

**Working Party on the
Accession of Nepal**

Original: English

ACCESSION OF NEPAL

Memorandum On The Foreign Trade Regime

Addendum

As indicated in document WT/ACC/NPL/2, the Annexes and Tables listed in the Memorandum are reproduced hereunder.¹

**Groupe de travail de
l'Accession du Népal**

ACCESSION DU NÉPAL

Aide-mémoire sur le régime de commerce extérieur

Addendum

Comme il est signalé dans le document WT/ACC/NPL/2, les annexes et tableaux indiqués dans l'Aide-mémoire sont reproduits ci-après.¹

**Grupo de Trabajo sobre la
Adhesión de Nepal**

ADHESIÓN DE NEPAL

Memorándum sobre el régimen de comercio exterior

Addendum

A continuación se reproducen los anexos y cuadros enumerados en el Memorándum, conforme a lo indicado en el documento WT/ACC/NPL/2.¹

¹ English only/anglais seulement/Inglés solamente.

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ANNEX 1

STATISTICS AND PUBLICATIONS

I. FOREIGN TRADE STATISTICS, RESPONSIBLE AGENCIES

There are two main institutional bodies involved in collecting, processing and publishing foreign trade statistics.

Trade Promotion Center (TPC):

It collects and publishes country wise and commodity wise trade figures.

Central Bank or Nepal Rastra Bank(NRB):

It Publishes trade figures as well as other economic statistics collected from different ministries. NRB is the sole agency in compiling, processing and publishing Nepal's foreign trade with India.

Besides these there are other institutions like Department of Customs (DOC) Central Bureau of Statistics (CBS), Ministry of Finance (MOF), Ministry of Commerce (MOC) who are involved in dissemination of trade and economic figures.

II. PUBLICATIONS RELATED TO FOREIGN TRADE STATISTICS

- Quarterly Economic Bulletin-NRB
- Monthly Indicators-NRB
- Economic Report (Yearly)-NRB
- Statistical Pocket Book-TPC
- Statistical Year Book-TPC
- Economic Survey-MOF

III. STATISTICAL DATA

Table 1: Main Economic Indicators

Indicators	1992/93	1993/94	1994/95	1995/96	1996/97
Nominal GDP(in Million Rs.)	165,262	191,540	210,138	239,443	
Agriculture	70,090	80,589	85,442	96,300	
Non-Agriculture	95,172	110,951	124,696	143,143	
Real GDP					
(1984/85 Price)	64586	69,686	71,695	76,095	79,855
Agriculture	27896	30,017	29,917	31,535	32,567
Non Agriculture	36690	39,669	41,778	44,560	47,288
GDP growth					
(% Change, Nominal)	14.03	15.90	9.71	13.95	
1984/85 Price, Real (% Change)	3.29	7.90	2.88	6.14	4.94
GDP per capita (Rs.)	8,576	9,708			
Rate of Inflation	8.9	8.9	7.6	8.1	8.0
Trade Balance (in million Rs.)	-21,939.1	-32,277.4	-46,040.3	56,855.5	52,084.5

Indicators	1992/93	1993/94	1994/95	1995/96	1996/97
Fiscal Deficit (Financial by Internal borrowing as % of GDP)	1.1	0.9	0.8		
Total Area	147,181 Sq. Km				
Literacy Rate (1991 Census)	39.6 Percentage				
Population (million)	18.88	19.27	19.67	20.08	

Source : Economic Survey, MOF Central Bureau of Statistics

Table 2: Gross Domestic Product At Current Price

(Rs. in Million)

S. No.	Organizing Sector	1992/93	1993/94	1994/95	1995/96	1996/97
1	Agriculture, Fisheries & Forestry	70,090	80,589	85,440	96,300	
2	Mining & Quarrying	921	990	1,070	1,230	
3	Manufacturing	14,618	17,861	19,560	22,290	
4	Electricity Gas & Water	1,437	2,107	2,810	3,310	
5	Construction	17,318	19,621	22,420	25,860	
6	Trade, Restaurants & Hotels	19,260	22,297	25,170	29,460	
	Trade	15,793	18,598	20,680	24,070	
7	Transport, Communication & Storages	12,625	12,625	14,200	16,760	
8	Financial & Real Estate	18,122	18,122	20,480	23,400	
9	Community & Social Services	17,128	17,128	18,990	20,850	
10	Public	-	-	-	NA	
	Extra Territorial	-	-	-	NA	
11	Private Services	-	-	-	NA	
12	GDP at Factor Cost	165,262	191,540	210,140	239,440	
13	Less Imputed value of banking Services	3,578	4,473	5,590	6,700	
	Total GDP at Factor Cost excluding					
	Imputed Banking Services	161,684	187,067	204,550	232,740	
	Net Indirect taxes	9,702	12,149	15,040	17,160	
	GDP at Production Price	171,386	199,216	219,580	249,900	

Sources : Economic Survey 1996-97.

