services (provided by Nepal only)
 - (i) The service of conveyance of letters, money and postal packets by the Post Office.
 - (ii) The supply by the Post Office of any service in connection with the conveyance of letters, money and postal packets.
 - (iii) Postage stamps.

- (b) Financial and insurance services
Bank notes, and cheque books
 - (i) The printing and issue of bank notes.
 - (ii) The supply of bank notes from outside the Kingdom of Nepal to the Kingdom of Nepal.
 - (iii) Cheque book.
 - (c) Gold and silver
 - (i) Gold and gold coins (other than ornaments and goods made of gold).
 - (ii) Silver and silver coins (other than ornaments and goods made of silver).
12. Land and Building
Purchase and rent of land and buildings
13. Betting, Casinos, Lotteries
- (a) The provision of any facilities for the placing of bets or the playing of games of chance.
 - (b) Lottery.

The following goods or services attract *zero rate* of value added tax.

1. Goods or services purchased or imported by His Majesty the King, Her Majesty the Queen, His Majesty the Crown Prince, and other members of the Royal Family.
2. Export of goods
 - (a) Goods exported outside the Kingdom of Nepal; or
 - (b) Goods shipped for use as stores on a flight to an eventual destination outside the Kingdom of Nepal; or
 - (c) Goods loaded for use as stores on aircraft to a destination outside the Kingdom of Nepal or as merchandise for sale by retail or supplied to persons in the course of such a flight.
3. Export of services
 - (a) A supply of services by a person resident in the Kingdom of Nepal to a person outside the Kingdom of Nepal and having no business establishment, agent, or legal representative acting on his behalf in the Kingdom of Nepal.
 - (b) Where goods are supplied on a hire or loan basis by a registered person resident in Nepal to a person resident outside the Kingdom of Nepal.
4. Imports of goods and services by accredited diplomats.

Question 77.

The 10 per cent VAT rate is levied on taxpayers registered with the VAT office and a 20 per cent VAT rate is levied on non-reporting taxpayers. What are the requirements for registration in the VAT office?

Answer:

At the time when the Value Added Tax Act commenced, every person (defined in the Act as any individual, firm, company, association, institution, partnership firm, cooperative, joint business, religious endowment, or fund; or any Government body, any religious organisation, charitable trust or

similar other bodies and branches or sub-branches there engaged, with or without profit, in Taxable Transactions) engaged in any transaction is required to apply for registration in a prescribed form to the tax officer within 90 days from the commencement of this Act. After the commencement of this Act, every person desirous to be involved in any commercial transaction is required to register in the tax office before beginning to engage in such transactions. While evaluating the application, tax officer may ask the applicant for additional information and documents and it shall be the duty of an individual to submit such information/document within seven days to the concerned authority. Upon the verification of the application form, the tax authority shall issue the Registration Certificate to the concerned individual within 30 days from the date of filing the application. The Certificate should be displayed in a conspicuous place at his principal place of transaction. If there is more than one place of transaction, he should display a copy of the registration certificate, attested by a tax officer, conspicuously at each place. It shall be the duty of every registered person to use the registration number for all transactions related to value added tax, excise duty and to other transactions as prescribed.

However, exemption registration is provided to a small vendor having a commercial transaction less than NRs4.5 million during the last twelve months. Similarly, import by cottage industries for their own consumption is also exempted from registration as well as VAT.

Question 78.

Are cottage industries, which are exempt from income and excise taxes, also exempt from the VAT? What defines a cottage industry in Nepal?

Answer:

Yes, but only to those cottage industries having transactions less than the annual taxable transaction threshold level as provisioned in VAT regulations. However, cottage industry imports for their own consumption is exempted from VAT.

The Industrial Enterprises Act 1992 defines 'Cottage Industry' as industries utilizing specific skills or local raw materials and resources, and labour intensive and related with national tradition, art culture with the exception of cigarettes, *bidi*, cigar, chewing tobacco, *khaini*, industries producing other goods of a similar nature utilizing tobacco as the basic raw material, alcohol and beer producing industries, such as handloom; pedal-loom; semi-automatic loom; warping, dyeing and printing; tailoring (other than ready made garments); knitting, hand knitted woollen mats and blankets (*radi*, *pakhi*); woollen carpet; *pasmina*; woollen garments; carpentry; wooden artistic product; cane and bamboo works; natural fibre products; hand made paper and goods made up thereof; gold; filigree products including silver, brass, copper, precious and semi precious stones; ornaments; sculpture and pottery; honey, *chauri*, cardamom processing; clay or ceramic pottery; leather cutting and tanning; rural tanning and leather goods producing works; jute, *sabai* grass, *babio*, *choya*, cotton thread products; artistic products made up of bones and horns; stone carving; ceramic fine arts; *pauwa*; boutique; incense stick (*dhup*); dolls and toys industries with the fixed assets of up to two hundred thousand rupees.

Question 79.

How, where and when is the octroi, the municipal transit tax, collected? Is it collected at the port of importation for imported goods?

Answer:

The Local Autonomy Bill 1998, passed recently by Parliament, has abolished octroi. The Bill is in the process of receiving Royal Assent.

Question 80.

Nepal has indicated that it is considering eliminating the octroi tax and providing alternative measures to replace the revenue lost by municipalities. Can Nepal advise whether the octroi tax applies equally to domestic and imported goods? What is the expected timetable for elimination of this tax?

Answer:

See answer to Question 79.

Question 81.

Please describe in greater detail the application of the Excise Tax to locally-produced and imported goods? At what point is the tax applied to locally produced goods and imported goods? For imports, what is the tax base?

Answer:

Excise tax applies to a list of products as specified in the Finance Act. This tax does not apply to imported goods. Imported goods are subject to the equalising duty that is levied as per the rate of the Excise Tax chargeable to those products listed in the Financial Act. Also refer to answer to Question 38.

Question 82.

Please provide a complete list of the goods and services subject to the Excise Tax, as well as the applicable tax rates.

Answer:

Refer to answer 35.

(l) Rules of origin

Question 83.

Please clarify whether proof of origin is required for products originating from all countries or only from those countries exporting to Nepal under a preferential scheme?

Answer:

Proof of origin is required for products originating in those countries exporting to Nepal under preferential treatment.

Question 84.

Where proof of origin is required, what constitutes that proof?

Answer:

The Certificate of Origin issued by an authority designated by the Government of the exporting country and notified in accordance with the Certification Procedure constitute the proof of origin.

Question 85.

Please provide a more detailed explanation of how the country of origin is ascertained.

Answer:

Products wholly produced or obtained in the exporting country or products not wholly produced or obtained but processed in the exporting country are considered to be originated in the exporting country. Raw or mineral products extracted from its soil, its water or sea beds, agricultural products harvested, animals born and raised and the product obtained from these animals, products obtained by hunting or fishing, products of sea fishing and other marine products taken from the high seas by its vessels and processed and/or made on board its factory ship, used articles collected and the recovery of raw materials, waste and scrap resulting from manufacturing operations and goods produced exclusively from these above products are considered products wholly produced or obtained in the exporting country. Products worked on or processed as a result of which the total value of materials, parts or produce originating in other countries or of undermined origin used, does not exceed 50 per cent of the f.o.b. value of the products produced or obtained, and the final process of manufacture is performed within the territory of the exporting country, are eligible for preferential concession. Similarly, products covered by the sectoral agreement between member countries are also eligible for preferential treatment.

Question 86.

Under what circumstances might a "group of countries be considered as one country for origin purposes?" For example, does the European Union count as one country for origin purposes?

Answer:

Under the rules of origin, there is no provision regarding circumstances for group of countries to be considered for origin purpose.

Question 87.

Is the Government of Nepal ready to implement the WTO Agreement on Rules of Origin?

Answer:

Currently Nepal only requires proof of origin to determine whether goods qualify for preferential treatment under the trade agreements to which it is a Party or by national legislation. Nepal is ready to implement the WTO Agreement on rules of origin.

(m-o) Anti-dumping, countervailing duty and safeguard regimes

Question 88.

Nepal does not currently have regimes for antidumping or countervailing duties, nor for safeguards measures. Does the Government of Nepal intend to create any such regimes? If yes, what is the timetable for preparing the applicable WTO-consistent legislation?

Answer:

Nepal will introduce in the future those regimes in a manner compatible with the rights and obligations under Article VI and the Agreement on Implementation of Article VI, of Article XIX of

GATT 1994, and the Agreement on Subsidies and Countervailing Measures. At this moment in time it is difficult to envisage when the respective legislation will be drafted and put into effect.

Question 89.

We are wondering whether Nepal has any intention to implement WTO consistent anti-dumping, countervailing and safeguard legislation? Can Nepal provide an assurance that it will not implement anti-dumping, countervailing or safeguard measures until such WTO-consistent legislation is in place?

Answer:

Refer to previous question. To date Nepal has never applied these types of measures. However, it is difficult to give assurance that circumstances will not arise that will make unavoidable the application of measures to remedy serious damage to national producers. If needed, before national legislation is put into effect, Nepal will apply measures only in accordance with the provisions of the WTO Agreements.

Question 90.

Could the Nepalese authorities confirm that if they do contemplate introducing such legislation in the future, that it will be in accordance with the relevant GATT Article (VI for anti-dumping, VI, XVI and XXIII for countervailing duties and XIX for safeguards)?

Answer:

Refer to answer to question 88.

2. Export Regulation

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

Question 91.

Please provide a list, including HS numbers, of all sixteen export products subject to export duties and the applicable duty rates.

Answer:

The list of the 23 products subject to export tax, and the applicable duty rate, are listed in Schedule II of Nepal's Custom Tariff. These products are:

Schedule II

Export Customs duty on goods exported from the Kingdom of Nepal shall be levied as follows:

	HS Code	Description of goods	Rate of Export Customs duty
1.	07.13	Pulses whole	NRs.20 per kg
2.	07.13	Pulses split	NRs .15 per kg
3.	23.08	Rice and wheat bran	NRs500. per ton
4.	23.05	Oil cakes of oleaginous seeds	NRs.40 per kg

	HS Code	Description of goods	Rate of Export Customs duty
5.	25.17	Crushed or uncrushed stones and stone chips up to the size of 2 inches for road building	NRs100. per cubic metre
6.	25.18	Boulders and uncrushed stones of a size more than 2 inches	NRs200. per cubic metre
7.	25.05	Natural sand	NRs70. per cubic metre
8.	25.17	Mixture of sand and pebbles (chharry)	NRs100. per cubic metre
9.	25.79	Magnesite (in raw form)	NRs200. per cubic metre
10.	32.01	Cutch of acacia (Kachha)	NRs200. per quintal
11.	32.03	Catechu of acaia (Kathas)	NRs500. per quintal
12.	44.09	Wood logs, sawn timber, fuel woods in logs, blocks, billets, twigs, chips and saw dust included	200% <i>ad valorem</i>
13.	44.08	Veneer sheets for plywood	70% <i>ad valorem</i>
14.	44.12	Plywood	10% <i>ad valorem</i>
15.	25.15	Marble chips and dust	6% <i>ad valorem</i>
16.	25.77	Dust resulting from breaking stones	6% <i>ad valorem</i>
17.	11.01	Flour	Per kg 0.25
18.	10.06	Rice	Per kg 0.50
19.	17.01	Sugar	Per kg 0.50
20.	15.16	Vegetable ghee and oil	3%
21.	39.22-26	Plastic products	2%
22.	17.03	Molasses	5%
23.	05.02	Hair of domestic animals including pigs bristle	10%

Question 92.

According to the Foreign Trade Memorandum, exports of products, other than the 16 products subject to export duties, are subject to a service charge of 0.5 per cent of the export value. Is this service charge, like the export duties, applied on the basis of f.o.b. price? Does this service charge apply to exports to other parties to the South Asian Preferential Trade Arrangements (SAPTA) or to other parties to the South Asian Free Trade Area (SAFTA)?

For each of the export duties applied, does Nepal have any intention of reducing and eventually eliminating the duty? If so, what is the envisaged timeframe? If not, why not?

Answer:

The export service charge is applied on the basis of f.o.b. price, to all exports from Nepal. Nepal has not considered reducing further the service charge. An important reduction has already been implemented from 2 per cent to the current 0.5 per cent, which brings this service charge in conformity with Article VIII of GATT 1994. The current level the service charge does not represent a tax on export for fiscal purposes.

Question 93.

How does the Government of Nepal intend to bring this export service charge into conformity with the requirements of GATT Article VIII?

Answer:

Refer to answer to previous question.

Question 94.

The comprehensive product list based on HS numbers showing all 16 items (forestry and food) where export duties are levied, should be notified to the Working Party with an indication of the current rate and the reasons to levy them.

Answer:

Refer to answer to question 91.

Question 95.

Except for the items subject to export duties, Nepal levies a service charge of 0.5 per cent of the export value. We would like to request Nepal to explain in detail its nature and the reasons for levying such a service charge on these items.

Answer:

The service charge is levied to cover the costs of services rendered to exporters by the custom authorities and other related Governmental agencies. Refer to answer to question 92.

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

Question 96.

According to Annex 3.1 of WT/ACC/NPL/2/Add.1, Nepal prohibits the export of the following products: raw hides and skin (including dry salted) and raw wool. There are also export prohibitions for mamira and log and timber. Please identify fully all raw hides and skins, raw wool, mamira, and logs and timber, including HS number, that are subject to export prohibition. Please define “mamira.” For each product, please provide the GATT justification for maintaining the export prohibition. If there is no such justification, please describe Nepal’s plan for removing the export prohibition.

Answer:

Restrictions imposed on exports of products in Annex 3.1 could be justified by the following WTO provisions. Articles of archaeological or religious importance are covered by Article XX (f), wild life and related articles by XX (b), drugs by XX (a)(b); explosive material and material used in the production of arms and ammunition by Article XXI; mamira and log and timber by Article XX (g); raw wool and raw hides by Article XI (a).

Mamira is a wild herbal medicinal plant. For a detailed list of commodities prohibited for exports refer to Answer 101.

Question 97.

According to Annex 3.1 of WT/ACC/NPL/2/Add.1, Nepal prohibits the export of all imported raw materials, parts and capital goods. This export prohibition would appear to be inconsistent

with the national treatment requirements of GATT Article III. How does the Government of Nepal intend to eliminate this export prohibition?

Answer:

Nepal will review this measure in the light of Article III of GATT 1994.

Question 98.

Given the provisions of Article XI of GATT 1994, can Nepal provide, for each of the products listed in Annex 3.1, a WTO justification for its export restrictions?

Answer:

Refer to question to answer 96.

Question 99.

Can Nepal advise whether there are any restrictions applied on the re-export from Nepal of goods that have been previously imported into Nepal from third countries?

Answer:

Currently all imported raw materials, parts and capital goods are restricted for exports. Refer to answer to Question 97.

(d) Export licensing procedure

Question 100.

Please describe the fees and other requirements that must be satisfied in order to obtain a certificate from the Nepal Handicrafts Association in order to export handicrafts.

Answer:

For the export of handicrafts made from the parts of domestic animals, exporters present the exporters declaration form, invoice and a sample of the goods to be exported to the Handicrafts Association. The Association issues a No Objection Letter if they are made from parts of domestic animals. The service fee charged by the Association for this purpose is: NRs 50 for FOB value less than NRs 10,000; and NRs 100 for FOB value NRs 10,000 and above. The Association reviews the price according to the criteria explained in answer to Question 107, and if it is approved the certificate is issued. In the case of archaeological goods the exporter has to produce the approval certificate from the Department of Archaeology. The service fee charged by the Handicrafts Association is 0.5 per cent of f.o.b. price of exported goods.

Question 101.

Please identify all forest-based and wild animal products, including HS numbers, for which a clearance is required from the Ministry of Forest for export. Please describe the process for obtaining this clearance in the form of a response to the Questionnaire on Import Licensing Procedures.

Answer:

Being a party of the Convention on International Trade in Endangered Species of Flora and Fauna (CITES), Nepal honours the obligations stemming from the said Convention. The Forest Act 1992 does not award any export licence for the products prohibited by the Convention. The list of protected wild animals and forest based products banned for exports is as follows:

Wild Animal		
HS Code	Scientific Name	English Name
01.06	Macaca assamensis	Assamese monkey
01.06	Manis pentadactyla	Indian pangolin
01.06	Caprolagus hispidus	Hispid hare
01.06	Canis lupus	Wolf
01.06	Ursus arctos	Himalayan bear
01.06	Ailurus fulgens	Red panda
01.06	Prionodon pardicolor	Spotted linsang
01.06	Felis bengalensis	Leopard cat
01.06	Felis lynx	Lynx
01.06	Neofelis nebulosa	Clouded leopard
01.06	Panthera tigris	Tiger
01.06	Panthera uncia	Snow leopard
01.06	Elephas maximus	Asiatic elephant
01.06	Rhinoceros unicornis	Rhinoceros
01.06	Sus salvanius	Pygmy hog
01.06	Moschus moschiferus	Musk deer
01.06	Cervus duvauceli	Swamp deer
01.06	Bos gaurus	Gaur
01.06	Bos grunniens	Wild yak
01.06	Bubalus bubalis	Wild buffalo
01.06	Ovis ammon	Great Tibetan sheep
01.06	Pantholops hodgsoni	Tibetan antelope
01.06	Antelope cervicapra	Black buck
01.06	Tetraceros quadricornis	Four horned antelope
01.06	Hyaena hyaena	Striped hyena
01.06	Platanista gangetica	Gangetic dolphin

HS Code	Forest Based Products, Restricted for Exports
12.11	Cordyceps sinensis
12.11	Orchis incanata
12.11	Nardostachys grandiflora
12.11	Rauwolfia serpentina
12.11	Cinnamum glaucescens
12.11	Valeriana jatamansi
12.11	Lichen spp
12.11	Rock exudate (Silazit)
12.11	Abies spectabilis
12.11	Taxus baccata
12.11	Michelia champaca
12.11	Acacia catechu
12.11	Shorea robusta

Question 102.

For each product subject to export licensing, please provide the WTO justification for requiring such licensing.

Answer:

Please refer to answer to Question 96.

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

Question 103.

According to the Trade Memorandum, the Foreign Exchange Regulation Act, 1962 and Rules, 1963, requires an exporter to realize the total payment for exported goods in terms of any convertible currency within six months from the date of shipment from Nepal? Does this provision require the repatriation to Nepal of proceeds received for exported goods?

Answer:

As per the prevailing system, all exporters, who export goods to countries other than India are required to bring the export payment to Nepal within 6 months. However, such exporter can, if wish, retain up to 100 per cent of export proceeds by themselves through opening foreign currency account with the local commercial banks. There is no time limit for such retention.

Question 104.

Please describe the operation of the non-convertible currency arrangement with India.

Answer:

To import goods from India, the Letter of Credit can be opened in Indian Rupees in favour of the exporter. The Nepalese bank can also, if requested by the importer, make direct payment to the exporter, in Indian Rupees, through an Indian Bank. The importer can receive Indian Rupees from the Nepalese bank to make direct payment to the Indian exporter.

Question 105.

What is the purpose of registering export contracts?

Answer:

There is no system of registering export contracts.

Question 106.

Is the registration of export contracts an automatic process, which does not affect the ability of the exporter to proceed with exportation?

Answer:

Please refer to Answer 105.

Question 107.

Please provide a full list of garment and handicraft products for which the valuation price is fixed respectively by the garment and handicraft associations of Nepal.