Table 3: Government Budgetary Operation

Rs. in million

	1992/93	1993/94	1994/95	1995/96	1996/97
Total Expenditure	30,897	33,597	39,060	46,542	
Regular Expenditure	11,484	12,409	19,265	21,561	
Development Expenditure	19,413	21,188	19,794	24,980	
Receipts	18,941	21,974	28,512	32,718	
Revenue	15,148	19,580	24,575	27,893	
Foreign Grants	3,793	2,393	3,937	4,825	
Overall Surplus (+) or Deficit (-)	-11,956	-11,623	-10,547	-13,824	
Other Sources of Financing Deficit					
Foreign Loans	6,920	9,163	7,312	9,463	
Internal Loan	1,620	1,820	1,900	2,200	
(a) Banking System	920	1,000	1,300	750	
(b) Non-Banking System	700	820	600	1,450	
Changes in cash Balance (- Surplus)	3,415	639	1,335	2,160	

Sources: Ministry of Finance, HMG, Nepal Rastra Bank

Table 4: Production Of Basic Goods

S. No.	Major Industry Groups	Units	1992/93	1993/94	1994/95	1995/96	1996/97
1	Food Manufacturing						
	i. Noodles	MT.	2304	2775	4043	4947	5000
	ii. Biscuits	MT.	6497	6278	6789	6057	5900
	iii. Sugar	MT.	64416	34044	49227	67051	80000
	iv. Tea	MT.	1636	1993	2351	2457	2400
	v. Vegetable Ghee	MT.	11790	20233	20800	19583	19000
2	Beverage Industries						
	i. Beer	Th. Litre	14382	14900	16776	18315	21497
	ii. Liquor	Th. Litre	3477	2100	2500	2608	2800
3	Tobacco Manufacturing						
	i. Cigarette Sticks	Mill. Sticks	7846	6894	7430	8067	8067
4	Manufacturing Textile						
	i. Cotton Clothes	Th. Meters	7139	5619	5060	5160	4000
	ii. Synthetic Clothes	Th. Meters	12795	16657	14700	18123	18000
	iii. Jute Goods	MT.	18199	19315	20187	29908	33500
5	Leather and Leather Products						
	Processed Leather	Th. Sq. ft.	8424	7950	10306	10977	8500
6	Footwear Manufacturing						
	Shoes	Th. Pairs	823	700	685	649	550

S. No.	Major Industry Groups	Units	1992/93	1993/94	1994/95	1995/96	1996/97
7	Wood and Wood Products						
	i. Plywood	Th. sq. ft.	411	570	450	383	100
	ii. Stra Board	MT.	574	714	831	936	850
8	Paper and Paper Products						
	Paper	MT.	6775	8177	8863	11564	12500
9	Other Chemical Products						
	i. Soap	MT.	22970	20648	23477	25111	27500
	ii. Detergent Powder	MT.	756	681	2400	6378	7000
	Other Non-metallic Mineral Products						
11	Cement	MT.	247891	315514	326839	309466	270000
	Iron & Steel Based Industry						
12	Iron Rod Angles etc.	MT.	60316	71023	95118	91583	89500
	Manufacturing and Appliances						
	i. Wires Cables		6574	5023	12000	13574	17146
	a. GI/HB Wires	mt	11930	7514	8000	9723	11000
	ii. Dry Cell Battery	Th. Nos.	12373	17102	17603	25597	30000

Source : Ministry of Finance, Economic Survey

Table 5: Production Of Principal Agricultural Commodities And Live Stock

S. No.	Items	Unit	1992/93	1993/94	1994/95	1995/96	1996/97
1	Food Grains	000 MT.					
	Paddy		2,712	3,493	2,928	3,579	3,711
	Maize		1,291	1,210	1,273	1,331	1,317
	Wheat		765	873	914	1,013	1,062
	Cash Crops						
	Sugarcane	MT	1,366	1,431	1,500	1,569	1,629
	Jute	MT	10	11	11	15	14
2	Other Crops	MT					
	Pulses		191	204	201	214	223
3	Fruits	Th. MT	519	535	565	367	428
4	Vegetable	Th. MT	1,197	1,197	1,256	1,327	1,350
5	Livestock						
	a. Meat	Th. MT	149	153	159	161	174
	b. Milk and Milk Products	Th. Mt	876	885	903	961	1,005
	c. Fish	Th. MT	15	15	17	21	23
	d. Egg	Million	370	375	412	396	421

Source : Ministry of Finance, HMG.

Table 6 Total Consumption At Current Prices

Rs. in million

	1992/93	1993/94	1994/95	1995/96	1996/97
GDP at Product Prices	171,386	199,216	219,582	249,896	Coming
Plus Import of Goods and NFS	47,429	62,972	77,699	92,489	
Total Resources available = Uses	218,815	262,188	297,281	342,385	
Total Consumption	148,214	169,996	192,436	222,392	
Private Consumption	133,314	154,009	174,394	200,917	
Public Consumption	14,900	15,987	1,8042	2,1475	

Source : Ministry Of Finance, HMG.

Table 7: Annual Change In Price (Base Year –1983/84)

Month	1992/93	1993/94	1994/95	1995/96	1996/97
Mid August	261.6	282.4	300.6	327.4	
Mid September	264.4	288.3	305.1	326.7	
Mid October	264.9	289.3	309.3	329.4	
Mid November	262.9	285.0	310.4	331.9	
Mid December	254.9	287.1	303.3	323.9	
Mid January ('93)	249.8 ('94)	273.8 ('95)	296.2 ('96)	317.7	
Mid February	251.7	272.4	297.0	322.4	
Mid March	256.3	278.0	298.7	325.0	
Mid April	259.3	282.2	303.2	330.4	
Mid May	261.9	287.7	306.7	-	
Mid June	265.6	297.1	312.8	-	
Mid July	270.9	295.5	321.2	-	
Annual	260.4	283.7	305.4	283.7	
Point to Point Increment % (Mid July to Mid July)	5.9	9.1	8.7		
Annual %	8.9	8.9	7.6		7.8

Source: Nepal Rastra Bank

Table 7a: Employment Structure

Description	Percent
Labour force (as % of total population) 1990-92	40
Women in labour force (as % of total labour force) 1990-92	34
Employment of labour in agriculture 1990-92	79
Employment of labour in industry 1990-92	11
Employment of labour in other activities 1990-92	4
Employment of labour in services 1990-92	6
Annual increase in labour force 1992-97	2.3
Rate of unemployment 1997	NA
Rate of underemployment 1997	NA

Table 8: Balance Of Payments

Rs. in million

Description	1992/93	1993/94	1994/95	1995/96	1996/97
Exports. f.o.b.	17,286.4	19,316.0	17,680.3	19,875.3	-15,090.0
Imports c.i.f.	39,259.9	51,628.7	63,740.4	76,815.5	-61,040.2
Trade Balance	-21,973.5	-32,312.7	-46,060.1	56,940.2	-45,950.2
Services, Net	5,064.4	17,476.5	23,565.2	20,922.7	25,252.6
Receipts	14,942.7	30,000.1	37,448.5	37,178.5	33,590.3
Travel	5,966.0	8,251.7	8,973.2	9,521.2	5,429.1
Investment Income	1,518.9	1,768.6	2,075.1	1,685.8	1,176.8
Payments	9,873.3	12,523.6	13,913.3	16,255.8	8,337.7
Transfers, Net	6,937.3	6,809.0	10,708.8	12,193.2	10,849.7
Receipts	7,075.5	7,003.9	11,227.2	12,766.3	11,762.5
private Remittances	2,994.3	3,469.1	5,063.6	4,283.6	4,001.0
Official Grants	3,498.5	3,039.9	5,339.1	7,582.8	7,108.0
Indian Excise Refund	561.8	494.2	819.0	899.9	653.5
Others	20.9	0.7	5.5	NA	NA
Payments	138.2	194.9	518.4	573.1	912.8
Current Account balance	-9,971.8	-8,027.2	-11,786.1	-23,824.3	-9,847.9
Official Capital Net	5,474.2	10,723.3	8,804.7	7,401.0	3,387.3
Amortization	1,485.9	2,251.4	2,591.2	2,883.7	1,837.4
Foreign Loans	6,960.1	12,974.7	11,395.9	10,284.7	5,224.7
Miscellaneous Capital	11,971.3	3,935.9	2,501.0	15,373.2	7,059.1
Change in Reserve Net	7,473.7	6,632.0	-480.3	-1,050.1	598.5

Source: Nepal Rastra Bank

Table 9: Foreign Exchange Reserves

Rs. in million

Years		Convertible	Non-convertible	Total
1990/91	Mid July	15,939.3	1,919.7	17,859.0
1991/92	Mid July	21,691.5	1,011.9	2,273.4
1992/93	Mid July	30,281.4	2,900.6	33,182.0
1993/94	Mid July	36,541.2	4,045.0	40,586.2
1994/95	Mid July	35,875.4	6,946.2	42,821.6
1995/96	Mid July	37,934.5	6,503.8	44,438.3
1996/97	Mid July	38,502.3	10,039.1	48,541.4

Source : Nepal Rastra Bank, Economic Survey, MOF

Note : Nepalese rupee is pegged with Indian rupee which has fixed rate and exchange rates are fixed on the basis of a basket of currencies. Indian currency is available on unlimited scale.

Table 10: Export Of Selected Commodities To India

Value in '000 Rs.

S. No.	Commodities	F. Y. 1994/95	F. Y. 1995/96	F. Y. 1996/97
1	Pulses	398,400	1,313,200	500,000
2	Ghee	15,300	12,600	59,900
3	Herbs	25,300	31,300	47,400
4	Ginger	74,900	105,700	121,600
5	Dried Ginger	69,500	28,100	40,600
6	Mustard & Linseed	58,600	46,300	33,400
7	Cotton Seed	12,300	105,700	7,100
8	Raw Jute	85,300	28,100	3,200
9	Jute Goods	231,100	46,300	564,900
A	Hessian	15,300	11,900	69,200
B	Sackings	200	31,600	74,700
C	Twines	215,600	453,200	421,000
10	Live Animals	65,800	76,100	56,100
11	Linseed Oil	47,500	28,400	105,200
12	Salseed Oil	41,900	348,700	
13	Ricebran Oil	121,200	63,100	
14	Turpentine	5,100	-	9,100
15	Cinnamon	3,200	100	10,100
16	Cardamom	105,800	129,300	187,600
17	Vegetables	9,200	20,600	-
18	Catechu	7,200	5,800	55,400
19	Stone & Sand	24,100	171,000	27,100
20	Rosin	81,500	700	56,600
21	Brooms	9,900	16,200	30,600
22	Noodles	41,600	17,600	140,200
23	Biscuit	18,400	121,200	46,600
24	Marble Slabs	19,800	21,000	36,500
25	Cattle Feeds	36,400	63,700	55,000
26	Brans	2,650	31,300	45,200
27	Oil Cakes	98,300	41,800	97,500
28	Hides & Skins	159,300	29,300	100,900
29	Tooth Paste	197,900	93,600	384,500
30	Polyester Yarn	251,500	176,800	326,300
31	Readymade Garments	4,800	309,200	2,900
32	Handicraft Goods	5,500	238,000	16,500
33	Others	784,900	1,500	2,280,300
Total		3,369,100	3,978,600	

Table 11: Export Of Major Commodities To Countries Other Than India

Value in Rs.