Answer:

There are no fixed valuation prices for handicrafts, or an export minimum price list. The exporter submits its export prices to the Handicrafts Association, who evaluates the proposed prices on the basis of certain criteria, to recommend the exporter an export price. Criteria used by the Handicrafts Association are:

- Measurement - height and weight;
- Cost of materials incorporated: domestic and from third country;
- Cost of labour incorporated in the products;
- Quality of the product.

The Handicrafts Association is a private entity, with no Governmental intervention. It evaluates export prices as a service to producers to avoid them under-pricing their products for export.

The full list of garment products for which there is an indicative price is enclosed herewith.

Indicative Price for Readymade Garments

Cat.No.	Description	Item
	CANADA	
6	Tailored cotton shirt M&B	WVN KT
7	L. blouses, shirts & G. shirts	WVN KT
5	Trousers, shorts, overall, coverall, MBW GC & I	WVN KT
4	Dresses, suits, skirts etc. WGMB C & I	WVN KT
	Jackets etc. MBWG C & I	WVN
	NORWAY	
1	Jackets, blazers, waist coats, parkers & one piece suits etc.	WVN
2	Trousers, jeans pants, overall etc. other than swimwear & shorts	WVN
3 & 4	T-shirts & blouses etc. & under garments MBWGC & I	KT
5	Men, boys shirts	WVN
6	Pullovers, sweaters, jumpers & jackets etc.	KT
7	Women & girls blouses & shirts	WVN
8-8	Ladies suits	WVN
	SWEDEN	
5	Sweaters, pullovers, slipovers, jumpers & cardigans (including outerwear T-shirts)	KT
6	Jackets	WVN KT
8	Trousers, pants	WVN KT

Cat.No.	Description	Item
9	Costumes, dresses, skirts	WVN KT
10	L. Blouses	WVN KT
	AUSTRIA	
	Ladies blouses	MM/PL
	Gents shirts	MM/PL
	FINLAND	
1.A	Ladies blouses	WVN
1.B	Gents shirts	WVN
2	Ankle socks	KT/Pair
3	T-shirts	KT
	GERMANY	
4	KT shirts, T-shirts and similar KT garments	KT
5	Jerseys, pullovers, slipovers, waist coats, twinsets, cardigans, bed, jackets and jumpers (other than jackets & blazers) anoraks, windcheaters, waister jackets & the like, knitted or crocheted	KT
6	Woven trousers for ladies & gents Woven shorts for gents	WVN WVN
7	L. blouses	WVN KT
8	G. shirts, woven	WVN
15	L. jackets, woven	WVN
26	L. dresses	WVN KT
27	L. skirts	WVN KT
29	L. suits and ensembles	WV
	FRANCE	
4	KT shirts T-shirts and similar KT garments	KT
5	Jerseys, pullovers, slipovers, waistcoats, twinsets, cardigans, bed jackets and jumpers (other than jackets & blazers) anoraks, windcheaters, waister jackets & the like, knitted or crocheted	KT
6	Woven trousers for ladies & gents Woven shorts for gents	WVN WVN
7	L. blouses	WVN KT
8	G. shirts, woven	WVN
15	L. jackets, woven	WVN
26	L. dresses	WVN KT
27	L. skirts	WVN KT
29	L. suits & ensembles	WVN
	ITALY	
4	KT shirts T-shirts and similar KT garments	KT
5	Jerseys, pullovers slipovers, waistcoats, twinsets, cardigans, bed jackets and jumpers (other than jackets & jackets & blazers) anoraks, windcheaters, waister jackets & like, knitted or crocheted	KT

Cat.No.	Description	Item
6	Woven trousers for ladies & gents Woven shorts for men	WVN WVN
7	L. blouses	WVN KT
8	G. shirts, woven	WVN
15	L. jackets, woven	WVN
26	L. dresses	WVN KT
27	L. skirts	WVN KT
	BENELUX	
4	KT shirts T-shirts and similar KT garments	KT
5	Jerseys, pullovers slipovers, waistcoats, twinsets, cardigans, bed jackets and jumpers (other than jackets & blazers) anoraks, windcheaters, waister jackets and the like, knitted or crocheted	KT
6	Woven trousers for ladies & gents Woven shorts for gents	WVN WVN
7	L. blouses	WVN KT
8	G. shirts, woven	WVN
15	L. jackets, woven	WVN
26	L. dresses	WVN KT
27	L. skirts	WVN KT
29	L. suits and ensembles	WVN
	DENMARK	
4	KT shirts, T-shirts and similar KT garments	KT
5	Jerseys, pullovers slipovers, waistcoats, twinsets, cardigans, bed jackets and jumpers (other than jackets & blazers) anoraks, windcheaters, waister jackets and the like, knitted or crocheted	KT
6	Woven trousers for ladies & gents Woven shorts for gents	WVN WVN
7	L. blouses	WVN KT
8	G. shirts, woven	WVN
15	L. jackets, woven	WVN
26	L. dresses	WVN KT
27	L. skirts	WVN KT
29	L. suits and ensembles	WVN
	UNITED KINGDOM	
4	KT shirts T-shirts and similar KT garments	KT
5	Jerseys, pullovers slipovers, waistcoats, twinsets, cardigans, bed jackets and jumpers (other than jackets & blazers) anoraks, windcheaters, waister jackets and the like, knitted or crocheted	KT
6	Woven trousers for ladies & gents Woven shorts for gents	WVN WVN

Cat.No.	Description	Item
7	L. blouses	WVN KT
8	G. shirts, woven	WVN
15	L. jackets, woven	WVN
26	L. dresses	WVN KT
27	L. skirts	WVN KT
29	L. suits and ensembles	WVN
	IRELAND	
4	KT shirts T-shirts and similar KT garments	KT
5	Jerseys, pullovers slipovers, waistcoats, twinsets, cardigans, bed jackets and jumpers (other than jackets & blazers) anoraks, windcheaters, waister jackets and the like, knitted or crocheted	KT
6	Woven trousers for ladies & gents Woven shorts for gents	WVN WVN
7	L. blouses	WVN KT
8	G. shirts, woven	WVN
15	L. jackets, woven	WVN
26	L. dresses	WVN KT
27	L. skirts	WVN KT
29	L. suits and ensembles	WVN
	GREECE	
4	KT shirts T-shirts and similar KT garments	KT
5	Jerseys, pullovers slipovers, waistcoats, twinsets, cardigans, bed jackets and jumpers (other than jackets & blazers) anoraks, windcheaters, waister jackets and the like, knitted or crocheted	KT
6	Woven trousers for ladies & gents Woven shorts for gents	WVN WVN
7	L. blouses	WVN KT
8	G. shirts, woven	WVN
15	L. jackets, woven	WVN
26	L. dresses	WVN KT
27	L. skirts	WVN KT
29	L. suits and ensembles	WVN
	SPAIN	
4	KT shirts, T-shirts and similar KT garments	KT
5	Jerseys, pullovers slipovers, waistcoats, twinsets, cardigans, bed jackets and jumpers (other than jackets & blazers) anoraks, windcheaters, waister jackets and the like, knitted or crocheted	KT
6	Woven trousers for ladies & gents Woven shorts for gents	WVN WVN
7	L. blouses	WVN KT

Cat.No.	Description	Item
8	G. shirts, woven	WVN
15	L. jackets, woven	WVN
26	L. dresses	WVN KT
27	L. skirts	WVN KT
29	L. suits and ensembles	WVN
	PORTUGAL	
4	KT shirts T-shirts and similar KT garments	KT
5	Jerseys, pullovers slipovers, waistcoats, twinsets, cardigans, bed jackets and jumpers (other than jackets & blazers) anoraks, windcheaters, waister jackets and the like, knitted or crocheted	KT
6	Woven trousers for ladies & gents Woven shorts for gents	WVN WVN
7	L. blouses	WVN KT
8	G. shirts, woven	WVN
15	L. jackets, woven	WVN
26	L. dresses	WVN KT
27	L. skirts	WVN KT
29	L. suits and ensembles	WVN

Indicative Price of Cotton for USA

Cat No.	Description	Item
229	Patches	
237	Playsuits, sunsuits	KT
	Rompers etc.	WVN
	Overalls (girls) (WVN) (R&C)	
239	Infant wear of cotton	
330	Handkerchiefs	WVN
331	Gloves	KT/Pair
332	Hosiery	KT
333	Suit type coats MB	KT/WVN
334	Other coats & jackets MB	KT WVN
335	Coats and jackets WG	KT WVN
336	Dresses incl. Uniform	KT WVN
338	KT shirts incl. T-shirts MB	KT
339	KT shirts incl. T-shirts WG	KT
340	Gents shirts	WVN
341	Ladies blouses Ladies tank top without sleeves & Pocket	WVN WVN

Cat No.	Description	Item
342	Skirts & divided skirts	KT WVN
	Mini skirts	WVN
345	Sweaters	KT
347/48	Trousers, slacks MB/WG	KT WVN
	Shorts (outer) MB/WG	KT WVN
349	Brassieres etc.	KT/WVN
350	Dressing gowns, bathrobes etc.	KT/WVN
351	Pyjamas & nightwear (single)	KT/WVN
352	Union suits	KT/WVN
	Underwear	KT/WVN
359	Other apparels	KT WVN
	Scarves	
	Apron	
	Embroidery shawl	
	Shawl	
	Caps	
	Table runner	
	Vest, waist coats	
	Ladies bandeau	
	Belt	
	Up to 50 Gram	
	51 to 60 Gram	
	61 to 70 Gram	
	71 to 89 Gram	
	81 to 90 Gram	
	91 to 100 Gram	
	101 to 110 Gram	
	111 to 120 Gram	
	121 to 130 Gram	
	131 to 140 Gram	
	141 to 150 Gram	
	Jumpsuits (women)	KT/WVN
	Shortal	
	Bakhkhu	
	Overall (women)	WVN
362	Bed cover	
363	Terry towel	

Cat No.	Description	Item
369	Miniflower boutique Flower boutique Cushion cover Table cloth Floor mat Place mat set of six Napkin set of six Pot holder Thaili Belt bags, money belt bags Up to 100 Gram 101 to 250 Gram 251 to 500 Gram 501 to 750 Gram 751 to 1000 Gram 1001 to 1250 Gram 1251 to 1500 Gram 1501 to 2000 Gram	
369	Quilted blanket Window shade Cotton shop towel Cushion up to 2 kg. of raw cotton Rags	

Rayon

Cat No.	Description	Item
237	Playsuits, rompers etc.	KT/WVN
239	Infant wear of rayon	
630	Handkerchiefs	WVN
631	Gloves	KT/PR
632	Hosiery	KT
633	Suit type coats MB	KT/WVN
634	Other Coats MB	KT/WVN
635	Coats WG	KT WVN
638	Shirts, incl. T-shirts MB	KT
639	Shirts, blouses, incl. T-shirts MB	KT
640	Shirts MB	WVN
641	Blouses WG Tank top without sleeves and one pocket	WVN
642	Skirts	KT WVN
643	Suits MB	KT WVN
644	Suits WG	KT WVN
645	Sweaters MB	KT
646	Sweaters WG	KT

Cat No.	Description	Item
647/648	Trousers, slacks MB, WG Shorts (outer) MB WG	KT WVN KT WVN
649	Brassieres	KT/WVN
650	Dressing gowns incl. bathrobes etc.	KT/WVN
651	Pyjamas, nightwear (single)	KT/WVN
652	Underwear Union suits	KT/WVN KT/WVN
659	Other apparels Synthetic belt Short all	KT/kg. WVN/kg.
666	Wall hanging	
670	Bags, hand bags. Up to 100 Gram 101 to 250 Gram 251 to 500 Gram 501 to 750 Gram 751 to 1000 Gram 1001 to 1250 Gram 1251 to 1500 Gram 1501 to 2000 Gram	

Silk Blended and Other Vegetable Fabrics

Cat No.	Description	Item
831	Gloves	KT
832	Hosiery	KT
833	Suit type coats MB	KT/WVN
834	Other coats MB	KT/WVN
835	Coats WGI	KT/WVN
836	Dresses	KT/WVN
838	Shirts, blouses	KT
840	Shirts, blouses	WVN
842	Ladies shirts	KT/WVN
843	Suits MB Suits MBI	KT WVN
844	Suits WGI	KT/WVN
845	Other vegetable fabrics and sweaters	KT
846	Sweaters silk blended	KT
847	Trousers shorts Trousers shorts	KT WVN
850	Dressing gowns	KT/WVN
851	Pyjamas, nightwear	KT/WVN
852	Underwear	KT/WVN
858	Neckties	KT/WVN
859	Other apparels	KT/WVN

Abbreviations

AD	=	Adult	doz.	=	Dozen
Ch	=	Children	kg.	=	Kilogram
Cat. No.	=	Category Number	PC	=	Piece
KT	=	Knitted	R	=	Rayon
WVN	=	Woven	C	=	Cotton
MB	=	Men & boys	PR	=	Pair
WG	=	Women & girls			

Question 108.

Please explain how these export prices were calculated and what is the reason for rejecting the value of goods mentioned in the bill.

Answer:

Indicative export prices are calculated on the cost of production basis.

f) **Export financing, subsidy and promotion policies**

Question 109.

In the introduction to WT/ACC/NPL/2, page 1 of the English-language version, it is noted that export promotion measures are included as one of the major steps Nepal has taken towards achieving its trade policy objectives. Please describe the export promotion measures Nepal has undertaken. Specifically, what products are being promoted and how is the export promotion achieved?

Answer:

In order to provide a macro-environment conducive for export promotion, the Government has formulated trade policy, export policy, foreign exchange policy and domestic trade policy. Similarly, a Commercial Council with majority participation of the private sector has been formed to coordinate activities of all agencies involved in the export activities. Foreign exchange for the purpose of current account transaction of the balance of payments has been made convertible. Income from export has been exempted for income tax purpose. The duty drawback system for the import of raw materials for exportable commodities has been made more effective. Similarly, other export promotion activities such as participation on international trade fairs, product development, product diversification and quality improvement of exportable commodities have been encouraged.

The Government has, in broad terms, undertaken/plan to undertake export promotion activities for the following commodities.

Agricultural Commodities

For agricultural commodities with external market and productive capacity such as lintels, Niger seeds, tea and coffee, ginger, cardamom, vegetable seeds, flower, silk and silk products, medicinal herbs, fruits etc.

Industrial Goods

Woollen carpet, readymade garments, leather and leather products, cotton products, woollen sweaters, woollen mufflers etc.

Traditional Handicraft Products

Products of Cottage and Small Industries

Other Products

Computer software.

Question 110.

Please describe the trade promotion activities that are carried out through the Trade Promotion Centre, as identified on page 22 of the English-language version of WT/ACC/NPL/2. For what products are promotion activities available? Does the Trade Promotion Centre provide any type of financial assistance?

Answer:

The Trade Promotion Center (TPC) does not provide any type of financial assistance. As to activities of TPC, please refer to the answer to the next question.

Question 111.

Please give details of trade promotion activities carried out by the Trade Promotion Centre.

Answer:

The Trade Promotion Centre, established by Government in 1971, has been working as the Secretariat of Nepal Trade Promotion Board, constituted under an order of Development Board Act 2013. The primary objective of the Centre is to promote Nepal's export trade in particular and foreign trade in general. In 1995 amendments were made to the Nepal Trade Promotion Board (Organization Order) and scope of the activities of the Centre was extended to import management. The Board is chaired by the Secretary of the Ministry of Commerce and represented by the Ministries of Commerce and Finance, business associations and communities. The objectives of the Board are:

- (a) provide necessary services and exchange relevant information for export promotion and import management;
- (b) encourage private sector participation in international trade;
- (c) to help follow proper international trading practices in export as well as import management;
- (d) to help develop foreign trade of the country as an important sector and source of national economy;
- (e) to implement effective programmes for export growth and achieving a favourable balance of trade;
- (f) to maintain coordination and a cordial atmosphere amongst exporters, traders, entrepreneurs, concerned organisations, etc. with a view to help develop business skills and know-how;
- (g) to contribute to the development of required organisational mechanism, policy formulation and implementation for the institutional development in foreign trade sector, and;
- (h) to help formulate import management programmes with the best utilization of available resources, including foreign reserves.

The Centre is involved in the following export promotion activities.

Man-power Development

- Organisation of seminars, conferences, training and workshops for the exporters, importers, entrepreneurs, manufacturers, craftsmen, organizations, and

- Arrangement coordination for participation of exporters, traders, manufacturers, craftsmen, organizations, etc. in the seminars, conferences, training workshops, trade delegation, trade fairs and exhibitions, world expositions, etc. in foreign countries.

Trade and Product Development

- Dissemination of up-dated information on export products and opportunities to business communities, exporters, manufacturers, concerned organisations.
- Formulation of programmes for export potential studies, undertaking research and development activities for export products.
- Identification and classification of new exportable products and suggesting appropriate market measures for commodity-wise and country-wise export diversification of new and existing products.
- Identification, development and execution of export oriented projects and implementation of export promotion programmes in coordination with concerned organisations.
- Mobilization of technical assistance from concerned international and regional organisations for export development.
- Promotion of regional and international trade relations of Nepal.

Market Promotion and Research

- Regular organization of Nepal's participation in various international trade fairs, exhibitions and expositions with essential support and coordination for the participation of exporters at such programmes.
- Organization of Nepal's single country fair, exhibition in foreign markets.
- Endeavouring for availability of foreign assistance to exporters for their participation in trade fairs and exhibitions.
- Assistance to exporters by providing letters of recommendation or issuance of guarantee whenever required in the context of market promotion activities in foreign countries, such as participation in trade fairs, exhibitions and business promotion.
- Organisation and coordination of market promotion missions and to assist exporter/s in undertaking market promotion activities abroad.
- Assistance to diplomatic missions, foreign agencies, trade promotion organisations etc. and organising single country trade fair, exhibition in Nepal.
- Market research on particular products in target markets and to suggest appropriate marketing promotion strategies on the basis of reports.
- Issuance of GSP form to exporters and facilitation with consultancy services in respect of GSP scheme.
- Market research and consultancy services to exporters and business community to promote Nepalese products, services in target market.
- To help test new products and to expand marketing activities in foreign markets through availing of opportunities to exporters to participate in trade fairs, exhibitions.
- To launch and carry out various export promotional activities and target markets as per requirement.

Trade Information and Consultancy Services

- Collection, classification, compilation and documentation of general and international trade information.
- Mutual understanding with international and regional organisations and import promotion agencies for the exchange and collection of trade information and export promotion documents.

- Dissemination of general trade information to the Nepalese as well as foreign business communities and organisations.
- Build up database on exporters / importers / producers of Nepalese export / import products.
- Collection, compilation and publication of foreign trade statistics and other export promotional documents, directories, etc.
- Analysis of Nepal's foreign trade situation, trends and growth, and undertake trade research for various uses.

Publication Services

- Preparation and publication of trade directories, trade bulletins, product brochures, trade statistics, and other relevant materials.
- Distribution of Centre's publications.

Question 112.

It is stated that earnings from export transactions are free from income tax. This appears to constitute a prohibited export subsidy under the Article 3.1(a) of the SCM Agreement. What is the schedule for elimination of this income tax exclusion for export transactions?

Answer:

Nepal considers that income tax exclusion for export transactions is an important component of its overall development programme. This measure aims to promote and diversify exports of value-added goods in order to generate employment opportunities and raise income levels, thus contributing to poverty alleviation. Nepal has not defined a schedule for the elimination of this measure. In this regard Nepal expects due comprehension from WTO Member countries in line with the provisions of Article 27 of the SCM Agreement, in particular with the treatment accorded to least-developed countries members by virtue of Article 27.2 (a).

3. Internal Policy Affecting Foreign Trade in Goods

(a) Industrial policy, including subsidy policies

Question 113.

Could Nepal please state whether it plans to eliminate its export subsidies (and other prohibited subsidies it might have in force) upon accession to the WTO.

Answer:

Refer to answer to question 112.

Question 114.

Does Nepal wish to invoke Article 29 of the SCM Agreement in respect of any of its subsidies?

Answer:

As Nepal is not a centrally planned country, Nepal does not wish to invoke Article 29 of the SCM Agreement. However, Nepal being a least developed country, intends to invoke the rights conferred in Article 27 of the SCM Agreement.

Question 115.

Does Nepal maintain any subsidy contingent on the use of locally produced inputs, within the meaning of Article 3 of the SCM Agreement?

Answer:

Industries using eighty or more than eighty per cent indigenous raw materials in its products and employing all its manpower from among Nepalese citizens are entitled to get a 10 per cent rebate of the income tax. This rebate is not contingent upon export performance.

Question 116.

According to information provided in the Foreign Trade Memorandum, one feature of the current industrial policy is a “sound and lucrative incentive package.” Please describe the nature and amounts of the incentives that are provided and the criteria that must be satisfied in order to receive incentives. Also please identify the recipients of such incentives.

Answer:

Nepal does not provide direct payment of incentives to any industry. However, there are certain exemptions in terms of income tax, sales tax, excise duty and customs duties to the industries qualifying under the conditions stated in Industrial Enterprise Act 1992. For Custom duty treatment refer to Nepal's Custom Tariff “Other Provisions relating to Import Duty”, page 392. The purpose of such incentives is to ensure balanced industrial development both regionally and sector-wise.

Nepal has not yet compiled data on the revenue exempted on such incentives as well as on the identification of recipients. The following are some provisions, though not exhaustive, governing incentives provided to industries:

- (a) cottage industries are exempted from sales tax, excise duty and income tax;
- (b) income tax in excess of twenty per cent is not levied on the income derived from any industries except industries utilizing tobacco as their basic raw material, and alcohol or beer producing industries;
- (c) except for industries utilizing tobacco as their basic raw material, alcohol or beer producing industries and saw-mill and catechu industries, any industry using 80 or more than 80 per cent of indigenous raw material in its products and supplying all its manpower from among Nepalese citizens are entitled to obtain a rebate at the rate of 10 per cent of the income tax;
- (d) any national priority industry which constructs and operates road, bridge, tunnel, rope way, flying bridge, and manufactures and operates trolley buses and trams are entitled to a rebate of 50 per cent of the income tax on their income for ten years from the date of operation. Other national priority industries such as agro and forest-based industries, engineering industry (producing agricultural and industrial machinery), industry manufacturing fuel saving or pollution control devices, solid waste processing industry, hospital and nursing home (only outside the Kathmandu valley), industries producing ayurvedic, homeopathic and other traditional medicine, industries producing crutch, seat belt, wheel chair stretcher and stick and so on to be used in aid of the disabled and orthopaedic, cold storage installed for the storage of fruits and vegetables, are entitled to get a rebate of 50 per cent of the income tax on their income for seven years from the date of operation;
- (e) any industries except industries utilizing tobacco as their basic raw material, and alcohol or beer producing industries established in *remote, underdeveloped* and *underdeveloped* areas are entitled to get a rebate of 30, 25, and 20 per cent of the

- income tax respectively and 35, 25 and 15 per cent of the excise duty respectively for a period of ten years from the date of operation;
- (f) Fruit-based fruit processing and cider and wine industries with assets up to NRs2.5 million, established in particular areas, are entitled to an excise duty and sales tax exemption for a period of ten years, and fruit based alcohol are entitled to excise duty and sales tax exemption for a period of five years. Such exemption could be extended for additional period of three years;
 - (g) if an industry diversifies itself through reinvestment, in the same or any other industry, and expands its installed capacity by 25 per cent or more, modernizes its technology or develops ancillary industries, it is entitled to a deduction of 40 per cent of new additional fixed assets from its taxable income;
 - (h) any industry investing in process or equipment, which has the objective of controlling pollution or which may have a minimum effect on the environment is entitled to reductions of up to 50 per cent from the taxable income for such investment;
 - (i) any industry is entitled to deduct 10 per cent of the gross profit from the taxable income on account of expenses related to technology, product development and efficiency improvement;
 - (j) no income tax is imposed on dividends earned out of the investment made in any industry;
 - (k) up to 5 per cent of gross income spent for the advertisement of the products or promotion services, hospitality and any other similar expenses is allowed to be deducted while assessing the taxable income;
 - (l) If an industry provides direct employment to 600 hundred or more than 600 hundred Nepalese citizens round the year, an additional income tax rebate at the rate of 10 per cent for that year is granted in addition to other facilities;
 - (m) If any industry utilizes locally available raw materials, chemicals and packing materials etc. on which excise duty or sales tax or both are already imposed, the excise duty, sales tax or both shall be reimbursed to the industry utilizing such raw materials, chemicals and packing materials;
 - (n) No income tax is levied on the profits earned through export;
 - (o) An industry is entitled, for the purpose of the income tax, to deduct the amount of expenses incurred by it for the long-term benefit provided its workers and employees including housing, life insurance, health facilities, education and training.

Question 117.

Could Nepal provide additional information on the eligibility criteria that enterprises must meet to qualify to receive a subsidy?

Answer:

See Answer to Question 116.

Question 118.

Are there any sectors where public sector enterprises are entitled to receive subsidies or preferred credit arrangements which provide them with advantages compared with the private sector? If so, what are the arrangements and in which sectors does this occur?

Answer:

There is no such arrangement.

Question 119.

According to the information provided on page 23 of the English-language version of WT/ACC/NPL/2, Nepal provides subsidies in food, fertilizers, transport, irrigation, and credit. Please describe the conditions that must be satisfied in order to receive these subsidies. Are the subsidies available for specific industries? If so, please identify the industries. Is the subsidized agricultural credit available to all types of agriculture, or is it only provided for the production of specific agricultural products. If the latter, please identify the specific agricultural products. Similarly, are the transport subsidies for food grains and fertilizer provided to any specific industries or agricultural products. If so, please identify the specific industries or agricultural products.

Answer:

Subsidies are not directed to any specific industry or specific agricultural product. Transport subsidy for fertilizer is provided only to the hills and mountain districts that are not connected by road.

Question 120.

Explain the operation of the programmes providing subsidies for fertilizers, seeds and plants, and irrigation pipe and pumping sets. Are these subsidies intended to benefit the production of these products or are they intended to benefit the industries which use these products as inputs? If the latter is the case, are any industries which use these inputs eligible for the subsidies?

Answer:

Subsidies in seeds, plants, irrigation pipes and pumping are provided by the respective line agencies. These subsidies, though small in quantity, are provided directly to the producer-farmers who use these products as inputs. Only farmers are eligible for these subsidies. A subsidy in urea is provided on recommendation of a national level committee constituted for that purpose.

Question 121.

According to the Trade Memorandum, "the Government holds a policy on gradual slashing of subsidy on fertilizers to zero". Please provide information on what the level of subsidy has been in the past and the timetable for reducing the subsidy to zero.

Answer:

Price subsidies in DAP and MOP were fully withdrawn in 1993. Before 21 November 1997, when fertilizer trade deregulation began, the subsidy was not a fixed percentage, the rate of subsidy varied with the cost of procurement. In the case of urea it reached up to 67 per cent. The subsidy to urea is planned to be eliminated, after a two-year phase-out period, by December 1999.

Question 122.

What type of fertilizers are being subsidized? Will controls be lifted on different types of fertilizer and on different time frames?

Answer:

Now there is only price subsidy for urea. The subsidy is planned to be eliminated by December 1999.

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

Question 123.

Could Nepal please provide an overview of regulations relating to different products/product area?

Answer:

Currently technical regulations apply only to iron bar, cement, mineral water, wool, and LPG cylinders. These technical regulations are being translated and will be sent to the WTO Secretariat as soon as they are ready. With regard to standards, 577 product and testing methods have been approved to date. Another 200 are in the process of drafting. The number of formulated National Standards by field is presented below:

Standards 1	
Formulated National Standards for Items up to 2054	
Field	Formulated National Standards
Mechanical Engineering	41
Basic Chemicals	62
Non-metallic	91
Ores and Metal	22
Information	1
Agriculture and Foods	185
Building and Construction	49
Hygiene	1
Basic Subjects	28
Environment	15
Packing	10
Electro-technology	20
Others	49
Total	577

Question 124.

According to the Memorandum on Foreign Trade Regime, Nepal relies more on standards than technical regulations. Are these standards voluntary or mandatory?

Answer:

Standards are voluntary, technical regulations are mandatory.

Question 125.

Are the standards used in Nepal voluntary or mandatory? If they are mandatory, could Nepal please state the rationale behind this?

Answer:

Refer to answer to Question 124.

Question 126.

Does Nepal have legislation or administrative procedures which require the advance publication of draft technical regulations and standards for public comment? Please describe in detail the procedures that are followed for developing technical regulations and standards.

Answer:

The Nepal Bureau of Standards and Meteorological (NBSM) prepares a preliminary draft of the standards or technical regulations. These drafts are submitted to the Technical Committees that are composed by representatives of the concerned Governmental agencies, the private sector, specialist in the area and universities. The Technical Committee reviews the draft and introduces amendments, if necessary. The amendment draft is sent to concerned agencies for comment. These agencies have one month to produce recommendations. With the agencies recommendations or suggestions a final draft is produced by the NBSM. The Final draft is sent to the National Council for Standards, who review it and, if necessary introduce amendments, and then the Council approves it. Once approved, the standards or technical regulations are sent for publication. Technical regulations are published in the Nepal Gazette. Standards are published in booklet form.

Question 127.

Nepal will have to accede to the TBT Agreement from the first day of accession to the WTO. What practical steps is Nepal planning to take to prepare for the accession to the TBT Agreement?

Answer:

Nepal is ready to comply with its future obligations under the TBT Agreement.

Question 128.

We note that, when possible, Nepal bases its standards and technical regulations on international norms. Would Nepal advise the Working Party of its timetable/detailed work plan to implement the obligations of the WTO TBT Agreement?

Answer:

In elaborating National Standards, the NBSM follows international standards. National standards are based on ISO standards, standards of the British Standard Institute, of the International Electrical Committee, on the Indian Standards, and if required on CODEX and ESTM Standards.

Question 129.

What percentage of standards and regulations are based on international standards and where they are not, the reasons why?

Answer:

Most Nepalese National Standards are based on international standards. If there are no international standards then the NBSM will elaborate the national standard according to the country's requirements. The ratio of standards based on international standards is 90 per cent.

Question 130.

What is the role of the Nepal Council of Standards? What other organisations are members of the Nepal Council of Standards?

Answer:

The Nepal Council of Standards is the entity empowered to approve all standards and technical regulations. It is chaired by the Minister, Ministry of Industry and has 12 members including the Chairman. Its members represent other Ministries and Governmental agencies, the private sector through the Federation of Nepalese Chambers of Commerce and Industry (FNCCI) and the Universities. The Council can invite specialists to its meetings.

Question 131.

Please describe in greater detail the functions of the Bureau of Standards and Metrology. Is the Bureau a part of the Ministry of Industry. Is the Bureau responsible for developing all Nepalese standards? Is it also responsible for developing technical regulations, except for health and food products? Does the Bureau oversee or coordinate mandatory certification activities? Are foreign organisations able to participate in mandatory certification activities?

Answer:

The NBSM is part of the Ministry of Industry. It is responsible, through the process outlined in answer to Question 126, to elaborate all standards and technical regulations, except for health and food products. The NBSM oversee all mandatory certification activities. Foreign organisations do not currently participate in mandatory certification activities.

Question 132.

According to Annex 5 of WT/ACC/NPL/2/Add.1, the Bureau of Standards and Metrology will be appointed as the inquiry point foreseen in Articles 10.1 and 10.3 of the WTO Agreement on Technical Barriers to Trade. Is the Bureau of Standards and Metrology enquiry point currently responding to questions on standards and technical regulations relating to specific products? Is it also responsible for notifying the WTO of proposed technical regulations and standards?

Answer:

The NBSM will be appointed as the inquiry point foreseen in Articles 10.1 and 10.3 of the TBT Agreement. The NBSM is ready to respond to any questions related to standards and technical regulations. As Nepal is still not a WTO Member, proposed technical regulations and standards are not being notified.

Question 133.

Nepal states that the Bureau of Standards is the only central Government standards body. Are there any sub-national or private standards bodies?

Answer:

There are no sub-national or private standards bodies in Nepal.

Question 134.

What Ministries or other bodies are responsible for health and food products? Please describe their procedures.

Answer:

The Ministry of Health, through its Department of Drug Administration, is responsible for health products.

The Ministry of Agriculture, through the Central Food Research Laboratory, is responsible for food products.

These entities set standards based on international standards, when available, in order to guarantee the protection of human health.

Question 135.

Draft standards and technical regulations are submitted for review to the relevant institutions. Are there any mechanisms for consulting other countries and industry?

Answer:

Refer to answer to Question 126. Currently there are no mechanisms to consult with other countries. When becoming a WTO Member, Nepal will comply with the provisions of the TBT Agreement and consideration is being given for the acceptance of the Code of Good Practice for Preparation, Adoption and Application of Standards by the NBSM. As provided by Article 11 of the TBT Agreement, Nepal intends to seek technical assistance to upgrade the institutional infrastructure and technical capabilities of the NBSM.

Question 136.

Does Nepal accept, as equivalent, certificates from third country certification bodies?

Answer:

So far that has not been the practice. However, Nepal will give positive consideration to accept, as equivalent, other countries technical regulations as provided by Article 2 (2.7) of the TBT Agreement.

Question 137.

Could Nepal please provide further information on the quality certificate system currently in use?

Answer:

The National Certification Mark (NCM) currently in use consists of the authorization granted by the NBSM, upon request to any company producing goods for which technical regulations and

standards exist in Nepal, to use a distinctive sign in their products which means that the product complies with the required regulations or standards.

In order to grant authorization to use the distinctive mark in any product, the NBSM conduct inspections, testing, and sets other requirements such as to have in-house laboratories, necessary skill manpower and quality manuals, that the producer has to fulfil in order to receive the authorization. After authorization has been given the NBSM undertakes frequent inspections and testing in the industries and in the market.

To date quality certification marks have been approved for 78 companies, covering 30 products. The products and number of companies that have received approval are listed below:

Certification Chart No. of Quality Certification Mark issued for products up to 2054 B.S.	
Name of Product	No. of Industries
High Density Polythene Pipe	12
Biscuits	2
Ordinary Portland Cement	3
Mineral Water	3
Writing and Printing Paper	2
Toothpaste	1
Bitumen Emulsion	1
GI Wire	3
Deformed Steel Bar and Wires for Concrete Reinforcement	13
Paints 5 Types	2
Gun Metal Gate Valve	1
Soybean Oil and Vegetable Ghee – 2 types	8
Galvanized Mild Steel Pipe for Water Supply	3
PVC Cable	6
Instant Noodles	3
Hand Made Woollen Carpet	2
PVC Pipe for Drinking Water Supply	3
Dry Cell Battery	2
Beer	4
LPG Cylinder	1
Polythene Water Storage Tank	1
Textile	1
Tiles	1
Total	78

Question 138.

Please describe the regulations applicable to raw wool and how they assure the quality of Nepalese carpet exports.

Answer:

The following is the technical regulation on raw wool:

Mean fibre length (barbe)	-	not less than 100 mm (4 inches)
Fibre diameter	-	not more than 39 micron
V.M. content	-	not more than 0.5 per cent
Grease content	-	for DCM extraction nor more than per cent for ethanol extraction not more than 1.9 per cent
Y-Z value	-	not more than 4.5 per cent
Y value	-	not less than 50
Modulation	-	not more than 20 per cent

It is compulsory for the importers to produce a Test Certificate of the imported raw wool to the Board before the consignment enters into the territory of the country. The Board is also empowered to check the quality of the imported raw wool in its own laboratory or any other designated laboratory.

Question 139.

Could Nepal please provide a copy of its technical regulations on raw wool?

Answer:

Refer to Question 138.

Question 140.

Technical regulations apply basically to raw wool, cement, iron bars, mineral water, and LPG cylinders. In the case of raw wool, the regulations apply to “guarantee the quality of Nepalese carpet exports; in other cases it functions on the basis of consumer safety.” For each of the other products, please describe the requirements of the technical regulation and the consumer safety problem they are designed to protect.

Answer:

Translation of Technical Regulations is underway and will be sent to the WTO Secretariat and will be available to all interested Members. For all the products, except wool, technical regulations are required in order to guarantee the protection of human health (mineral water) or safety (iron bar, cement, LPG cylinders).

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

Question 141.

It is important that Nepal puts in place a WTO-consistent regime for SPS measures. Would Nepal advise what plans it has to introduce the changes that would be required to meet its obligations under the WTO SPS Agreement, and the timetable for these? Does Nepal envisage problems in meeting these requirements and, if so, in what respect?

Answer:

Nepal is committed to put in place a WTO-consistent regime on SPS measures in the shortest time possible. However, it faces severe constraints in terms of infrastructure, resources, both human and financial. Nepal will require technical assistance, as provided by Article 9, to be able to fully comply with the provisions of the SPS Agreement in a reasonable time-frame. Nevertheless, Nepal has already started work in this area. Strengthening Plant Quarantine Services is a top priority in the

Government's agenda. Tentatively, NEPAL has formulated the following plan of action to upgrade the implementation of SPS measures:

Activity Planned	Current Status	Time Frame	Remarks
1. Review of the existing Plant Protection Act and Regulations and Drafting of an Amended version of these.	A task force is working in this aspect and areas for amendment have been identified.	By the end of 1999	Technical and financial assistance envisaged.
2. Revising the existing list of quarantine pests (Annex 1 of the Plant Protection Regulations 1975)	The above task force will continue to work on this. The available pest surveillance data are being reviewed to revise the present list.	By the end of 1999	Information on international, particularly of Asia-Pacific region, is required.
3. Upgrading the laboratory and post-quarantine facilities.	The present state of such facilities is inadequate to meet WTO requirements.	By the end of 2001	Substantial technical and financial support is needed.
4. Capacity and capability enhancement of the existing manpower with specialization in Pest Risk Analysis and Laboratory Techniques.	The present capacity and capability is inadequate to meet WTO obligations.	By the end of 2001	Substantial technical and financial support is needed.
5. Opening of new Plant Quarantine Checkpoints to cover the entire range of land borders (two in the Western Region, and some on the Nepal-China border) at least one in this area.	Presently, seven checkpoints are established, included one at the International Airport	By the end of 2002	Substantial technical and financial support is needed.

Further, Nepal has formulated the following plan of action to upgrade the quarantine and sanitary measures in animal production.

Activity Planned	Current Status	Time Frame	Problems
Formation of regulation to implement above mentioned Acts	A task force is working in this aspect and areas	Mid 1999	
Upgrading of human resources with special emphasis to quarantine management, meat inspection, veterinary investigation and animal disease risk analysis.	Presently available human resources are inadequate to implement the WTO sanitary measures.	By the end of 2001	Financial and technical assistance is needed.