S.No.	Commodities	Unit	1994/95		1995/96		1996/97	
			Quantity	Value	Quantity	Value	Quantity	Value
1	Carpet(Handknotted Woollen)	Sqm.	2,896,090	7,703,760	2,617,645	8,032,233	2,891,225	9,144,635
2	Readymade Garments	Pcs.	33,505,181	5,357,029	27,969,250	5,414,746	29,953,917	5,617,478
3	Goatskin	Sq. ft.	8,568,582	355,499	6,949,250	347,569	4,872,901	274,328
4	Hides	Sq. ft.	1,801,200	67,977	1,374,560	40,012	696,105	34,850
5	Tea	M. T.	72.3	13,574	72.7	15,516	81.4	22,617
6	Essential Oil	M. T.	7.4	4,821	4.9	5,217		
7	Medicinal	M. T.	42.8	5,464	57.2	8,362		
8	Herbs	M. T.	3,847	86,885	12,501	412,552	69.7	12,051
9	Nigerseeds	M. T.	2,117	51,488	10,963	375,169	8,388	267,905
10	Pulses(Lentils)	Metres.	37,588	2,138	25,576	4,847	15,443	496,845
11	Fabric(Polyester & Cotton			128,096		163,005		
12	Handicrafts			101,408		110,367		217,564
13	Woollen goods			198,965		146,015	-	217,947
14	Towel			65,203		218,878	-	363,174
15	Wooden & Bamboo Goads			10,477		12,955	-	9,936
16	Nepalese paper & Paper Products			35,833		52,385	-	59,085
17	Leather Goods			33,005		71,914		31,527
18	Micro-Transformer			25,730		25,727		28,877
19	Blanket			17,727		127		-
20	Miscellaneous			23,233		68,880		75,864
	Total			14,288,312		15,526,476		

Table 12: Nepal's Exports To SAARC Member Countries

Value in '000 Rs.

Direction	F. Y. 1993/94	F. Y. 1994/95	F. Y. 1995/96	F. Y. 1996/97
India	2,408,900	3,369,100	3,978,600	5,448,300
Bangladesh	21,524	6,633	358,535	497,948
Bhutan	389	140	47	566
Maldives			0	1
Pakistan	1,493	5,063	3,032	19,898
Sri Lanka	140,458	47,085	17,117	6,243
Total	2,572,764	3,428,021	4,384,331	5,972,956
Total Exports	19,077,495	17,926,053	20,054,388	23,084,051
% in Total Exports		19.1	21.9	25.9

Source : Nepal Rastra Bank, Trade Promotion Center.

Table 13: Imports Of Selected Commodities From India

Rs. in million

S. No.	Commodities	F. Y. 1994/95	F. Y. 1995/96	F. Y. 1996/97
1	Live Animal	36,100	35,100	72,300
2	Textiles	1,646,000	1,944,400	1,405,000
3	Readymade Garments	130,400	153,000	252,500
4	Raw Cotton	18,100	40,600	79,800
5	Threads	553,000	775,600	756,600
6	Fruits	85,200	100,800	104,300
7	Vegetables	271,200	276,700	344,400
8	Milk Product	297,400	422,800	473,700
9	Coffee	17,800	23,000	25,300
10	Tea	63,300	46,800	86,800
11	Cumin Seed & Pepper	185,800	213,700	200,800
12	Salt	59,200	85,300	119,100
13	Sugar	73,700	202,500	468,400
14	Rice	391,400	462,000	360,800
15	Pulses	40,800	37,800	37,800
16	Tobacco	310,900	338,700	393,900
17	Bidi Leaves	2,400	600	
18	Chemical	208,000	549,000	1,004,500
19	Enamel & Other Paints	41,000	37,900	57,000
20	Cement	525,800	898,900	1,038,400
21	Pipe & Pipe Fittings	184,900	185,500	184,400
22	Sanitary Wares	51,400	40,200	56,600
23	Bitumen	63,400	90,900	98,200
24	Electrical Equipment	514,600	540,100	416,300
25	Medicines	1,752,900	1,930,800	2,119,700
26	Writing & Printing Papers	236,600	247,900	265,500
27	Book & magazines	163,300	200,700	343,200
28	Cosmetic Goods	24,900	24,200	26,000
29	Chemical Fertilizers	22,800	152,800	137,200
30	Insecticides	48,100	54,500	80,100
31	Hand Tools	27,400	22,600	24,200

S. No.	Commodities	F. Y. 1994/95	F. Y. 1995/96	F. Y. 1996/97
32	Agri-Equipment and Parts	291,800	385,200	314,600
33	Vehicles & Spare Parts	1,853,500	10,764,700	1,548,700
34	Tyre, Tube & Flapes	64,300	50,600	57,100
45	Coal	215,100	268,700	308,200
36	Machinery & Parts	1,253,900	2,151,000	2,345,000
37	Glass-Sheet & Glassware	124,600	134,700	129,700
38	Other	8,939,100	10,697,800	10,107,800
Total			25,588,100	25,843,900

Table 14: Import Of Major Commodities From Countries Other Than India

Value in '000 Rs.