Activity Planned	Current Status	Time Frame	Problems
Enhancement of infrastructure of Meat inspection, veterinary investigation, quarantine management and animal disease risk analysis.	Existing facilities are inadequate to meet the WTO sanitary requirements. Currently, the EU financed Strengthening of Veterinary Service for Livestock Disease Control project is involved in strengthening the capabilities of laboratory and quarantine check post. However, the provisions made in the project are not enough to meet the WTO sanitary requirements. (Requirement assessed and proposal developed for international funding)	By the end of 2006	Despite the involvement of EU, further technical and financial support is needed.
Opening of new quarantine check post and development of pre and post-quarantine facilities.	Presently there are 21 border ACPs, 3 internal ACPs, 1 international airport ACPs but pre and post-quarantine facilities and other new ACPs will be established as per the need realized by the country in future.	By the end of 2006	Technical and financial support is needed.

Question 142.

Does Nepal expect to be in position to respect the SPS Agreement in full upon accession?

Answer:

Refer to answer to Question 141.

Question 143.

Please provide translated copies of the Plant Quarantine Act 1972 and Plant Quarantine Rules 1975 (WT/ACC/NPL/3/Add.1) to the WTO Secretariat for review by the Working Party. How do the Plant quarantine rules relate to the Plant Protection Act, 2029, which is included in Annex 2 of WT/ACC/NPL/2/Add.1?

Answer:

The translated copies of the Plant Protection Act 1972 and the Plant Protection Regulations 1975 are enclosed herewith (WT/ACC/NPL/3/Add.1). The scope of the Act and Regulations covers the essential legal framework to address all the requirements of enforcing phytosanitary measures for import and export of agricultural commodities and their propagates. The Plant Protection Act 1972 and the Plant Protection Regulations 1975 are inter-related. According to Nepal's regulatory process, an Act is the broad framework within which the detailed Regulations are formulated for enforcement of the provisions in the Act. The Plant Protection Regulations 1975 elaborates the Clauses and sub-Clauses of the Plant Protection Act 1972 clarifying the essences of the Act. During implementation,

both the Act and Regulations are equally effective. Both are complementary to each other. The Act is endorsed by the highest legislative body i.e. Parliament and approved by the King, the Head of the State. The Regulations are framed by the Council of Ministers (the Cabinet) such that they can be implemented. The Regulations clearly define the duties and authorities of various executing agencies. The existing Plant Protection Regulations have empowered the Plant Quarantine Checkpoints to enforce the stated phytosanitary measures, both pre and post quarantine.

Question 144.

Please provide translated copies of the Food Act 2023 (1966) and Food Rules 2027 (1970) and the Animal Concentrate Act, 1976 to the WTO Secretariat for review by the Working Party.

Answer:

These are enclosed herewith (WT/ACC/NPL/3/Add.1).

Question 145.

Please provide a list of pesticides subject to an import or export prohibition pursuant to the Pesticides Act, 1991, and Pesticides Rules, 1994.

Answer:

Considering the shared responsibility between the exporting and importing country in protecting health and the environment from harmful effects of prior informed consent procedure (PIC) listed pesticide and industrial hazardous chemicals, Nepal bans all the PIC listed pesticides and chemicals (22 pesticides and 25 industrial chemicals) except Methyl Parathion and Monocrotophos because there are no alternatives for these products. However the importation of these products is under active review. Nepal participated in the Plenipotentiary Conference in Rotterdam (September 1998) for signing the PIC Convention.

PIC List – Pesticides and Industrial Chemicals

Pesticides	Industrial Chemicals
2,4,5, - T	Crocidolite
Aldrin	Polybrominated biphenyl (PBB)
Captafol	Polychlorinated biphenyl (PCB)
Chloroenzilate	Polychlorinated trephines (PCT)
Chlordane	Trist (2, 3 dibromopropy1) phosphate
Chlordimeform	
DDT	
Dieldrin	
Dinsoeb	
1, 2 – dibromoethane (EDB)	
Fluoroacetamide	
HCH	
Heptachlor	
Hexachlorobenzene	
Lindane	
Mercury compounds	
Pentachlorophenol	
Certain formulations of metlamidophos	
Methyl-parathion	

Pesticides
Monocrotophos
Parathion
Phosphamidon

Question 146.

Please list all international sanitary and phytosanitary organisations, such as Codex Alimentarius, in which Nepal is a member.

Answer:

Nepal adheres to the International Plant Protection Convention (IPPC) executed and administered by FAO. The Council of Ministers of Nepal has already approved this adherence to IPPC, and this has gone to Parliament for endorsement. Nepal is the member of the Asia Pacific Plant Protection Commission (APPPC) whose Secretariat is based in Bangkok. His Majesty's Government of Nepal adhered to the FAO "Plant Protection Agreement for the Asia and Pacific Region" on 5 August 1965, and also submitted the instrument of acceptance of amendments to Article 1(a) of the Agreement on 4 June 1969. In 1998, the Government of Nepal submitted proposed amendments to the APPPC Agreement for acceptance. APPPC is a regional organisation adhering to IPPC charters for harmonizing the implementation of phytosanitary measures as per the Agreement on Sanitary and Phytosanitary measures in the context of WTO. Through APPPC, Nepal is trying to streamline and scientifically build land border quarantine procedures considering it is geographically landlocked.

Nepal is fully committed to adopt all the sanitary measures in relation to equity, transparency, harmonization, adoption of regional conditions, risk assessment, and control inspection and approval procedures, and also for the administration and implementation with all the WTO member countries. Even though there are several constraints in terms of technical expertise and resources to fulfill these commitments, Nepal has now given priority for the strengthening of the animal quarantine service in the country to meet the sanitary measures consistent with WTO.

The Animal Health and Livestock Service Act 1998, Slaughter House and Meat Inspection Act 1998 and the Veterinary Council Act 1998 has been recently passed by the Parliament of Nepal. The officially translated copy of the Animal Health and Livestock Service Act 1998 is enclosed herein, as requested. This Act has provided the basic legal framework to formulate Quarantine Regulation.

Nepal is a member of the:

- OIE since 12th March 1998;
- Codex Alimentarius for the last two decades;
- Asia Pacific Plant Protection Commission since 5 August 1965.

Question 147.

According to the Memorandum, the National Drug Policy 1995 "has put its emphasis upon the 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 prices 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". Please describe the measures used by the Department of Drug Administration, which presumably is the organisation authorized to carry out the National Drug Policy, to make the country self-sufficient in drug

production. Also please describe in detail any special or exclusive rights and privileges the Administration has with respect to the importation, exportation, storage, safety, supply and distribution in Nepal of pharmaceutical products.

Answer:

The measures Department of Drug Administration (DDA) has taken to achieve self-sufficiency in drug production are as follows:

1. To provide technical inputs in drug production and quality assurance;
2. HMG has relaxed custom duty on the importation of raw materials, machinery and analytical instruments at one per cent of the invoice;
3. HMG has also related income tax for five years;
4. HMG has provided foreign currency needed for purchasing of raw materials and machinery.

With these measures, presently there are 25 pharmaceutical company producing about 20 per cent of drugs of the national demand.

For the purpose of protecting health, the administration has formulated an implemented different regulations with respect to importation, exportation, supply and distribution of pharmaceutical products in Nepal.

Question 148.

Please describe the role, if any, of the Department of Drug Administration, in ensuring protection of pharmaceutical patent rights.

Answer:

The enforcement of industrial property rights is the responsibility of the Department of Industry (DOI) and of the Nepalese Courts. The Department of Drug Administration does not have any role in this regard.

(e) **State-trading practices**

Question 149.

According to the information provided in Annex 6 of WT/ACC/NPL/2/Add.1, the Nepal Oil Corporation is the only state trading enterprise covered by the Understanding on the Interpretation of Article XVII of GATT 1994. How old is the Nepal Oil Corporation? Has this corporation always benefited from the exclusive right to import petroleum products, other than lubricants? Are there any plans to withdraw this exclusive right or privatize the Nepal Oil Corporation? If no, why not? If so, what is the time frame for doing so?

Answer:

The Nepal Oil Corporation was established in 1970. It has always benefited with the exclusive right to import petroleum. First for petroleum and other products, currently NOC only has exclusive rights to import petroleum products, other than lubricants. At this time there are no concrete plans to terminate with NOC exclusive rights.

Question 150.

The Nepal Oil Corporation currently has a long-term contract with the Indian Oil Corporation. When does this long-term contract expire? Does the Nepal Oil Corporation import petroleum products from any other suppliers?

Answer:

The NOC has a contract with the Indian Oil Corporation (IOC) up to the year 2000. According to the current contract the NOC only import petroleum from the IOC.

Question 151.

According to WT/ACC/NPL/ACC/2/Add.1, the Nepal Food Corporation, the National Trading Limited, the Salt Trading Corporation, the Agriculture Imports Corporation, the Cottage and Handicraft Emporium, the Nepal Coal Company and the Nepal Transit and Warehouse, are not state trading enterprises because they do not have any exclusive rights or privileges. Do any of these enterprises have special rights or privileges?

Answer:

These enterprises do not have any exclusive rights or privileges.

Question 152.

We would be interested in more details on the operations of the Nepal Food Corporation, which we understand "procures food grains to stabilise prices and supply of food grains in deficit area". Can Nepal explain further the operations of the Corporation?

Answer:

Created in 1974 under the Corporation Act 1964, the Nepal Food Corporation (NFC) is an offshoot of the former Agricultural Supply Corporation (ASC) and is under the Ministry of Supplies.

NFC implements the food policies of the Government. It is responsible for supporting farmgate prices of foodgrains (particularly in areas where food grain markets are not fully developed); distribution of subsidised foodgrains to the remote hilly districts; stabilization of market prices of foodgrains (only to control excessive price rises); maintenance of food stock in support of food security policy; and handling of emergency and regular food aid. The food distribution operation of NFC was of the order of 45,000 metric tons of rice in the fiscal year 1997-98, and it received NRs225 million from the Government Budget in that year as subsidy including NRs180 million for subsidising transportation of food to remote districts. NFC plans to procure 50,000 metric tons of rice and 18,000 metric tons of wheat in the current fiscal year.

Government provides interest subsidy to the loan borrowed by NFC. As the NFC operations are mainly financed by the Government subsidy, NFC has not been effective in achieving its objectives, which fall under the following five categories:

- providing a floor price for the farmers of less accessible areas;
- providing food for consumers at "fair" price;
- market intervention to stabilise prices;
- income generation;
- improvement to the food security situation by holding food stocks.

As part of the effort to promote competitive agriculture produce markets, currently the Government is undertaking a fundamental reorganisation of NFC with the assistance of the Asian Development Bank. The Government has already discontinued the policy of the announcement of support prices for food grains. NFC has now withdrawn the subsidised distribution of food grains in the urban and accessible areas. The NFC's 38 remote districts are being reclassified with a view to limit the delivery of subsidised food grains only to the inaccessible remote districts. As a policy, annual subsidy budget for NFC has been fixed at NRs225 million. In addition, NFC is implementing a time-bound action plan for organisational reforms. All these reform measures are geared to make NFC a more effective and specialised agency to implement the Government's food security policy.

Earlier, the Government maintained its control over import, storage, marketing and distribution of fertilisers through the Agricultural Input Corporation (AIC), a public sector organisation. After deregulation of the fertiliser trade, the private sector can import, store and market fertilisers and will also be eligible for subsidies in urea at the same level as obtained by the AIC. Thus, the new fertiliser policy opens the door to the private sector to import fertilizer and agricultural inputs essential to farmers.

Question 153.

We would also be interested in more details concerning the operations of National Trading Limited and the Salt Trading Corporation. We note that National Trading Limited imports sugar to stabilise prices, while the Salt Trading Corporation also imports sugar. Can Nepal provide more details concerning their respective roles in the importation of sugar?

Answer:

National Trading Limited (NTL), a leading trading organisation in the public domain and fully owned by the Government of Nepal, has been serving the country since March 1962. NTL is operating its functions under the Nepalese Company Act. During the initial stage of its operation, NTL engaged in channelling aid products with a view to meet the local expenses of development projects through the sale of aid goods in the domestic market. In order to better serve the growing needs of the national economy and people at large, it started supplying essential goods at a reasonable price. It has neither any exclusive or special right nor any special privileges. It has to work in full competition with private enterprises in all trading activities. The major objectives of NTL are as follows:

- (i) To stabilise the price of construction materials and industrial raw materials needed for the country both by local purchase and import;
- (ii) To maintain stable prices through an increase in supply by importing the necessary consumer goods of general public;
- (iii) To supply bonded warehouse and duty free goods to diplomatic, other privileged persons and tourists at the international airport;
- (iv) To act as an agent of Nepal in the matter of import and distribution of the goods, which the Nepal has, to import and distribute time to time and to handle the commodity aid goods received for Nepal;
- (v) To engage in agency business by getting the agent through producer for the products in which NTL is dealing;
- (vi) To earn reasonable profit in return of Nepal's investment.

The main products handled by NTL in order to maintain price stability and ensure regular supply are cement and sugar.

The Salt Trading Corporation Limited (STC) on the other hand was established three decades ago through the joint efforts of Nepal and the private sector to ensure proper supply and distribution

of essential consumer items throughout the country. As trade in salt was disordered and unreliable, its utmost priority was to make edible salt readily available. The irregularities in the distribution had to be corrected through an efficient and effective supply and delivery system. Profits from trading activities were invested in the production of basic necessities to boost self-sufficiency, accelerate economic growth, and gain public and private support.

From its infancy as a trading house, STC has matured into a diversified conglomerate with an unmatched distribution network all over the Kingdom. Its twenty branches scattered throughout the country provide people easy access to imported and locally produced goods and act as major procurement outlets for goods produced in various parts of the country. Though it has begun its trading activities by dealing in salt, currently it imports, exports, produces and supplies goods of a diversified nature. Industrial products, agricultural products, and industrial raw materials are the major components of its trade.

Both of these enterprises are engaged in sugar import, however, they do not hold monopoly power in the importation of sugar. Neither they have got any special privilege from the Government to import sugar. Other firms and individuals are free to import sugar.

Question 154.

We note that the Agricultural Input Corporation imports fertilisers and agricultural inputs essential to farmers. Could Nepal provide information on the new policy which it is claimed opens the door to the private sector to import fertiliser and agricultural inputs essential to farmers?

Answer:

Previously the Government maintained control over the import, storage, marketing and distribution of fertilizers through the Agricultural Input Corporation (AIC) which was a public sector entity. After the deregulation of fertilizer trade the private sector now can import, store and market fertilizers without any limitation and is eligible for subsidies in urea at the same level which is obtained by the AIC. There are no limitations for the involvement of the private sector in the import, and sales, of other agricultural inputs.

(f) Free zones

Question 155.

Please confirm whether or not any free zones established in the future will be fully subject to the coverage of Nepal's commitments as a WTO member.

Answer:

As a Member of WTO, Nepal will fulfil all its obligations as derived from the different Agreements. Currently there are no free zones established in Nepal. In case a decision is made in the future to establish free zones, Nepal will carefully examine the implications of the Multilateral Agreements on Trade in Goods for free zone regimes.

(g) Free economic zones

Question 156.

Does the Government of Nepal intend to create export-processing zones?

Answer:

No decision has been made whether export-processing zones will be created or not.

(h) Trade-related environmental policies

Question 157.

Please describe the export restrictions that have been put into effect for wildlife forest products to protect wild life and forests.

Answer:

Some products, listed in Annex 3.1 of WT/ACC/NPL/2/Add.1, are banned for export because of environmental concerns: wild animals, parts of wild animals, musk, snake and lizard skin, and log and timber.

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

Question 158.

Under the current trade agreement with India, Nepal imports some goods on a quota base (cotton, baby food, milk and sugar, etc.). Please explain how the quota base operates. Does Nepal maintain import quotas that guarantee certain minimum import levels of these items from India?

Answer:

The product list and the quantity under the quota system is decided on a yearly basis as provided by Article II.4 of the Protocol to the Treaty of Trade between Nepal and the Government of India. The quota system operates only for those goods that are restricted for exports, or subjected to price controls, in one of the Parties to the Trade Agreement. The list of products that Nepal imports from India on a quota bases varies significantly depending on the agreement reached every year. For the years 1998 and 1999 the following products were allocated:

	1998	1999	Tariff Rate (%)
Milk power	1,500 MT	500 MT	10
Baby Food	500 MT	500 MT	5
Waste Cotton	1,500 MT	1,500 MT	0
Cotton	500 MT	500 MT	0
Cotton Yarn (Cone)	500 MT	500 MT	5
Cotton Yarn (Hank)	500 MT	500 MT	5
Rutile	1,500 MT		5
Sugar		40,000 MT	10

Question 159.

Nepal has a guaranteed supply of minimum viable quantities of some basic products from India, including cotton, sugar and coal. Please explain how this guaranteed supply operates. Does Nepal have to purchase minimum quantities from India of these products before it may import

the same products from other countries? Is Nepal obliged to purchase any of these products from India? If so, in what amounts per year?

Answer:

Refer to answer to Question 158. Nepal does not have to purchase minimum quantities from India. It can import from any other country even if the quota has not been completed. There is no obligation to import from India.

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

Question 160.

Is the Government of Nepal ready to become an observer to the Committee on Government Procurement? Does Nepal intend to join the WTO Government Procurement Agreement? If not, why not?

Answer:

Since joining this Plurilateral Agreement is not a requisite condition for accession to the WTO, Nepal will give due consideration to the possibility of becoming an observer to the Committee. Nepal is not ready to join the WTO Government Procurement Agreement.

Question 161.

Does Nepal intend to join the Government procurement agreement?

Answer:

See Answer to Question 160.

Question 162.

What is the overall value of public sector purchasing in Nepal?

Answer:

The estimated Government procurement as per the budget of FY 1997/98 was NRs16.2 billion (US\$ 238 million at the current exchange rate).

Question 163.

Please provide a breakdown of the public procurement market both by contracting entity and product type?

Answer:

The requested information is not available

Question 164.

Is price the only criterion for evaluating bids or are contracts also evaluated by reference to an "economically most advantageous offer" approach?

Answer:

In general, price is the only criteria for evaluating bids. However, quality, conditions of supply, capability, experience and reliability of the supplier etc. are also taken into account while evaluating the bids and awarding the contract.

Question 165.

When applying for a tender Nepalese citizens have to deposit up to five per cent of the tender value and foreigners ten per cent. Why are deposits from foreigners required to be twice as large as from Nepalese citizens?

Answer:

To ensure commitments from the foreigners.

Question 166.

Is there a central agency, which controls the legislation, relating to Government Procurement and monitors possible infringements?

Answer:

No.

Question 167.

Do detailed rules exist on the requirement to publish tender and contract award notices?

Answer:

Yes.

Question 168.

Are tenders published in any English language publications? If so, please identify the publications.

Answer:

The rules on Government procurement requires publications of tender notices in national dailies at least twice for procurements amounting more than NRs1 million, however, not necessarily in an English paper. In case of global tender, tender notice is circulated to the foreign diplomatic missions situated in Nepal.

Question 169.

Is there an offset policy and, if so, how often are offset arrangements negotiated on a case-by-case basis?

Answer:

There is no offset policy as such.

Question 170.

Does Nepal's procurement law make provision for a system of domestic and price references?

Answer:

Yes.

Question 171.

Is the procurement of certain products reserved for local industry?

Answer:

No. But priority shall be given to Nepalese products if the price difference with foreign products is not above 7.5 per cent.

Question 172.

What are the procedures and the criteria to short-list candidates in the cases of limited tendering?

Answer:

As per the Finance Rules 2042 (1985), as amended, the concerned Government officials are authorized to purchase construction materials up to NRs150,000 and other commodities up to NRs50,000 with the limited tendering. It is mandatory for the concerned officials to collect quotations at least from five firms involved in the transaction of required commodities, obtained from the tax office. The authority shall purchase from the lowest bidder. But, if the quality of the commodities and the supply conditions are not reasonable, he could make decisions otherwise. However, the official can do so only upon the written permission of the higher authority.

Question 173.

Does Nepal have any trade agreements with other countries which cover public procurement? If so, which countries?

Answer:

No.

Question 174.

Does the Government of Nepal intend to eliminate the requirement that Government procurement contracts valued at less than US\$793,500 be awarded solely to Nepalese citizens, absent approval from the ministry?

Answer:

No.

Question 175.

Normally, the number of suppliers for a certain product are limited, thus allowing for simplified procedures to be granted. What kind of products are envisaged for the simplified procedures in cases (i) and (ii) as indicated on page 27 of the Memorandum?

Answer:

Any commodities provided the conditions laid down in (i) and (ii) are satisfied.

4. Policies Affecting Foreign Trade in Agricultural Products

(a) Imports

Question 176.

A comprehensive product list, based on HS numbers and indicating all 14 groups of agricultural products under the preferential treatment for duty-free entry on the basis of the agreement between India and Nepal should be notified to the Working Party.

Answer:

The following is the group of agricultural products which have been listed under the preferential treatment for duty free entry on a reciprocal basis as per the provision of the Treaty of Trade with India.

	HS Code	Product Group
1.	7 to 14	Agriculture, horticulture and forest produce and minerals which have not undergone any processing
2.	10.06, 07.13, 11.01	Rice, pulses and flour
3.	44.09	Timber
4.	17.01, 11.90	Jaggery (gur and shakhar)
5.	03.01 to 03.07, 01.01 to 01.06	Animals, birds and fish
6.	04.09, 04.10	Bees, beeswax and honey
7.	521.01, 05.06	Raw wool, goat hair and bones as are used in the manufacture of bone meal
8.	04.01 to 04.07	Milk, home made products of milk and eggs
9.	23.05	Ghani-produced oil and oil cakes.
10.	30.04	Ayurvedic and herbal medicines
11.	44.20	Articles produced by village artisans as are mainly use in villages
12.	23.08	Akara
13.	05.11	Yak tail
14.		Any other primary products which may be mutually agreed upon

The treaty also has provisions of preferential treatment for duty free entry for any other primary products which may be mutually agreed upon.

Question 177.

"Nepal imports significant quantities of high value agricultural products but only imports food grains during drought years". It is unclear from this whether Nepal is a net food-importing country. Further clarification is required.

Answer:

Total value of import (net) of agricultural commodities (SITC 1, SITC 2 and SITC 4) was NRs5,231.1 million, NRs5,916.1 million and NRs6,330.3 million in fiscal years 1994/1995, 1995/1996 and 1996/1997 respectively. Thus, Nepal is a net food-importing country.

Question 178.

Nepal notes in the Memorandum that the import of foodgrains is made only during drought years. Would Nepal confirm that this means that at other times imports of foodgrains are not banned or restricted?

Answer:

Nepal confirms that imports of foodgrains are not banned or restricted during the year.

(c) Export prohibitions and restrictions

Question 179.

Nepal notes that raw wool is restricted for export in order to protect local wool processing establishments. Could Nepal provide further details on the export restriction, and its justification under the WTO?

Answer:

Export of raw wool is currently restricted for export to prevent a shortage of raw material that could affect local wool processing establishments, and to encourage the development of value added exports. Wool carpets, and other wool products are the main exportables of Nepal with significant impact on employment and overall welfare. Nepal considers that this restriction could be justified under Article XI.2.(a) of GATT 1994.

Question 180.

Can Nepal please provide a WTO justification for the export ban on wet blue skin? Can Nepal explain further the requirements being placed on leather exporters to meet export targets, and the advantages these exporters will receive if these targets are met?

Answer:

There are no requirements placed on leather exporters to meet export targets or advantages based on export targets. This measure is put into effect to guarantee adequate supply to processing establishments. Currently this restriction has been relaxed and some exports are allowed.

Question 181.

Could the Government of Nepal confirm whether the ban on the export of wet blue skin would finally be removed?

Answer:

The Government has not envisaged completely removing ban on wet blue skin.

(d) Export credits, export credit guarantees etc.

Question 182.

Please describe the mechanism used by the Government of Nepal to facilitate easy access to foreign exchange for agricultural exporters. How does the “technical facilities of opening foreign currency accounts” operate?

Answer:

All exporters, including agricultural exporters, are eligible to open foreign currency accounts. Also refer to Question 103.

Question 183.

Please explain why Nepal believes that the information-oriented services available for agricultural exporters are not subsidy-type facilities.

Answer:

Information-oriented services available for agricultural exporters do not involve direct payments to the producer or producer community and is available to all producers seeking such information without any discrimination and prejudice. Moreover, Annex 2 of the Agreement on Agriculture exempts such services provided to the producers from the calculation of Aggregate Measure of Support (AMS).

(e) Internal policies

Question 184.

Please provide the information requested in WT/ACC/4 on domestic support and export subsidies.

Answer:

The new table is enclosed.

Question 185.

We also have some questions in relation to the agriculture domestic support and export subsidies tables submitted in document WT/ACC/SPEC/NPL/1. We would like to thank Nepal for the early provision of information in the WT/ACC/4 format.

We note that the information provided is an average of the recent three-year period including the budget allocation for the current fiscal year 1998-1999. Could Nepal provide information for each year separately as well as the average for the three period?

Answer:

Refer to answer to Question 184.

Question 186.

According to the information provided in Table ES:1 of WT/SPEC/ACC/1, Nepal does not provide export subsidies. Will Nepal commit to binding its agricultural export subsidies at zero?

Answer:

Nepal shall act in accordance with Article 15.2 of the Agreement on Agriculture for export subsidies on agricultural commodities.

Question 187.

We appreciate that Nepal does not currently use the export subsidies indicated in ES:1 in WT/ACC/SPEC/NPL/1. We hope that Nepal can confirm that it will not impose such export subsidies as prohibited in the Agreement on Agriculture.

Answer:

See answer to Question 186.

Question 188.

We understand that commodity/management committees of the State-owned enterprises concerned determine the support prices for sugar cane, tobacco and cotton, whereas the Ministry of Supplies determines the support price for rice. Can the commodities (and their derived products) referred to be imported by private companies without any restriction, apart from ordinary customs duties?

Answer:

Yes, these commodities can be imported by private companies without any restrictions except for the commodities imported as per the Treaty of Trade with India.

Question 189.

Are State-owned enterprises involved in import of any other agricultural product than the commodities referred above?

Answer:

No.

Question 190.

Nepal states that the Government has been fixing the minimum support price for rice, sugar cane, tobacco and cotton. Does the Government continue to fix minimum support prices for these products? How are these minimum support prices calculated and administered?

Answer:

Nepal has discontinued fixing a support price for rice. Support prices for sugar cane, tobacco, and cotton are fixed by the respective commodity committees. Support prices are calculated, in principle, on the basis of cost of cultivation and are administered by the committees. Commodity committees will continue to fix support prices until the farmers are able to bargain for the price of their produce. However, farmers are free to sell their products in the market at any price above the support price.

Question 191.

Please describe the operation of the price subsidy on urea and the transportation subsidy on fertilizers. Are these subsidies available to all fertilizer users?

Answer:

The transportation subsidy for fertilizers is provided only for 23 hill and mountain districts that are not connected by road out of 75 districts in the country. The price subsidy on urea is available to all users. This subsidy is planned to be eliminated by December 1999.

Question 192.

We appreciate Nepal's submission on domestic support and export subsidies (ACC/4). We understand the difficulty in preparing these tables, and commend Nepal for its hard work.

As with all acceding countries' WT/ACC/4 submissions, we would like to ask a few questions and offer some technical comments. We would remind Nepal that the WTO Secretariat is available to provide technical assistance in the preparation of these tables.

First, why are data expressed in US Dollars, and not Nepal's national currency?

Answer:

Refer to answer to Question 184.

Question 193.

Why were fiscal years 1998-1999 used for the reporting period? Technical memo WT/ACC/4 stipulates that acceding countries should use the three most recent years of data. Moreover, the values used in domestic support submissions always represent actual, not planned, expenditures.

Answer:

Refer to answer to Question 184.

Question 194.

Please re-submit all tables using actual expenditures (or revenue foregone) for the three most recent years available, with separate entries for each year of data (1994, 1995, 1996, etc.) and a three-year average. This format will make Nepal's submission much easier to review.

Answer:

Refer to answer to Question 184.

Question 195.

In supporting table DS:1, (which should read: “Measures exempt from the reduction commitment–“Green Box”), we request further information on the following measures, specifically how they operate and how they conform to Annex 2 criteria:

- **Crop subsidies (listed under “payment for relief from natural disasters”)**
- **Irrigation and drainage (infrastructural services, which should also be part of (a) General Services)**
- **Tea promotion and support for seeds and dairy development (others)**

Answer:

Crop subsidies are applied on an *ad-hoc* basis in the case of the occurrence of a natural disaster. In these cases, seeds will be distributed to affected farmers without cost. This relief is provided by the Seeds Committees that exist at the district level under the Chairmanship of the District Development Committee, which is composed of representatives of the public and private sectors.

The Tea and Coffee Promotion Board, and the Dairy Promotion Board, which are composed of representatives of the public and private sectors, have as its basic functions, to propose policies for the development of these activities in Nepal and to conduct product-related research. Budget allocations are to finance the activities of the Boards. No direct support is given to the farmers.

Nepal is undertaking a Seeds Sectors Project, which aims to improve seed quality. The activities defined under this project are carried out by the Seeds Committee, which is composed of representatives of the public and private sectors. Budget allocations are to finance the activities, mainly seed research and improvements of the Seeds Committee. There is no direct support to the farmers.

The above-mentioned measures comply with the provisions of paragraph 1 (a) and (b) of Annex 2 of the Agreement on Agriculture, these are funded with budget allocations and they do not have any price-support effect. The activities of the Boards for tea and coffee, dairy and seeds, are general services to agriculture as provided by paragraph 2(a) (d) (f) of paragraphs 2 of Annex 2 to the Agreement on Agriculture.

Crop subsidy, wherein applied in the case of a natural disaster, complies also with the provisions of paragraph 8 of Annex 2 to the Agreement on Agriculture, and with the general conditions of paragraph 1.

Question 196.

In table DS:1 we would be interested in further information on the programme under (b) payment for relief from natural disasters, concerning crops subsidies. Could Nepal supply this please?

Answer:

Refer to answer to Question 184.

Question 197.

In supporting table DS:4, could Nepal also provide the total value of agricultural production?

Answer:

The total value of agricultural production, estimated by multiplying the quantity of production of the major products by the respective market price, is around NRs349,064 million. The calculation method, however, underestimates the value of agricultural production as not all products have been considered.

Question 198.

In supporting table DS:9, please provide additional information on how the two measures listed (“transportation subsidy for fertilizer” and “agricultural credit subsidy”) operate. Are these subsidies calculated, or are they budgetary expenditures? If they are calculated, please provide calculation details as specified.

Answer:

Concessional credit with capital subsidy is granted through the Agricultural Development Bank to all farmers, for the following purposes:

- Irrigation;
- Micro-hydro power installations;
- Bio-gas plants;
- Solar-electrification.

Credit is given at an interest rate that varies between 16 to 16.5 per cent. The market interest rate is 17 per cent.

For small farmer's cooperatives in remote areas, for the purpose of the installation of bio-gas plants special credit is available at a 13 per cent interest rate. These are budgetary expenditures as the ADB is reimbursed the amount of subsidy by the Central Government.

For transportation subsidy for fertilizer a rebate is granted.

Question 199.

In table DS:9 could Nepal provide further details on the agriculture credit subsidy?

Answer:

Refer to answer to Question 184.

Question 200.

Could Nepal provide information on its total value of agricultural production to enable us to ascertain whether or not the aggregate measurement of support (AMS) is de minimis?

Answer:

Refer to answer to Question 197.

5. Policies Affecting Foreign Trade in other Sectors

(b) Policies affecting foreign trade in other major sectors

Question 201.

Please describe the function of the Carpets and Wool Development Council. Does the Council provide financial assistance to Carpet manufacturers?

Answer:

The principal function of the Carpet and Wool Development Board is to make the necessary arrangements for the development of production and the quality of carpets in Nepal. The Board does not give any kind of financial assistance.

Question 202.

Please describe in detail the policies by which Nepal intends to progressively promote the export of finished leather. Is Nepal using or contemplating the use of export subsidies?

Answer:

No specific promotion measures have been yet defined for this sector. The general treatment accorded to all exporters apply in this case. Refer to answer to Question 109. For export promotion activities refer to answer to Question 111.

V. TRADE-RELATED INTELLECTUAL PROPERTY RÉGIME

1. General

(a) Intellectual property policy

Question 203.

According to the Foreign Trade Memorandum, “industrial property rights legislation has already been drafted and is in the process of enactment.” Please list and describe the other provisions of IPR legislation Nepal intends to enact to meet the requirements of the TRIPS Agreement.

Answer:

Nepal is preparing the draft of a new Industrial Property Law. The Law will incorporate all the substantive provisions of the TRIPS Agreement guaranteeing therefore the conformity of the Nepalese industrial property rights regime with its future obligations as a WTO Member. It will cover all categories of industrial property rights under Sections 2 through 7 of Part II of the Agreement, and will incorporate the basis for an adequate enforcement thereof. For the protection of copyright, Nepal has the Copyright Act 1965 in place. Nepal intends to review it to make it fully compatible with the TRIPS Agreement. This is a complex and difficult task. In this connection, Nepal has approached WIPO for technical assistance in drafting new IPR legislations.

Question 204.

When does Nepal expect the draft industrial property rights legislation to be enacted?

Answer:

At this point in time it is difficult to envisage when the new Industrial Property Law will be enacted. The drafting has to be completed by the Ministry of Law and Justice in coordination with the Department of Industry (DOI). When the draft is ready it will have to follow the normal legislative process. The executive will send the draft to Parliament. The enactment of Laws is an act of Parliament, therefore it will depend on this institution when the Law is finally enacted. Nepal considers that because of severe economic, financial and administrative constraints, the lack of technical expertise and the need to develop infrastructure and human capital it will require a time period, even if the Law is enacted earlier, to be in condition to fully implement all the provisions of the TRIPS Agreement. Nepal will seek technical cooperation in order to make this period as short as possible.

Question 205.

Please confirm that this draft legislation does not include any revision of the Nepalese Copyright Law.

Answer:

The new Industrial Property Law will not incorporate Copyrights and Related Rights. These are governed by a different legal instrument in Nepal, the Copyright Act 2022 (1965) as amended.

Question 206.

We request copies of all the current statutes and regulations referenced in the afore-mentioned Memorandum, in translation to a WTO language, including other Nepalese laws and bilateral agreements pertaining to intellectual property rights and enforcement.

Answer:

Patent Design and Trademark Act 1965 and Copyright Act 1965 as amended are enclosed (WT/ACC/NPL/3/Add.1).

Question 207.

What is Nepal's timetable for adoption of the automatic recognition of patents and copyrights awarded by other nations?

Answer:

Nepal is not considering the automatic recognition of patents awarded by other nations. According to current legislation, the Department of Industry (DOI) may accept the examinations conducted for the granting of the patent in another country. In the case of copyrights, Nepal will grant protection to the full extent of its future obligations as a WTO Member.

(b) Responsible agencies for policy formulation and implementation

Question 208.

The Nepal National Library is the authorized agency to register intellectual property other than industrial property, but the Government has delegated its authority of administering copyrights to the Youth, Sports and Culture Ministry [hereinafter the "Ministry"]. What are the separate

roles of the National Library and the Ministry in administration of copyrights? Which entity accepts and maintains copyright registrations? What are the specific copyright-related activities of each entity? Which entity is responsible for formulating national copyright policy, including initiating changes in copyright law?

Answer:

The Ministry is responsible for the formulation of copyright policy and initiating legislative changes. The Nepal National Library is the authorized agency for registering copyrights, record all hearing of complaints and has dispute settlement functions.

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

Question 209.

Please outline Nepal's plans to join the Berne Convention, or implement its provisions.

Answer:

Nepal is considering joining the Berne Convention.

Question 210.

Why has Nepal avoided membership in this and other international conventions on intellectual property rights? Please describe Nepal's plans in this regard.

Answer:

In the past intellectual property issues have not been a priority in the national agenda to a great extent because of a very limited use of existing legislation. For example, up to date less than one hundred patents have been sought in Nepal and a significant number of right holders have not paid the required fees to maintain their rights. Furthermore, there have not been many cases of demands for infringement of IPR's in general. Due to the growing importance of IPR's in the country, at present Nepal is considering joining the relevant international conventions.

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

Question 211.

Nepal states in its Memorandum (section I(d) on page 35) that nationals of other countries are accorded no less favorable treatment than that accorded Nepalese nationals. How does Nepal reconcile this with the fact that foreigners must pay twice as much as Nepalese to register and renew patents, designs and trademarks, and make these payments in convertible foreign currency (see bottom of table in section I(e) on page 35 of the Memorandum)?

Answer:

The new Industrial Property Law will be in full compliance with Article 3 of the TRIPS Agreement, ensuring equal treatment for both foreigners and nationals in terms of industrial property fees.

(e) Fees and taxes

Question 212.

"Foreigners have to pay double the rate indicated above except for penalty charges. Foreigners are required to make payments in convertible foreign currency". Does Nepal believe that this different treatment between nationals and foreigners is compatible with the Paris Convention for the Protection of Industrial Property (1967)?

Answer:

Refer to answer to Question 211.

- 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 organisations**

Question 213.

In which respects will the existing copyright legislation need to be amended to comply with the TRIPS Agreement, and what is the planned timetable for such amendment?

Answer:

Refer to answers to Questions 216 to 222, 227, 228, 230 and 231.

Question 214.

Please provide a copy of the current Copyright Law (WT/ACC/NPL/3/Add.1) to the WTO Secretariat for review by the Members of the Working Party.

Answer:

Refer to answer Question 206.

Question 215.

Has the Nepalese Copyright Act been amended since 1965? When was the law most recently amended?

Answer:

The Copyright Act 1965 was amended once in 1997.

Question 216.

In section 2 (a) (on page 35) , Nepal states that, under the Copyright Act 2022 (1965), a person shall acquire a copyright only on works registered pursuant to that Act. Can Nepal explain how this is consistent with Article 5(2) of the Berne Convention (1971), which states that the enjoyment and exercise of works protected under the Convention shall not be subject to any formality?

Answer:

According to the Copyright Act registration of work is required for protection. The legislation will be amended to comply with the requirements of the said article.

Question 217.

According to the information in the Foreign Trade Memorandum, under the Nepalese Copyright Act, "a person shall acquire a copyright only on the works registered pursuant to the Act". Does this mean that there is no copyright recognized in a work unless it has been registered? If so, please explain how this is compatible with Article 5(2) of the Berne Convention, applicable to WTO Member States pursuant to Article 9 of TRIPS?