S. No.	Commodities	F. Y. 1994/95	F. Y. 1995/96	F. Y. 1996/97
1	Machinery & Parts	1,140,753	1,642,230	2,301,204
2	Fertilizer	1,439,463	1,481,455	1,390,351
3	Raw Wool	1,359,548	2,333,572	2,179,597
4	Transport Equipment	1,289,559	1,707,295	1,574,870
5	Aircraft & Spare Parts	445,164	649,524	520,333
6	Textiles	198,567	692,091	898,170
7	Thread	517,264	540,395	523,031
8	Office Equipment & Stationary	285,667	505,596	482,653
9	Electrical Goods	115,193	2,503,170	1,721,252
10	Medicines & Medical Equipment	516,450	680,851	644,071
11	Steel Rod & Sheet	379,981	197,822	119,619
12	M. S. Wire Rod	3,139	11,449	5,248
13	M. S. Billet	101,807	84,698	208,634
14	Polythene Granules	679,168	1,225,016	890,006
15	P. V. C. Compound	49,233	35,015	33,843
16	Telecommunication Equipment Parts	1,323,879	1,968,648	946,154
17	Edible Oil #	27,713	2,003,368	1,355,194
18	Copper Wire Rod. Scrapes & Sheet	265,227	20,439	312,733
19	Video, Television & Parts	278,615	334	166,510
20	Agriculture Equipment & Parts	10,704	47,300	5,752
21	Readymade Garments	309,451	389,617	401,917
22	Pam Oil1	478,583	466,674	410,411
23	Computer Parts	1,157,637	1,113,856	647,146
24	Coconut Oil	132,680	137,729	120,868
25	Textile dyes(Including other dyes)	73,696	118,964	86,304
26	Gold	12,692,009	12,618,341	30,206,826
27	Silver	808,537	749,097	867,703
28	Clove	137,269	106,103	123,802
29	Betel Nut	550,382	255,857	501,048
30	Petroleum Product *	5,609,274	6,102,372	6,956,781
31	Other	7,887,699	9,629,780	10,063,575

Note: # Edible Oil includes Soybean Oil, Vegetable Oil, Rapeseed Oil, Crude Oil and etc.

* As provided by Nepal Oil Corporation.

Table 15: Nepal's Imports From SAARC Member Countries F. Y. 1991/92 To 1993/94

Value in '000 Rs.				
Direction	F. Y. 1993/94	F. Y. 1994/95	F. Y. 1995/96	F. Y. 1996/97
India	17,035,400	20,791,200	25,588,100	25,843,900
Bangladesh	731,634	877,304	679,647	439,918
Bhutan	18,307	343	29,936	28,040
Maldives	3	36	0	0
Pakistan	204,527	114,538	135,091	208,025
Sri Lanka	13,898	15,373	26,934	92,920
Total	18,003,769	21,798,794	26,459,708	26,612,803
Total Imports	50,735,639	64,500,140	77,085,806	93,865,271

Source : Nepal Rastra Bank, Trade promotion Center.

Table 16: Major Trading Partners Of Nepal - Exports

Value in '000 Rs.						
S. No.	Commodities	F. Y. 1992/93	F. Y. 1993/94	F. Y. 1994/95	F. Y. 1995/96	F. Y. 1996/97
1	Germany	6,549,562	6,751,331	6,549,562	6,751,331	7,651,707
2	United States	5,141,639	5,672,768	5,141,639	5,672,768	5,930,202
3	India	3,369,100	3,978,600	3,369,100	3,978,600	5,448,300
4	Switzerland	464,451	445,187	464,451	445,187	346,450
5	Bangladesh	NR	385,535	NR	385,535	497,948
6	Italy	356,742	356,641	358,742	356,641	348,283
7	Belgium	270,108	309,868	270,108	309,868	231,230
8	United Kingdom	330,529	289,400	330,529	289,400	297,710
9	Austria	201,657	196,415	201,657	196,415	309,152
10	Spain	NR	182,922	NR	182,922	NR
11	Canada	157,976	NR	157,976	NR	NR
12	France	140,923	NR	140,923	NR	241,933
13	Sri Lanka	NR	NR			
Total				16,984,687	18,568,667	21,302,915

NR: Not in the rank in that Particular Year.

Source: Nepal Rastra Bank, Trade Promote Center.

Table 17: Major Trading Partners Of Nepal - Imports

Value in '000 Rs.