Answer:

Refer to answer to Question 216.

Question 218.

Since registration appears to be required for copyright protection under the 1965 Copyright Act, what plans are there to remove this requirement so as to comply with the TRIPS Agreement (particularly Article 5(2) of the Berne Convention)?

Answer:

Refer to answer to Question 214.

Question 219.

Is the term of protection given under the 1965 Copyright Act for works registered in the names of two or more persons considered to be consistent with the TRIPS Agreement (particularly Article 7*bis* of the Berne Convention)? If not, what timetable is envisaged for amendment?

Answer:

Refer to answer to Question 203.

Question 220.

According to the Memorandum, "[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". Please explain how this term of protection is compatible with Berne Article 7*bis*?

Answer:

Refer to answer to Question 203.

Question 221.

Precisely which acts require the authorization of the copyright holder under the current legislation? Are all the acts set out in the TRIPS Agreement and the Berne Convention covered (including commercial rental), and if not, what plans are there to amend the legislation?

Answer:

The creator of the work has the right to register for copyright protection. No person without his permission can produce, sell, or distribute a protected work. The right holder may authorize his right to other persons as per the conditions laid down in the letter of authorization.

For compliance with TRIPS Agreement refer to answers to previous questions.

Question 222.

Please give details of the current exceptions and limitations to exclusive rights provided in the 1965 Copyright Act, and indicate which of these are considered to require amendment in order to comply with the provisions of the TRIPS Agreement.

Answer:

- If the copyright holder does not republish a work and the Registrar of copyright deems to republish the work in the interest of the public, the Registrar may grant a licence to any other person subject to the payment of reasonable compensation to the owner;
- If the copyright holder refuses to grant licence to publish or broadcast an essential portion of a work for compilation of any text book, the Registrar may grant a licence to publish or broadcast without any compensation;
- the Registrar may grant a licence, on certain grounds, for translation for public performance and for the use of public libraries.
- for compliance with the TRIPS Agreement refer to answer to Question 203.

Question 223.

Please describe the registration fees, if any.

Answer:

The copyright registration fee is NRs50 for each piece of work registered. At the current exchange rate it amounts to US\$0.75.

Question 224.

The Nepalese Copyright Act protects "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 related to literature, art, and music". Is this an exhaustive list of the types of works specifically protected by the Nepalese Copyright Law? Please identify any other types of works that are protected by the Copyright Law.

Answer:

Works protected under the Copyright Act are:

- Any article, essay, story, poem, novel, epic, lyric, or any other kind of book, pamphlet, descriptive writing as a whole or part thereof in prose or poetry, written, printed, lithographed, typed or issues or produces through any other mechanical device or broadcast in original or translated form whether it be a complete set or a part thereof;

- Any drama or cinema or any dialogue, scenographic arrangement or techniques of acting companies therein or any part thereof;
- Any drawing, map, photograph made, engraved, photographed in any manner or any other kind of direct impression or work or part thereof;
- Any musical notations or sound records or part thereof;
- Any other kind of work relating to literature, music or art or part thereof;
- Computer software.

Question 225.

Does Nepalese Copyright Law protect the following types of works [from Berne Article 2 unless otherwise noted]:

- (i) scientific works?**
- (ii) addresses, lectures and sermons?**
- (iii) choreographic works?**
- (iv) cinematographic works?**
- (v) works of architecture (including blueprints)?**
- (vi) sculptures?**
- (vii) works of applied art?**
- (viii) collections of art or literary works which, by reason of their arrangement and selection, constitute intellectual works?**
- (ix) three-dimensional works relative to geography, topography, architecture or science?**
- (x) computer programs, in source and object code? [TRIPS Article 10(1)]**
- (xi) collections of data which, by reason of their arrangement and selection, constitute intellectual works? [TRIPS Article 10(2)]**

Answer:

Refer to answer to Question 224.

Question 226.

"The Copyright Act provides licence provisions for publication, translation, exhibition, and for public library purposes." Are these compulsory licence provisions? Are they compatible with Berne Convention Articles permitting and prohibiting compulsory licence for different types of works? Are they compatible with Articles 8 and 9 of the Berne Convention? Are they compatible with TRIPS Article 12?

Answer:

The Copyright Act contains compulsory licensing provisions. These provisions are consistent with the relevant articles of the Berne Convention, as well as Article 13 of TRIPS. The copyright holders exercise these powers in accordance with the Copyright Act. The Ministry of Youth, Sports and Culture will see to it that the provisions relating to copyright are enforced.

Question 227.

What current provision is there for the copyright protection of computer programs and databases, and how is it envisaged to provide for such protection in accordance with the TRIPS Agreement?

Answer:

The current legislation provides protection to computer software, both in its source code and object code. Databases are not currently protected. The legislation will be amended to incorporate the provisions of the TRIPS Agreement in this regard.

Question 228.

Please explain what protection is given in Nepal for rights related to copyright such as those of performers, phonogram producers and broadcasting organisations. What plans are there to provide for such rights in accordance with the TRIPS Agreement?

Answer:

Refer to answer to Questions 224 and 220.

Question 229.

Could Nepal please provide details how it complies with or of steps taken to comply with Article 3 of TRIPS ("national treatment") plus Article 13 ("limitations and exceptions")?

Answer:

Currently there are no provisions in the Copyright Act, or administrative procedures either than the fee required, that discriminate against foreigners. For the current limitations and exceptions refer to answer to Question 203.

Question 230.

Can Nepal please confirm that, in accordance with Article 10 of TRIPS, compilation of data is protected as intellectual creations and computer programs are protected as literary works?

Answer:

Refer to answer to Question 227.

Question 231.

Does Nepal's law provide for rental rights in compliance with Article 11 of TRIPS in respect of at least computer programs and cinematographic works?

Answer:

The current legislation does not have these provisions. However, it will be amended to incorporate them.

(b) Trademarks, including service marks

Question 232.

Which is the definition of trademark in the Act 2022 (1965)? Does Nepal protect three-dimensional trademarks? Does the Government of Nepal consider that any changes will be required to the Patent, Design and Trademark Act 2022 (1965) to comply with the TRIPS Agreement?

Answer:

Patent, Design and Trademark Act 1965 defines trademark as words, symbols, or pictures or a combination thereof to be used by any firm, company or individual in its products or services to distinguish them from the products or services of others. Thus, such words, symbols or picture can be three-dimensional.

As indicated earlier, the new Industrial Property Law will have provisions which comply with the TRIPS agreement.

Question 233.

We understand that the Patent, Design and Trademark Act 2022 (1965) was amended in 1987, to require compulsory home country registration of trademarks by foreigners. If this information is accurate, please indicate how the law will be amended to extend national treatment to foreigners.

Answer:

The current provision which requires home country registration for trademark registration does not introduce discrimination against foreign nationals with regard to the protection of trademark once they are registered in Nepal. The requirement of home country registration will be removed while introducing the new legislation.

Question 234.

The Nepalese law appears to require foreigners to pay double the rates indicated for applications, application amendment, registration, transfer of ownership, endorsement and recording other than transfer of ownership, details of registration, opposition and case filing, copies of registration certificates, and renewals. Please explain how the fee and tax structure will be amended to provide national treatment for foreigners, in accordance with the requirements of Article 3 of the TRIPS Agreement.

Answer:

By the time of accession Nepal will be in full compliance with Article 3 of the TRIPS Agreement.

Question 235.

Under current Nepalese law, what marks are eligible for registration as trademarks?

Answer:

Refer to answer to Question 232.

Question 236.

Does the Patent, Design and Trademark Act 2022 (1965), as amended, provide for registration of certification marks?

Answer:

There are no provisions for the registration of certification marks..

Question 237.

Does the Patent, Design and Trademark Act 2022 (1965), as amended, provide for registration of collective marks?

Answer:

There are no provisions for the registration of collective marks. For compliance with the TRIPS Agreement, please refer to answer to Question 203.

Question 238.

Is colour, either alone or in combination, eligible subject matter for registration as a trademark?

Answer:

A colour alone is not an eligible subject matter for registration as a trademark. However, if a combination of colours signifies any word, symbol or picture or combination thereof, and forms a unique symbol, it shall be eligible for trademark.

Question 239.

Is registrability dependent on use? May registered marks be cancelled on the basis of non-use?

Answer:

Registrability is not dependent on use. However, in case any registered trademark is not brought into use within one year from the date of registration the Department of Industry shall conduct necessary inquiries and can cancel registration. For compliance please refer to answer to Question 203.

Question 240.

Please explain whether, under the Patent, Design and Trademark Act 2022 (1965), as amended, the nature of goods or services can serve as an obstacle to the registration of a trademark. If so, please identify and explain the subject matter excluded under the authority and the provisions of the Nepalese law which serve as the basis for exclusion.

Answer:

The provisions of Patent, Design and Trademark Act on the classification of goods and services do not hinder the registration process on the basis of the nature of goods and services. The purpose of such classification is, basically, to streamline the registration process. A trademark shall not be registered only in the following cases: if it deems to affect the dignity of any individual or institution; have an adverse effect in the well being or morale of the people in general or the national interest; if it affects the goodwill of the trademark of another person; or if such trademark has already been registered in the name of any other person.

Question 241.

Please explain how unregistered well-known marks are protected in Nepal, as required by TRIPS Article 16(2) and (3).

Answer:

There are no provisions for the protection of unregistered well-known marks in the current legislation. The provisions of Article 16(2) and (3) will be incorporated in the new industrial property law. However, as per the Act a trademark that affects the goodwill of any other person shall not be registered, this provision has led to the protection of well-known marks in Nepal.

Question 242.

Are well-known trademarks, in the meaning of Article 6 *bis* of the Paris Convention, protected in Nepal and, if so, what kind of protection is conferred?

Answer:

See Answer to Question 241.

Question 243.

Under TRIPS Article 16(1), the likelihood of confusion is presumed where an identical sign is used for identical goods or services. Please explain whether the Patent, Design and Trademark Act 2022 (1965), as amended, provides such a presumption.

Answer:

The Patent, Design and Trademark Act by the definition of trademark provides for such a presumption specifying that a mark has to be distinct enough to differentiate identical goods or services. Furthermore it prohibits the use of a registered trademark by any person other than the right-holder without the written permission of the right-holder or imitating the registered trademark in such a manner as to deceive the general public.

Question 244.

Please explain the relationship between registration as a trademark and registration as an industrial design.

Answer:

Protection for the design is provided for any form or shape of any material manufactured in any manner, whereas a title of trademark is provided for any words, symbols, or pictures or a combination thereof to be used by any firm, company or individual in its products or services to distinguish them from the products or services of others.

(c) Geographical indications, including appellations of origin

Question 245.

Could Nepal confirm that it would comply with Articles 22 and 23 of TRIPS and provide protection for geographical indications?

Answer:

Nepal confirms that it would comply with Articles 22 and 23 of TRIPS and provide protection for geographical indications. However, the time-frame for such compliance would be solely determined by the possibilities of upgrading the institutional capabilities of the concerned public entities.

Question 246.

According to the information provided, the Patent, Design and Trademark Act 2022 (1965) does not contain any provision for protection of geographical indications, including appellations of origin. Please explain how geographical indications will be protected, consistent with the requirements of TRIPS Articles 22 – 24.

Answer:

Refer to answer to previous question

Question 247.

In section 2(c) (on page 36), Nepal states that the Patent Trademark and Design Act 1965 does not contain any provisions on geographical indications, including appellations of origin. Given, however, that the WTO Agreement on TRIPS provides only that geographical indications must be protected by legal means, does Nepal have in place other methods by which they could be protected? This may include, for example, unfair competition laws, a common law rule against "passing off", or consumer protection laws.

Answer:

Currently there are no other methods that could grant protection to geographical indications including appellations of origin.

(d) Industrial design

Question 248.

Could Nepal clarify its compliance with Article 26(3) of TRIPS which provides that designs are afforded a term of protection of at least 10 years?

Answer:

As per Patent, Design and Trademark Act 1965, the title of the person in whose name a design has been registered under this Act shall remain valid for a period of five years from the date of registration. However, such design could be renewed two further times for a period of five years at a time. The total term of protection is therefore 15 years.

Question 249.

Is protection available for all industrial designs without discrimination as to industrial applicability? If not, identify excluded categories and explain the basis for each excluded category.

Answer:

There is no discrimination as such with regard to industrial applicability of a design. However, if a design hurts the prestige of any individual or institution, or adversely affects the public conduct of morality, or undermines the national interest, or in case such design has already been registered in the name of any other person, such design shall not be registered. If it has already been registered, it may be cancelled.

Question 250.

Is protection for industrial designs available without discrimination, based on the nationality of the applicant or the place of creation?

Answer:

Yes, protection for industrial designs is available without discrimination, based on the nationality of the applicant or the place of creation. But, the title to any industrial design registered in a foreign country shall not be valid unless such industrial design is registered in Nepal by the concerned person.

Question 251.

Is independent creation a defense for infringement of a registered design in your country?

Answer:

No.

Question 252.

Please explain how textile designs are protected in your country, including the requirements for securing protection, such as cost, examination, and publication.

Answer:

There are no separate provisions for the protection of textile designs, the same rules for other designs apply. Any person desirous of having design of textiles registered shall submit to the Department of Industry an application according to a prescribed form together with four copies of such design and maps, drawing and particulars thereof along with application fee of NRs100.00. On receipt of the application, the Department of Industry registers the design as a patent in the name of the applicant and then issues a certificate. The registration fee is NRs700.00 and the renewal fee is 200.00. The Department of Industry publishes the designs registered as well as particulars of their renewal or cancellation, for the information of the public.

Question 253.

Please describe in detail the rights conferred to an owner of a protected industrial design. Are there any exceptions or limitations to the rights conferred to an owner of a protected industrial design? If so, please describe the basis for each limitation or exception.

Answer:

No person shall manufacture any article by using the design registered under the Patent, Design and Trademark Act 1965 in the name of any person without the latter's written permission, or

by imitating such design so as to deceive the general public. In case any person whose design is registered under the Patent, Design and Trademark Act 1965 suffers any losses as a result of any other persons infringing his right, the Department of Industry may have the appropriate amount of such losses recovered from such offender in the form of compensation.

Question 254.

Are there provisions for extending the term of design protection? If so, please describe the nature of any extension, as well as the basis for obtaining an extension.

Answer:

A design holder must renew his design within a period of 35 days from the date of expiry of the term for which he is entitled to use the design, i.e. five years, by submitting in the prescribed form and paying NRs200.00 as a renewal fee. Such design may be renewed not more than two times for a period of five years at a time.

(e) Patents

Question 255.

Does Nepal believe that the term of protection for patents, provided for in the Patent, Design and Trademark Act 2022 (1965) is compatible with Article 33 of TRIPS which provides that patents are afforded a term of protection not less than 20 years from the date of filing?

Answer:

As per the Patent, Design and Trademark Act 1965, the title of the patentee to the patent registered under this Act shall remain valid for a period of seven years from the date of registration. However, such patent can be renewed for two times for a period of seven years at a time. That is, the term of protection available under current legislation is 21 years from the date of registration. The New Industrial Property Law will adjust the terms of protection to Article 33 of the TRIPS Agreement also covering the period between application and registration.

Question 256.

The Patent Design and Trademarks Act 1965 does not, apparently, explicitly exclude any invention from patentability. Are there any subsidiary or related regulations that would limit the scope of patentable technology?

Answer:

There is no other regulation that limits the scope of patentable inventions.

Question 257.

Are patents available for all products, processes for making, and processes for using without discrimination as to the technological field of invention? If not, please identify fields of invention that are excluded from protection, as well as the basis for each exclusion.

Answer:

Patents are available for all kinds of products and processes that fulfil the patentability requirements without any discrimination as to the technological field or invention.

Question 258.

Is it possible to obtain a patent and enjoy patent rights in Nepal without discrimination based on the nationality of the inventor or place of invention?

Answer:

Yes.

Question 259.

Is it possible to obtain a patent and enjoy rights in Nepal without discrimination as to whether products are imported and not produced in the country?

Answer:

Yes.

Question 260.

Are there provisions in Nepalese law with regard to the prohibition of the commercial use of a patent to protect public order, morality, health and the life of persons or animals, to protect plants and/or to avoid serious environmental impairment? If so, please explain how the standard is to be applied, and to what subject matter.

Answer:

A patent cannot be registered in the following circumstances:

- (a) In case the patent is already registered in the name of any other person;
- (b) In case the applicant himself is not the inventor of the patent sought to be registered by him, nor has he acquired rights over it from the original inventor;
- (c) In case the patent sought to be registered is likely to adversely affect the public health, conduct or morality or the national interest;
- (d) In case (the registration of the patent) will constitute a contravention of existing Nepal law.

In the above circumstances the Department of Industry may cancel the registration of any patent which had been registered. But, the department, before cancelling the registration of any patent, provides opportunity to the patentee to show cause, if any, why the registration of this patent should not be cancelled.

Question 261.

Does Nepalese law contain any exclusions from patentability related to diagnostic, therapeutic and/or surgical methods for treating persons or animals?

Answer:

The Patent Design and Trademarks Act 1965 is silent about it.

Question 262.

Are plants and animals (with the exception of micro-organisms) and essentially biological procedures for the production of plants or animals (which cannot be characterized as non-biological or non-microbiological procedures) excluded from eligibility for patents?

Answer:

The Patent Design and Trademarks Act 1965 does not exclude plants and animals and essentially biological procedures for the production of plants or animal from eligibility for patent.

Question 263.

Is patent protection available for the following categories or subject matter:

- (i) micro-organisms;
- (ii) plants or parts thereof;
- (iii) animals or parts thereof;
- (iv) humans or parts thereof (including tissues and organs);
- (v) genetic materials (DNA sequences);
- (vi) pharmaceutical products;
- (vii) agricultural products; and
- (viii) computer-related inventions (including software).

Answer:

The Patent Design and Trademarks Act 1965 does not exclude patent protection for the items (i)-(vii) listed above. With regard to computer software, the creator can register copyright title as per the Copyright Act 1965.

Question 264.

Please identify and describe the rights conferred to the patent owner under Nepalese law.

Answer:

The patent registered in the name of any person under the Patent, Design and Trademark Act confers all rights included in Act 28 (1) (a) (b) of the TRIPS Agreement.

Question 265.

When the subject matter of the patent is a process, do the rights conferred include the right to exclude others from using, offering for sale, selling, or importing the product obtained directly by that process?

Answer:

Yes.

Question 266.

Do the rights conferred to the patent owner differ based on the technological field of invention? If so, please identify the standard to be applied and to what subject matter.

Answer:

No.

Question 267.

Do patent owners have the right to assign or transfer the patent?

Answer:

Yes. The patent registered in the name of any person may be transferred in any manner to any other person like movable property.

Question 268.

Do patent owners have the right to conclude licensing contracts?

Answer:

Yes.

Question 269.

Does the patent law provide that an application for a patent must disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a skilled artisan? If not, please describe what must be disclosed in a patent application.

Answer:

Yes.

Question 270.

Please describe any limitation or exceptions to the rights conferred by the patent owner, including the basis for each limitation or exception.

Answer:

Currently, limitation or exceptions are not included in the Patent, Design and Trademark Act.

Question 271.

Is there protection for prior user rights in Nepal?

Answer:

Nepalese legislation does not include such provisions.

Question 272.

Is there protection for prior user rights?

Answer:

See Answer to Question 271.

Question 273.

What are the grounds and procedures for obtaining compulsory licenses in Nepal? Is authorization to obtain a compulsory licence determined on a case-by-case basis? Is authorization to obtain a compulsory licence limited to satisfy the supply of the domestic market of your country? If not, please describe the circumstances in which a compulsory licence may be issued.

Answer:

There are no provisions for compulsory licenses in the Patent, Design and Trademark Act.

Question 274.

Are competent authorities empowered to review and terminate an authorized use? If so, please identify the authorities empowered to review such authorized use. Also, please identify the circumstances in which authorized use may be terminated.

Answer:

Refer to answer to Question 271.

Question 275.

Is it mandatory for interested parties to negotiate with the right holder on reasonable commercial terms prior to obtaining a compulsory licence? If so, are there any exceptions to this requirement? If so, please state the circumstances in which this requirement will be waived.

Answer:

Refer to answer to Question 271.

Question 276.

Is the use authorized by a compulsory licence non-exclusive? Is the use authorized by a compulsory licence non-assignable? If not, please describe the assignment provisions. Are right holders entitled to remuneration when a compulsory licence has been granted? If so, what is the basis for determining the remuneration?

Answer:

Refer to answer to Question 271.

Question 277.

Are there provisions for review of decisions regarding the authorization of a compulsory licence? If so, please identify the judicial or other independent authorities that have the authority to review such decisions. Also, please describe the procedures for obtaining review of such decisions.

Answer:

Refer to answer to Question 271.

Question 278.

Are there provisions for review of decisions relating to remuneration when a compulsory licence has been granted? If so, please identify the judicial or other authorities that have the authority to review such decisions. Also, please describe the procedures for obtaining review of such decisions.

Answer:

Refer to answer to Question 271.

Question 279.

Is there a “working requirement” in Nepal? If so, does importation satisfy the working requirement?

Answer:

The Law is silent about it.

Question 280.

Are there provisions for judicial review of any decision to revoke or forfeit a patent? If so, please identify the judicial authorities, on a national or local level, that have the authority to review such decisions. Also, please describe the procedures for obtaining judicial review of patent revocation or forfeiture decisions.

Answer:

The decision made by the Department of Industries can be appealed in the Appellate Court for judicial review.

Question 281.

Are there provisions for extending the term of a patent? If so, please describe the nature of any extension, as well as the basis for obtaining an extension.

Answer:

Initially a patent is granted for seven years. Upon the payment of the prescribed fee the term of protection can be extended for a maximum of two more periods of seven years each.

Question 282.

When the claimed subject matter of the patent is a process, can the burden of proof be placed on the defendant?

Answer:

There are no specific provisions in this respect.

(f) Plant variety protection

Question 283.

Could Nepal confirm that it would comply with Article 27(3)(a) of TRIPS and provide either patent protection or a *sui generis* system for the protection of plant varieties?

Answer:

AS a WTO Member Nepal will comply with its obligations. Nepal is examining the implications of different types of protection, i.e. patents, a *sui generis* system, or a combination thereof, on the country development process. No decision of how plants varieties will be protected has yet been reached.

Question 284.

We understand current Nepalese IPR laws do not protect plant varieties: Please describe how plant varieties will be protected in Nepal, as required by Article 37 of the TRIPS Agreement.

Answer:

Refer to answer to Question 283.

Question 285.

Please describe steps taken to protect plant varieties. When does Nepal expect to enact legislation to protect plant varieties?

Answer:

Nepal is examining this issue. However, at this point it is difficult to envisage when the legislation could be enacted.

Question 286.

It is stated in section 2(f) (on page 37) that the Patent Design and Trademarks Act 1965 does not provide for protection of plant varieties. Para 2(e) states, however, that the Act does not explicitly exclude any invention from patentability. Would there be any reason why newly developed plant varieties, if fitting the relevant definition of invention, could not be protected by patent under the Patent Design and Trademarks Act 1965?

Answer:

IPR protection for plant varieties may have implications for bio-diversity. Nepal will consider this issue after making an assessment of these implications.

(g) Layout designs of integrated circuits

Question 287.

Could Nepal confirm that it would comply with Section 6 of TRIPS and provide for the protection of layout-designs (topographies) of integrated circuits?

Answer:

The new Industrial Property Law will consider the protection of layout-designs of integrated circuits.

Question 288.

We understand current Nepalese IPR laws do not protect IC layout designs: Please describe how layout-designs of integrated circuits will be protected in Nepal, as required by Articles 35 through 38 of the TRIPS Agreement.

Answer:

As the Washington Treaty of 26 May 1989 provides that the protection of the layout of integrated circuits can be granted through a diversity of legal forms, leaving each country the freedom to determine which form it will adopt, Nepal will carefully analyse the implications of different alternatives.

Question 289.

Please identify whether substantial steps have been taken to protect layout-designs of integrated circuits. Also, please identify when legislation to protect layout-designs of integrated circuits is expected.

Answer:

Refer to answers to Questions 287 and 288.

Question 290.

How would Nepal propose to provide protection for layout designs of integrated circuits, consistent with the requirements in Articles 35-38 of the WTO Agreement on TRIPS?

Answer:

Refer to answers to Questions 287 and 288.

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

Question 291.

Could Nepal confirm that it would comply with Section 7 of TRIPS and provide for the protection of undisclosed data?

Answer:

Protection of undisclosed information will be provided in the new Industrial Property Law.

Question 292.

Please describe how undisclosed information will be protected in Nepal, as required by Article 39 of the TRIPS Agreement.

Answer:

No decision has been made yet. However the provisions of Article 39 paragraphs 2 and 3 will be taken into account in the new legislation.

Question 293.

Please identify whether substantial steps have been taken to protect undisclosed information. Also, please identify when legislation to protect undisclosed information is expected.

Answer:

Refer to answer to previous question and to question 204.

Question 294.

Section 2(h) of the Memorandum (on page 37) states that the Patent Design and Trademarks Act does not provide protection for undisclosed information, including trade secrets and test data. In the absence of this, does Nepal have laws relating to confidentiality, which could be applied to provide such protection? Please explain how the financial and other penalties prescribed for infringement of various intellectual property rights are sufficient to provide a deterrent.

Answer:

Penalties prescribed for infringement of IPR's in the existing legislation seems to be insufficient. The new Industrial Property Law will provide sufficient protection in this regard.

4. Enforcement

Question 295.

What amendments are considered necessary to bring existing legislation and practice into compliance with Part III of the TRIPS Agreement, including Section 3 on provisional measures, Section 4 on border measures and Section 5 on criminal procedures?

Answer:

A profound revision of existing IPR legislation and other laws, civil and criminal, will have to be undertaken to bring them in compliance with Part III of the TRIPS Agreement. Nepal intends to address to this issue by the enactment of the new Industrial Property Law, and by introducing the required amendments in related legislation.

Question 296.

Could Nepal please provide more details of the "broader measures" which can be taken by its Court by way of its compliance with Part III of Section 4 of TRIPS (special requirements related to border measures)?

Answer:

As copyright, patents, design and trademark cases do not currently fall under criminal procedures, they are civil cases, the courts can only rule with regard to the compensation due to the right holder.

(a) Civil judicial procedures and remedies

Question 297.

Please give more details of the procedure in a suit for copyright infringement, and give an indication of the possible outcomes, including remedies available.

Answer:

Any complaint on copyright violation should be filed within six month of such violation. The Registrar of Copyrights has the authority to make decisions on infringement, and remedies of copyright. Appeals can be filed with the Appellate Court. The Court processes the case under the Short Procedural Act 1971. In cases of copyright violation, remedies are available provided that copyright has been registered.

Question 298.

It appears that the Department of Industry has civil administrative enforcement authority in patent, design and trademark cases, although the scope of its authority and the procedures by which it is executed are unclear. Does the Department of Industry have the legal authority to investigate complaints and/or make substantive decisions of infringement in patent, design and trademark cases? If yes, does the Patent, Design and Trademark Act, or other laws, provide for administrative enforcement procedures which comply with the provisions of TRIPS Article 41?

Answer:

The Department of Industries has the authority to investigate and decide on infringement in patent, design and trademark cases. The procedure specified in the Short Procedural Act 1971 is followed. Current procedures comply with Article 41 of the Agreement.

Question 299.

Do the administrative enforcement procedures provide for the following:

- (i) a timely, written notice to the defendant containing the basis of the claims, as required by TRIPS Article 42?**
- (ii) the parties with an opportunity to substantiate their claims and to present and have made available any relevant evidence, as required by TRIPS Articles 42 and 43(1)?**
- (iii) a means to identify and protect confidential information, as required by TRIPS Article 42?**
- (iv) a reasoned, written decision on the merits of the case promptly made available to the parties, as required by TRIPS Article 41(3)?**
- (v) compensation to a party wrongfully enjoined or restrained, as required by TRIPS Article 48.**

Answer:

Current procedures provide for (i) and (ii). Nepal will review current procedures to comply with (iii), (iv) and (v).

Question 300.

Please describe the time-frame for the Department of Industry's enforcement procedures, including the length of time it takes to investigate, review evidence, determine infringement, and issue a decision to the parties.

Answer:

Depending upon the nature and scale of the infringement the Department of Industry is taking decisions generally within three to four months.

Question 301.

It appears that the Department of Industry has the discretion to impose a "reasonable" fine on infringers for violations of the Patent, Design and Trademark Act, 1965. What criteria does the Department of Industry use to determine the amount of the fines? Are the amounts the same as those identified in your submission? (Please refer to page 38, paragraph(a), subsections (i), (ii) and (iii) of your accession Memorandum.)

Answer:

The amount of the fines are those mentioned in the Memorandum. The level of the fines will be reviewed at the time of the amendment of the legislation.

Question 302.

Does the Department of Industry have the legal authority to impose remedies other than fines in patent, design and trademark cases? Specifically, does it have the legal authority to order the confiscation and destruction of infringing goods, as required by TRIPS Article 46?

Answer:

The Department of Industry (DOI) has legal authority to confiscate and dispose of goods related to an infringement of IPR's.

Question 303.

It appears that the local Appellate Courts have the legal authority to review the Department of Industry's decisions. Do the Appellate Courts also review decisions of other administrative agencies with enforcement authority in intellectual property cases. If "yes", please explain.

Answer:

In copyright cases, the decisions of the Registrar, can be appealed also to the Appellate Court.

Question 304.

Please describe the procedures by which local Appellate Courts exercise their authority and specifically address each of the administrative enforce questions posed as (i) – (v) above.

Answer:

Any of the parties in a dispute not satisfied with the decision of the DOI, can appeal to the Appellate Court within 35 days of the receipt of notice from the DOI. The procedures include:

- (a) a timely written notice to the defendant containing the basis of the claims;
- (b) opportunity for the parties to substantiate their claims and to present and have made available any relevant evidence;
- (c) a reasoned, written decision on the merits of the case promptly made available to the parties.

The Act foresees compensation. However, legal instruments have yet to be developed in order to implement it.

Question 305.

Under what circumstances will Appellate Courts issue an order of mandamus or injunction? Please describe the nature of the order of mandamus or injunction (i.e. whether it orders a party to desist from infringing activity or prohibits the entry of infringing goods, as required by TRIPS Article 44).

Answer:

These circumstances are not defined in the Act.

Question 306.

Please describe the procedures by which the Supreme Court reviews local Appellate Court decisions and specifically address the questions posed under the administrative enforcement procedures (i) – (v) above.

Answer:

The Supreme Court reviews the following:

- whether the Appellate Court has followed due procedures;
- whether the principle of natural justice has been violated;
- whether decisions have been made within the limits of its jurisdiction.

Question 307.

Are there other judicial authorities in Nepal with the legal authority to investigate complaints and/or make substantive decisions of infringement in patent, design and trademark cases? If “yes”, please list the courts and describe the scope of their authority. Can IP owners initiate complaints directly with those judicial authorities?

Answer:

No.

Question 308.

Please describe the enforcement authority of the Government of Nepal (Ministry of Youth, Sports and Culture) in copyright cases and the functions of the Registrar. Is the Government of Nepal's enforcement authority limited to reviewing appeals of the Registrar's decisions? Please describe the procedures by which the Government of Nepal exercises its enforcement authority and specifically address the questions posed under the administrative enforcement procedures (i) – (v) above. What remedies does the Government of Nepal have the legal authority to impose?

Answer:

The Ministry of Youth, Sports and Culture has no enforcement authority. As Registrar, the National Library receives the complaints, undertake the investigation, and make decision on infringement. Decisions made by the Registrar can be appealed to the Appellate Court.

Question 309.

Are there other entities (administrative or judicial) with enforcement authority for violations of the Copyright Act, 1965? If “yes”, please list those entities and describe the scope of their authority. What remedies do they have the legal authority to impose?

Answer:

Yes. Refer to answers to Questions 314 and 315.

Question 310.

Please explain whether the fines imposed in intellectual property cases are an effective deterrent to further infringement, as required by TRIPS Article 41, and whether they vary if the infringer is an individual versus an entity or organized group.

Answer:

There is no difference if the infringer is an individual, an entity or an organized group. The fines will be revised when amending legislation for them to be an effective deterrent.

(b) Provisional measures

Question 311.

It is stated in section 4(b) (on page 39) that there are no provisional measures provided for the enforcement of provisions in the Patent Design and Trademarks Act. Are provisional measures consistent with Article 50 of the WTO TRIPS Agreement available under the general jurisprudence and judicial procedures of the Kingdom of Nepal?

Answer:

Legal authority will be provided when enacting new legislation to the respective entities to decide on, and apply, provisional measures to prevent an infringement of any intellectual property right from occurring.

Question 312.

TRIPS Article 50 obligates Members to allow local judicial authorities to order provisional measures to prevent an infringement from occurring.

Answer:

Refer to answer to Question 311.

Question 313.

Please indicate whether any existing laws will be amended or new legislation enacted to provide for such measures.

Answer:

Refer to answer to Question 203.

(d) **Any special border measures**

Question 314.

Under current Nepalese law, protection at the border exists for unauthorized copyrighted publications imported in commercial quantities. Please describe the entity (administrative or judicial) which exercises this authority and the pertinent procedures.

Answer:

The customs authority is the administrative entity to take such measures.

Question 315.

Describe the procedures under Nepalese law by which competent authorities suspend the release of imported counterfeit trademark and pirated copyright goods, in accordance with the provisions of TRIPS Section 4 (Articles 51 – 59).

Answer:

These are yet to be defined.

(e) **Criminal procedures**

Question 316.

TRIPS Article 61 requires Members to provide criminal procedures and penalties in cases of wilful trademark counterfeit and pirated copyrighted goods. Please indicate whether any existing laws will be amended or new legislation enacted to comply with this provision.

Answer:

Please refer to answer to Question 203.

VI. TRADE-RELATED SERVICES RÉGIME

1. General Introduction

Question 317.

Would Nepal please provide comprehensive advice on visas and work permits, restrictions on length of stay, fees, and arrangements for obtaining and renewing these?

Answer:

Tourist visas are available at a fee of US\$1 per day, up to five months stay per calendar year. As per the FITTA Act 1992 a foreign national visiting the Kingdom of Nepal in connection with undertaking any study or carrying out any research with the objective of making an investment in Nepal is provided with a non-tourist visa up to six months. A foreign investor, its dependent family or the authorised representative of such investor and its dependent family are provided with a business visa until the foreign investment is retained.

As per the Industrial Enterprises Act 1992, the manpower required for any industry, including services, have to be recruited among Nepalese citizens. However, if any industry cannot be operated without expatriate manpower, foreign nationals may be appointed in such industry with the prior approval of the Department of Labour for a period of five years. If a person so appointed happens to be a technician of a special category not available within Nepal, such person may, with the approval of the Department of Labour, be granted an additional five-year period. In these cases the request for a work permit has to be filed with the Department of Labour. Upon the concession of the work permit the respective non-tourist visa will be granted to the person.

Question 318.

Does Nepal intend to cover other sectors (in addition to those mentioned in the Memorandum) such as medical, paramedical, midwifery and pharmaceutical services, taxation advice services, architectural services, tourism services, mountain guide services, travel agency services and urban planning services in its offer?

Answer:

Nepal, in the Memorandum on Foreign Trade Regime, supplied information on the overall market structure and regulations in those service sectors. The fact that information was provided on those sectors on the basis of the availability of information should not be interpreted that Nepal's initial offer would necessarily incorporate the service sectors mentioned in the Memorandum.

Question 319.

Nepal is requested to provide the Working Party, as soon as possible, with a substantial initial offer on services in the GATS framework, binding liberal market access conditions and national treatment guarantees on an MFN basis for foreign service suppliers.

Answer:

Nepal is undertaking the required analysis and evaluations to draft an initial offer on services. Nepal is ready to adopt specific commitments on market access and national treatment taking into consideration its economic situation and its trade, financial and development needs. Nepal is confident that WTO Members will take into consideration the provisions of Article IV.3 of the GATS during the accession process.

2. Policies Affecting Trade in Services

1. Professional services

(a) Legal services

Question 320.

The Memorandum states that "no permission is granted for making foreign investment in the legal services", and that only Nepalese citizens may be registered with the Bar Council, of which it is necessary to be a member in order to legally practice law in Nepal. Would Nepal please consider revising this policy by allowing foreign investment and participation in legal services?

Answer:

Refer to answer to Question 319.

Question 321.

The Memorandum states that only Nepalese citizens may practice legal services. How and with which scope does Nepal intend to allow for the provision of Legal services by foreign legal consultants?

Answer:

Refer to answer to Question 319.

(b) Accounting, auditing and bookkeeping services

Question 322.

The Memorandum states that no permission is granted for the establishment of foreign enterprises in the accounting business and that a foreign auditor or accountant is not eligible to obtain the membership of the "Institute of Chartered Accountants". Provision of the services in question is exceptional and decided on an individual and case-by-case basis. How and with which scope does Nepal intend to allow provision of these services by foreign professionals?

Answer:

Refer to answer to Question 319.

Question 323.

Nepal's accounting sector follows the same restrictive line as the legal sector. "No permission is granted for the establishment of foreign enterprises or for foreign investment, in the accounting business." Foreigners cannot work as accountants in Nepal and the FITT Act makes no specific mention of the work of foreign auditors in Nepal. The Council is allowed to take help from foreign "chartered accounts associations", foreign experts, universities or associations, for conducting auditors' exams, and may recognize foreign auditors' licence, chartered institutes and auditors' exams with prior approval from the Government of Nepal. Can Nepal clarify whether these foreign credentials are recognized by Nepal for the purpose of seeking foreign assistance, or for allowing foreigners to practice?

Answer:

Foreign auditors can apply and obtain permission to work in Nepal if they fulfil the requirements stated in the Labour Law, that is if the expertise required cannot be provided by a national.

Question 324.

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." Would Nepal please clarify this point?

Answer:

If a company requires the specific knowledge of a foreign auditor, refer to previous answer, then the company is required to appoint a Nepalese licensed auditor to work with the foreign auditor.

Question 325.

We note the "Council may cancel the registration of membership or licence issued to a person if it is found to have been made by mistake. It is difficult to understand how this can happen when it appears that only Nepalese nationals may practice, and foreigners only at the invitation of the Council. This suggests that the issuing of licences is either done on an arbitrary basis or that controls are not in place to monitor registration. Would Nepal please clarify the laws and processes relating to this sector, and also explain whether there are any generally accepted accounting principles in Nepal?"