S. No.	Countries	F. Y. 1993/94	F. Y. 1994/95	F. Y. 1995/96	F. Y. 1996/97
1	India	17,035,400	20,791,200	25,588,100	25,843,900
2	Hong Kong, China	7,353,866	10,899,471	11,706,114	20,242,505
3	Singapore	9,401,668	10,889,998	10,563,261	943,400
4	Japan	2,737,591	3,196,411	4,551,150	3,955,267
5	China P. R.	1,822,081	2,295,909	3,094,379	3,005,400
6	Germany	786,158	1,747,360	2,454,995	NR
7	New Zealand	1,808,334	1,395,232	2,357,200	2,203,242
8	Republic of Korea	831,141	NR	1,099,584	NR
9	Saudi Arabia	NR	NR	1,041,964	NR
10	Thailand	616,360	NR	1,030,331	1,631,341
11	Bahrain	NR	1,034,122	NR	NR
12	United Arab Emirates	NR	983,453	NR	5,572,399
13	Bangladesh	731,634	877,304	NR	NR
14	United Kingdom		NR	NR	3,147,046
15	Switzerland		NR	NR	2,321,224

Note :

NR: Not in the rank in that particular year.

Source: Nepal Rastra Bank, Trade Promotion Center.

ANNEX 2

LIST OF LAWS AND LEGAL ACTS

1. Foreign Investment and Technology Transfer Act (1992)
2. Industrial Enterprises Act (1992)
3. Customs Act (1962)
4. Customs Rules (1970)
5. Nepal Seeds Act, 2045 (1988)
6. The Seeds Regulation, 2054 (1997)
7. Company Act (1997)
8. Plant Protection Act, 2029
9. The Food Act, 2023
10. Export and Import Control Act (1957)
11. Export and Import Rules (1978)

ANNEX 3

INFORMATION ON IMPORT LICENSING PROCEDURES

I. OUTLINE OF SYSTEMS

The Kingdom of Nepal has one licensing system. The system applies to goods originating in and coming from all countries. The same system is applied also to exports from Nepal to all countries. 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. The Treaties of Trade and Transit with India require licenses for products specified in the Treaties. For trade with other countries licenses are not required at present. However, letters of credit (LCs) have to be opened for the imports and exports of goods and copies of them are used for customs purposes.

Goods that are at present restricted or banned for exports are listed in Annex 3.1. Goods that are at present restricted or banned for imports are listed in Annex 3.2.

II. PURPOSES AND COVERAGE OF LICENSING

1. There is only one licensing system. According to Export and Import Rules 1978, a license is required for the exports or imports of prescribed goods. They are also required for the personal baggage exceeding allowance. Prescribed goods mean goods the export or import of which without license is prohibited by His Majesty's Government under the 1957 Export and Import (Control) Act by notification in the Nepal Rajapatra (Nepal Gazette).

2. This system applies to goods originating in and coming from all countries.

3. The licensing system is primarily introduced for information purposes. The licensing system is not intended to restrict either the quantity or the value of imported goods. As to the exception mentioned in Annex 3.2, it is simply to protect public health, consumer and environment welfare and national security. Alternative methods in the form of the requirement to present to the competent authorities the LCs have been introduced in order to obtain the necessary information and simplify the procedures.

4. Import licensing is authorized and maintained under Export - Import (Control) Act, 1957, Export - Import Rules, 1978, Customs Act, 1962, Customs Regulation, 1969, Annual Finance Act based on annual Budget Speech of Finance Minister, and the order made by the Ministry of Commerce pursuant to the Export and Import (Control) Act, 1957 and Rules, 1978. Import licensing is statutorily required. The designation of products to be licensed and the licensing of products to be imported is not left to administrative discretion. The government may abolish the system of licensing only by statutory action.

5. At present, the automatic licensing system as described below has been relaxed and the submission of application for obtaining a license is not required. However, the letters of credit opened for imports and exports must be presented at the customs office during the time of export and import. For the restricted products in Annexes 3.1 and 3.2 an import license is required.

III. PROCEDURES

1. The restrictions, which are applied at present, are applied globally and on a unilateral basis by HMG. 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. The government may specify whether to apply them by value or quantity.

2.
 - (a) There is no requirement as to how far in advance an application for a license must be made. A license can be obtained within a shorter time limit or for goods arriving at the port without a license, if all papers are in order.
 - (b) A license can be granted immediately upon request, if all papers are in order.
 - (c) There are no limitations as to the period of the year during which applications for licenses and/or importation can be made.
 - (d) Import licenses are, in most cases, issued by a single administrative organ which is the Department of Commerce. Applications for licenses are submitted to the DOC. Application may also be reviewed by experts of another agency. In certain cases involving goods where assessment of conformity with standards and technical regulations is required. In this case, the Department of Commerce coordinates with concerned agencies.
3. There are no circumstances under which an application for a license may be refused other than for failure to meet the basic requirements. When a license is refused the applicant is advised of the reasons. He may appeal to the Ministry of Commerce, within 35 days of the notice issued to him of such refusal. The Applicant should clearly mention in his complaint his name and address, subject-matter to complaint, claims and reasons of claims. He must submit copies of all the relevant documents along with the complaint for evidence and a copy of the complaint should also be sent to the licensing authority.