Answer:

The membership and licence can be cancelled if it is found that the person did not fulfil the requirements to obtain such a license, for example if false information was provided to the Council. There are generally accepted accounting principles in Nepal, following the guidelines of the International Accounting Standards.

- (c) Engineering services

Question 326.

Nepal states that "there is no restriction on the establishment of engineering related manufacturing industries". Could Nepal clarify exactly what these industries are, what sort of foreign presence is permitted, and the laws and regulations associated with this sector?

Answer:

There are no specific laws regulating separately engineering services provided by companies. Engineering companies operate under the Industrial Enterprises Act 1992, and under the Foreign Investment and Technology Transfer Act 1992. As per the Foreign Investment Act permission shall not be granted for making foreign investment in engineering services. As per the Industrial Enterprise Act the manpower required for any industry, including engineering services, has to be recruited from among Nepalese citizens. However foreign engineers can get a work permit on technical grounds. Permission can be obtained for the establishment of foreign construction companies in Nepal.

Question 327.

The Memorandum states that no permission is granted for the establishment of foreign enterprises or for foreign investment, in the engineering consultancy services. Does Nepal allow for the access of individual engineering consultants? What are in the case of temporary movement of engineers, the conditions to comply with?

Answer:

As per the Labour Act 1991, a work permit can be obtained from the Ministry of Labour on the ground that specific technical knowledge is required.

3. Real estate services

Question 328.

The Memorandum states that no permission can be granted for the establishment of a foreign company or for foreign investment, in the real estate business. How and with which scope does Nepal intend to allow provision of these services by foreign professionals?

Answer:

Refer to answer to question 319.

4. Other Business services

(a) Management consulting services

Question 329.

No establishment of firms is permitted, but does Nepal allow for temporary entry of consultants? Why is foreign investment not permitted in management consultancy?

Answer:

Refer to answer to Question 319.

(b) Placement and supply services of personnel

Question 330.

Nepal explains that there are no specific regulations on this activity except for the regulations concerning Nepalese workers abroad. Does it mean that foreign placement agencies are entitled to establish freely in Nepal and offer their services for the supply of personnel in the domestic market?

Answer:

The establishment of foreign placement services is regulated by the Overseas Employment Act 1992 which bans such activities for foreigners.

5. Communication services

- (b) Courier services

Question 331.

We welcome the fact that private agencies are able to provide courier services in Nepal. However, could Nepal please provide further information on licence requirements, any restrictions on the number of operators, and whether or not a wholly foreign owned enterprise may conduct business?

Answer:

As per the Foreign Investment and Technology Transfer Act, the establishment of a foreign courier agency for providing external courier services in Nepal requires permission from the Department of Industry, and the subsequent registration in that Department. There are no restrictions on the number of operators or in the share of the equity to be held by foreigners. However, the Foreign Investment and Technology Act reserves internal courier services for Nepalese citizens.

- (c) Telecommunications services

Question 332.

We welcome Nepal's policy of encouraging the involvement of national and foreign sector investors in the development and operations of telecommunication services within the country. However we seek clarification on a number of points.

Answer:

Not applicable.

Question 333.

Would Nepal please provide further information on the Nepal Telecommunication Authority (NTA)? When will it be established? Are the future NTA duties currently being carried out by separate bodies, or by a single entity?

Answer:

Nepal Telecommunication Authority, an autonomous body, is to be established with a view to managing and regularizing the telecommunications service and making it reliable and easily available to the public. The functions of Nepal Telecommunication Authority as listed in the Telecommunication Act 1997 are, *inter alia*, to provide suggestions to the Government of Nepal on the policy, plan and programme to be adopted by the Government of Nepal for the development of telecommunication services, to make necessary arrangements to avail basic telecommunication services and facilities in all rural and urban areas throughout the Kingdom of Nepal, to ensure private sector participation, both domestic and foreign, in the operation of telecommunication services, to make arrangements for coordination and ensure healthy competition among the service suppliers, to prescribe, fix and approve the standard and quality standard of the plant and equipment relating to the telecommunication and telecommunication services, to regularize and systematize the telecommunication service, to grant licence to operate telecommunication services in the private sector, and to approve and regularize the fees to be collected by the licence-holder for providing telecommunication services. The Authority may, in view of the policy and guidelines of Nepal, issue

necessary orders or directives to the licensee and it shall be the duty of the concerned person to comply with such orders and directives.

The law establishing the Nepal Telecommunication Authority has been enacted and the process for the establishment has been already initiated. It is expected that it will be established in the near future.

The Ministry of Information is currently carrying out the future NTA duties.

Question 334.

Would Nepal please codify and clarify the laws and regulations concerning ownership of all telecommunications structures; buy-back of these structures; licence expiry and renewal (why is the maximum term allowed for a licence to operate 25 years?); requirements for rural communications (15 per cent of investment on all aspects of services paid into a fund each year out of annual income); and equity participation?

Answer:

The land, building, plant, equipment and other structures related to the telecommunication service developed with more than 50 per cent of its investment by foreign persons or a corporate body shall be under the ownership of the Government of Nepal after the expiry of the period of the license. However, such assets so owned by the Government of Nepal may be purchased by the previous licensee upon payments to the Government of Nepal at a price fixed by the Committee and after obtaining the licence once again, the telecommunication service may be operated.

In case of the telecommunication service operated with the investment of foreign persons or a corporate body up to 50 per cent, the previous licensee may, after the expiry of the period of the license, operate the telecommunication service by obtaining the licence once again.

As per the Telecommunication Act 2053, the period of licence shall be of 25 years at the maximum. The Foreign Investment and Technology Transfer (FITTA) Act 1992 is applicable with regard to equity participation of the foreigners. It does not put any limit on foreign participation in equity.

Question 335.

Would Nepal please clarify what is meant by "all the telecommunication services are to be operated by the licensee and the existing monopoly operator NTA have to obtain the licence within one year"?

Answer:

After the commencement of the Telecommunication Act 1997, no one may operate the telecommunication service without obtaining a license. Those who have been operating the telecommunication service since before the commencement of the Act, shall be required to submit an application to the Authority for the licence setting out the particulars relating to the services having been operated by them, within six months and shall have to receive the licence within one year from the date of the commencement of the Act.

Question 336.

Could Nepal please provide information on the laws, regulations and processes on how the NTA will "determine the type of services and number of licenses to be issued by a public notification"?

Answer:

The Authority, before issuing any Licence relating to any telecommunication service, invites application to operate the telecommunication service through a public notification. The type of telecommunication service and the number of Licenses are specified by the Government of Nepal by a notification published in the Nepal Gazette on the recommendation of the authority. No notification has been published yet.

Within the period of five years from the date of the issue of the Licence of any telecommunication service, in general, no other licence shall be issued to operate the same telecommunication service.

7. Distribution services

Question 337.

We note that "there are no specific provisions regarding the involvement of foreigners in wholesale trade" and that "no permission is granted for the establishment of foreign companies or for foreign investment in retail trade". Would Nepal reconsider these restrictions and make a comprehensive offer in this sector?

Answer:

Refer to answer to Question 319.

Question 338.

It is explained that fixed establishments handle imported goods. How are domestic produced goods being distributed? Is the understanding correct that foreigners are not permitted to engage in retail distribution?

Answer:

Imported and domestic goods are distributed equally through the distribution chains. As per the Foreign Investment and Technology Transfer Act no permission shall be granted for making foreign investment in retail business.

8. Financial services

- (a) Insurance

Question 339.

According to the 1992 Insurance Act, insurer licences need to be renewed every year: what is the procedure to comply with for such renewal? Is Nepal having a different regime for life and non-life insurance companies? Is insurance intermediation such as brokerage and agency allowed; is there a specific legal framework?

Answer:

The insurer is required to apply for the renewal of the registration certificate before April 13 (New Year's day in the Nepalese Calendar) in the prescribed format along with the renewal fee to the Insurance Committee formed as per the Insurance Act 1992. The renewal procedure is similar for both life and non-life insurance companies.

Under Insurance Act 1997, one can have a licence to act as an agent or surveyor upon the recommendation of the insurer.

Question 340.

There is a requirement that licenses to practice as insurance companies be renewed each year. Would Nepal reconsider this requirement?

Answer:

No decision has been made in this respect.

Question 341.

Nepal has stated a number of grounds upon which the registration of an insurer may be cancelled and we seek clarification on the regulations and guidelines governing these grounds for cancellation. Which Nepalese regulatory body will administer these guidelines? Would Nepal please clarify what is meant by a licence to practice will be cancelled "in case the Nepalese insurer is not provided national treatment in the country of head office of an insurer incorporated outside Nepal"?

Answer:

The National Insurance Committee administers the guidelines. The Committee may cancel the insurer:

- if the insurer does not commence his business within six months of registration;
- if the Committee feels that total liabilities of the insurer is higher than his assets;
- if the insurer does not discharge his liability within three months in accordance with the final verdict of the court;
- if the Committee feels that the Nepalese insurer is not provided national treatment in the country of head office of an insurer incorporated outside Nepal;
- if the insurer does not open its office in the territory of the Kingdom of Nepal.

In the case that there is no reciprocal treatment granted to Nepalese insurance companies in another country, the licence of companies from that country operating in Nepal may be cancelled.

Question 342.

Nepal has stated that an insurer is required to appoint an agent in his Nepal-based head office. Would Nepal please provide details on the role and responsibilities expected of such an agent?

Answer:

It has not been an envisaged special role for such agent. It is expected that such agent would be an instrument to establish links with potential customers.

Question 343.

Can Nepal advise whether it is prepared to allow cross-border supply in the insurance services sector?

Answer:

Refer to answer to Question 319.

Question 344.

What fees are required to register an insurance company in Nepal? Are the fees the same for domestic and foreign firms?

Answer:

The fees are the same for foreign and domestic firms. The registration fee amounts to NRs50,000 (approximately US\$735) .

Question 345.

Are foreign insurance companies required to make any additional deposits or other commitments not required of domestic insurance companies?

Answer:

No.

(b) Banking and other financial services

Question 346.

Could Nepal please confirm that it has submitted to the WTO Secretariat all regulations and restrictions concerning foreign representative banks, branch offices and liaison offices?

Answer:

Regulations and restrictions concerning foreign representative banks and liaison offices are provided in WT/ACC/NPL/2, Section VI.2.8.b. However, such representative banks and liaison offices are forbidden to engage in cash transactions such as lending and deposits. No foreign bank is allowed to open a branch office in the country.

Question 347.

Could Nepal advise whether it has legislation in place which covers money laundering, consumer credit, guarantee, indemnity and insider trading? If so, could Nepal provide information on these measures?

Answer:

Existing banking laws and regulations do not cover money laundering, consumer credit, indemnity and insider trading. However, with regard to guarantee Nepal follows international convention, UCP 500.

Question 348.

Are there any restrictions on the number of foreign nationals working in a foreign bank? If so, would Nepal please consider removing these restrictions?

Answer:

There is no specific provision for the restriction on the number of foreign nationals working in a foreign bank in legislation regulating banking and financial services. However, the provisions of the Industrial Enterprises Act of 1992 apply to all service sectors.

Question 349.

We seek clarification of what is meant by the "approval for establishing a commercial bank is granted if all the conditions set in the Act ... are met, and on the basis of an economic needs test". Would Nepal please provide details of the approval requirements and information on the economic needs test.

Answer:

To establish a commercial bank an application must be filled and submitted to the Central Bank. The application includes, among other things, the feasibility study, credibility of the promoters, and all documents related to establish a bank under the Company Act 1997 such as memorandum, prospectus, copy of agreement between promoters etc. and other documents specified by the Central Bank such as a letter of intent of parent company in the case of joint venture. The application is evaluated initially by a committee formed under the chairmanship of the Chief, Banking Operation Division, Central Bank. The evaluation report is forwarded to the Licensing Recommendation Committee headed by the Deputy Governor, Central Bank. The final approval shall be granted by the Board of Governors of the Central Bank.

Question 350.

Have any foreign bank branches been licensed by Nepal's Central Bank? Have there been applications to conduct banking in Nepal?

Answer:

No.

Question 351.

What criteria are considered with regard to the "economic needs test" which is required before a licence can be granted to a financial company or commercial bank?

Answer:

The Central Bank has not set out any criteria for economic needs test. The feasibility study report is the basis for economic needs test.

Question 352.

Please outline what steps Nepal is ready to take to provide commercial opportunities in the financial services sector? How does Nepal plan to expand foreign investment and economic growth opportunities without the availability of standard international financial services?

Answer:

Refer to answer to Question 319.

Question 353.

What is the foreign equity participation permitted in the joint equity ownership? Does it also mean that Nepal does not permit establishment of branches? Can Nepal provide more information on the economic needs test and criteria considered to obtain approval to establish a bank or financial institution?

Answer:

The maximum level of foreign equity participation permitted in joint equity ownership is 50 per cent. However, it does not mean to permit establishment of branches by the parent company.

For economic needs test and criteria please refer to Question 351.

Question 354.

Provision of transfer of financial information: Nepal explains which information and how it can be transferred. Does Nepal also allow for the establishment of financial information service providers who are transmitting such information?

Answer:

The establishment of foreign financial information service providers would be governed by the Industrial Enterprises Act and by the Foreign Investment and Technology Transfer Act. Permission can be given to a foreign company to engage in this business as the Foreign Investment Act does not include this service among those reserved for nationals.

10. Tourism and trade-related services

Question 355.

What are the investment and establishment conditions for foreign hotels: equity participation? Other criteria to comply with?

Answer:

All foreign investment in Nepal hotel investments require permission issued by the Department of Industries, and subsequent registration. There are no equity participation requirements. Only tourist lodging is reserved for nationals as per the Foreign Investment and Technology Transfer Act.

3. Market Access and National Treatment

Question 356.

We understand that foreign service suppliers are banned from providing legal, accounting, engineering, or business consultancy services, as well as from trading in real estate or retail trade. Please outline Nepal's plans to ease restrictions on foreign investment in the following service sectors, in order to complement liberalization efforts in other areas:

- legal services;
- accounting services;
- management consulting services;
- engineering services;
- real estate services;
- retail trade;
- tourism and travel related services.

Answer:

Refer to answer to Question 319.

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

1. Bilateral or Plurilateral Agreements Relating to Foreign Trade in Goods and Trade in Services

Question 357.

Does Nepal have any special customs arrangements with any part of China, e.g., special tariff rates or border formalities with Tibet?

Answer:

As per the Nepalese Custom Tariff products produced and imported from Tibet, the autonomous region of the People's Republic of China are granted a rebate in the chargeable *ad valorem* rate of custom duty by 20 per cent up to the tariff rate of 40 per cent, and by 10 per cent on rates above that.

Question 358.

According to Annex 8B of WT/ACC/NPL/2/Add.1, Nepal provides preferential treatment to certain imports from India, including agriculture, horticulture and forest produce and minerals, which have not undergone any processing: rice, pulses and flour; timber; jaggery; animals, birds and fish; bees, bees-wax and honey; raw wool, goat hair and bones, as used in the manufacture of bone-meal; milk, home made products of milk and eggs; ghani-produced oil and oilcakes; ayurvedic and herbal medicines; articles produced by village artisans and mainly used in villages; akara; yak tail; and any other primary products which may be mutually agreed upon.

Please list all products, including HS numbers, for which Nepal provides preferential treatment for imports from India. For each such product, please provide the preferential tariff rate.

Answer:

As per the Nepalese Custom Tariff all goods imported from India into the Kingdom of Nepal are granted a rebate in the chargeable *ad valorem* rate of custom duty by 20 per cent up to the tariff rate of 40 per cent, and by 10 per cent on rates above that. The primary products eligible for preferential treatment, on a reciprocal basis, as provided by Article IV of the Trade Agreement with India, are those listed in Annex B of WTA/ACC/NPL/2/Add 1. These products are exempted from duties or any form of quantitative restriction on a reciprocal basis in the context of their border trade.

S.No.	HS Code	Description of goods
1.	7-14	Agriculture, horticulture and forest produce and minerals which have not undergone any processing
2.	10.06, 07.13 and 11.01	Rice, pulses and flour
3.	44.09	Timber
4.	17.01, 11.90	Jaggery (gur and shakhar)
5.	03.01 to 03.07 and 01.01 to 01.06	Animals, birds and fish
6.	04.09 & 04.10	Bees, bees-wax and honey
7.	51.01, 05.06	Raw wool, goat hair and bones as are used in the manufacture of bone-meal
8.	04.01 - 04.07	Milk, home made products of milk and eggs
9.	23.05	Ghani-produced oil and oilcakes
10.	30.04	Ayurvedic and herbal medicines
11.	44.20	Articles produced by village artisans as are mainly use in villages
12.	23.08	Akara
13.	05.11	Yak tail
14.		Any other primary products which may be mutually agreed upon

Question 359.

We hope that the Treaty of Trade Between Nepal and India signed on 6 December 1991 which exempts customs duties and restrictions on certain mutually agreed items, is consistent with the conditions provided in the said Article, whereby according to Article XXIV of the GATT 1994, any free trade agreements which abolish tariffs in the regions shall be applied to "all the trade".

Answer:

Nepal considers that the current Agreement with India is consistent with GATT 1994 ; as provided by the "Enabling Clause".

Question 360.

Under the South Asia Preferential Trade Arrangements (SAPTA), Nepal grants preferential market access to certain imports from Bangladesh, Bhutan, India, Maldives, Pakistan and Sri Lanka. Please identify each product, including HS numbers, for which Nepal provides preferential treatment for imports from SAPTA parties. For each such product, please provide the applicable preferential tariff rate.

Answer:

Under the SAARC Preferential Trading Arrangement (SAPTA), three rounds of trade negotiation have been concluded. Nepal grants preferential market access to Bangladesh, Bhutan, India, Maldives, Pakistan and Sri Lanka to 435 commodities. The list of commodities along with HS number and applicable preferential tariff rate will be submitted on diskette to the Secretariat.

Question 361.

Does Nepal provide better than MFN treatment to any SAPTA service providers pursuant to the SAPTA Arrangements? If yes, please identify the sector and applicable MFN exemption.

Answer:

SAARC Preferential Trading Arrangement (SAPTA) does not cover trade in services.

2. Economic Integration: Customs Union and Free Trade Area Agreements

Question 362.

Has the South Asian Free Trade Area (SAFTA) agreement been notified to the WTO as an interim agreement to form a free trade area? What countries are parties to the SAFTA agreement? Does this agreement cover both goods and services?

Answer:

The Tenth SAARC Summit, which took place in 1998, has decided to prepare a draft of a comprehensive agreement of South Asian Free Trade Area (SAPTA) by 2001. As the agreement is in the inception stage, it has not been notified to the WTO.

The SAPTA countries shall be the parties to the proposed SAFTA agreement. The coverage of the agreement has not yet been concluded. However, it is expected that the agreement will cover trade in goods and services as well as trade-related intellectual property rights.

Question 363.

Which trade agreements does Nepal consider will need to be notified under Article XXIV of the GATT 1994 or Article V of the GATS?

Answer:

Nepal considers that none of its trade agreements has to be notified under Article XXIV of the GATT 1994 or Article V of the GATS.

Question 364.

Please provide the Working Party with the texts of all Free Trade Agreement's to which Nepal is a Party.

Answer:

Nepal is not a party to any Free Trade Area Agreement.