IV. ELIGIBILITY OF IMPORTS TO APPLY FOR LICENCE

Generally, all persons, firms, companies and institutions are eligible to apply for an import license under schedule 2 of Export - Import Rules, 1978 (Application form for import license. There are separate forms for the application depending on the purposes of the import e.g. government procurement, commercial purposes, personal use) before Director General of Department of Commerce, HMG. But an import license for trading purpose is issued only to the registered companies, firms and corporate bodies. The registration requirements depending on the main activities of these judicial persons are explained in Section IV. 1 (a) of Memorandum.

V. DOCUMENTATION AND OTHER REQUIREMENTS FOR APPLICATION FOR LICENCE

An application form has to be filled by the applicant for an import license and has to be submitted to the Director General of the Department of Commerce under Schedule 2 of Export - Import Rules, 1978. The application form should contain information as to the name and address of the applicant, name and address of the office registering the applicant company or firm or corporate body; registration number and date; the date and place of last registration; name of director; partner or owner; type, quantity and value of the goods to be imported; a copy of contract agreement if concluded with the foreign seller if not, the other relevant particulars; country of manufacture of goods to be imported; name of the country dispatching the goods to be imported; date of shipment of goods to be imported; name of the customs office to which the goods are to be imported; probable date of arrival of the goods at the customs office of importation, source of foreign currency needed for importation; and other particulars.

As mentioned above, import licenses are issued for the following purposes according to Rule 6(b) of Export - Import Rules, 1978: issued in the name of Government, Government owned corporations and boards, and the projects thereunder; issued in the name of contractors for accomplishing projects

under government, government owned corporations and boards, and the projects thereunder; issued in the name of commercial firms, companies, corporations for commercial purposes; issued in the name of certain non-profit-making institutions or centers established for philanthropic, social, religious, educational and other similar purposes; issued for personal purposes; issued for the use of firms or companies relating to industries, tourism industries, travel agencies or similar business; issued for the objective of sample, gift or publicity.

Therefore, there are slight variations in the import licenses so issued. A sample form of application for Import License for commercial purpose is presented below (English translation):

Form B

SCHEDULE 2

(Relating to sub-rule (1) of Rule 4)

To be filled for Importation for Commercial Purpose

An Application Form

Date:.....

The Director General

Department of Commerce

Kathmandu

1. **Full Particulars of Applicant**

- a) Name of the Applicant:-
- b) Full Address:-
- c) Name and Address of office of Registration:-
- d) Registration No.....Date.....
- e) Last renewal date.....place.....
- f) Name of Director, Partner or Owner:-

2. **Particulars of good(s) desired to import**

- a) Type:-
- b) Quantity:-
- c) Value:-

3. Copy of Contract agreement if concluded with the foreign seller, if not the other relevant particulars:-

4. Country of manufacture of good(s) to be imported:-

5. Name of country shipping the good to be imported:-

6. Date of shipment of good(s) for importation:-

7. Name of customs office of importation:-

8. Approximate time of arrival at the customs office of importation:-

9. Source of foreign currency needed for importation the letter no. ... and date....

10. In case of recommendation for good(s) to be imported, the name of the recommending office, the letter number and date of such recommendation letter:-

11. Others:-

I/We hereby confirm that the particulars given herein above are true and correct to my/our knowledge. In case the particulars given herein above are found to be incorrect, I/We agree for cancellation of the license issued to me/us for this reason. I/We am/are ready to submit any documents in support of the above bond if called so by the licensing authority. Nothing remains payable to this office on my/our part.

Signature and designation

of the Applicant

Dated:.....

The following documents are required to be supplied with the applications form for commercial purposes: the registration certificate; the import contract to purchase with the foreign seller if any; foreign exchange clearance given by a bank; in case of recommendation for good(s) to be imported, copy of such recommendation letter. In addition to this, licensing fee at the rate of 1% of the total value of the goods to be imported shall also be submitted along with the application.

2. Upon actual importation of goods, the owner of the goods or his agent must submit to the customs office two copies of Import Declaration form as provided under Schedule 3 of Customs Regulation, 1969 – along with the following documents: income tax registration certificate; letter of credit; certificate of insurance; packing list; airlines delivery order or of railways; invoice; bill of loading; certificate of origin; authorization from importer if an agent is handling the clearance; copy of original purchase contract. In addition, a copy of import license, a certification as to conformity of standards and quality of certain goods. Rule 6 of the Export - Import Rule, 1978 also requires the Importer to send in the format of its schedule 6 copies of particulars of goods imported to the local district administration office, the Director General of Department of Commerce and the authority or office as specified by HMG. The importer is also required not to sell or supply the goods so imported without furnishing these particulars.

3. The licensing fee shall be as specified by the government from time to time in the official Gazette. The licensing fee which is enforced since 1992 is one per cent of the total value of the goods imported. There are no other administrative charges except the nominal application fee (Rs. 10-60). Alterations in the import licenses so issued may be made by paying ten percent fee of the total license fee.

4. There is no deposit or advance payment required in association with the issuance of a license; the fees noted in point 3 above are to be deposited along with the application for license.

VI. CONDITIONS OF LICENSING

1. The period of validity of import license is normally up to six months and it is one year in special situations as indicated in the license itself. The goods for importation should be shipped within the period of validity of the license. The license may be renewed for up to six months upon the importer applying for extension showing the reason of failure of shipment of goods within the period of license.

2. There is no penalty for non-use or only partial use of a license. If the license is not used during the established period, it is provided to be automatically cancelled.

3. A license is not transferable between importers, because they are issued to particular persons and for specific purposes.

4. For products under quantitative restrictions listed in Annex 3.2 specific conditions have been laid down published in the National Gazette. There are no other conditions attached to the issuance of a license for products not subject to quantitative restrictions.

VII. OTHER PROCEDURAL REQUIREMENTS

1. There are no other administrative procedures required prior to importation.

2. Commercial Banks make foreign exchange available at the rate fixed by the market mechanism for the payment of all imported goods including industrial raw materials, spare parts and services and for payments of foreign loans and interests of the non-government sector. The Central Bank will not make a separate foreign exchange provision for this purpose.

A license is not required as a condition to obtain foreign exchange. Foreign exchange is always available to cover licenses issued. The importer has only to provide to the commercial bank the import contract with the sum he has to pay for the imported goods in order to obtain foreign exchange.

ANNEX 3.1

PRODUCTS BANNED OR RESTRICTED FOR EXPORTS

A. PRODUCTS BANNED FOR EXPORTS:

1. Article of archaeological and religious importance:
 - 1.1 National and foreign coins of archaeological value;
 - 1.2 Idols of gods and goddesses, palm leaf inscription (Bhojpatra);
 - 1.3 Scroll (Thanka Paintings) of historical importance.
2. Conserved wildlife and related articles:
 - 2.1 Wild animals;
 - 2.2 Bile any part of wild animals;
 - 2.3 Musk;
 - 2.4 Snake skin, lizard skin.
3. Drugs:
 - 3.1 Marijuana, opium, hashish (as defined in the single convention on Narcotics, 1961).
4. Articles of industrial importance:
 - 4.1 Explosive materials and the related fuse or materials needed for fuse;
 - 4.2 Materials used in the production of arms and ammunition.
5. Industrial raw materials:
 - 5.1 Raw hides and skin (including dry salted);
 - 5.2 Raw wool;
 - 5.3 All imported raw materials, parts and capital goods.
6. Other products:
 - 6.1 Mamira;
 - 6.2 Log and timber.

B. UNDER QUANTITATIVE RESTRICTIONS:

Products as notified by His Majesty's Government in the Nepal Gazette from time to time. Currently, there are no such restrictions.

ANNEX 3.2

PRODUCTS BANNED OR RESTRICTED FOR IMPORTS

1. Products injurious to health banned for imports:
 - (a) Narcotic drugs like opium and morphine;
 - (b) Liquor containing more than 60 percent alcohol.
2. Arms and ammunition, and explosives (except under import license of His Majesty's Government):
 - (a) Materials used in the production of arms and ammunition;
 - (b) Guns and cartridges;
 - (c) Cases without paper;
 - (d) Arms and ammunition, and other explosives.
3. Communication equipment:
 - (a) Wireless, walkie talkie and similar other audio communication equipment's (except under import license of His Majesty's Government).
4. Valuable metals and jewellery (except quantities permitted under bag and baggage regulations).
5. Beef and beef products.

ANNEX 4

INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE CUSTOMS VALUATION AGREEMENT

1. Questions concerning Article 1:

(a) Sales between related persons:

(i) Are sales between related persons subject to special provisions?

No.

(ii) Is the fact of intercompany prices prima facie considered as grounds for regarding the respective prices as being influenced?

No.

(iii) What is the provision for giving the communication of the aforementioned grounds in writing if the importer so requests? (Article 1.2(a))

Not applicable.

(iv) How has Article 1.2(b) been implemented?

In a contract between related persons the transactional value shall be accepted, in case such value is unacceptable, the method mentioned in point 2 below is followed

(b) Price of lost or damaged goods:

1. Are there any special provisions or practical arrangements concerning the valuation of lost or damaged goods?

No.

2. How has the provision of Article 4 to allow the importer an option to reverse the order of application of Articles 5 and 6 been implemented?

If the price can not be determined under transaction value, the price shall be fixed on the basis of recorded price of identical goods at the customs office, price list, or the price of similar goods. A reversal of the application of the order of Article 5 and 6 at the request of the importer may give rise to real difficulties to the customs authority of Nepal, in view of their administration capabilities. That is why, a reversal is not applied

3. How has Article 5.2 been implemented?

The price is primarily fixed in the transactional value; if such value is not acceptable, then the price list will be taken into the consideration by the customs authorities for fixing such prices with adjustments to determine the price on CIF basis. The customs may also take into account recorded prices of previous transactions.

4. How has Article 6.2 been implemented?

The computed valuation method is, as point above shows, not applied.

5. Questions concerning Article 7:

(a) What provisions have been made for making value determinations pursuant to Article 7?

As mentioned above, when the customs authorities do not apply the provisions of Articles 1 through 6, the customs may fix the price of the goods on the basis of records, if any, in the possession of the customs officer, relating to collection of customs duty on similar goods or commodities previously subject to valuation (Art. 13.3 of the Customs Act (Seventh Amendment 1997)). While fixing the price from the above mentioned procedures, the customs authority make every effort to establish the customs value on a reliable and equitable basis (Art. 13.6 and 13.7).

(b) What is the provision for informing the importer of the customs value determined under Article 7?

When valuation has been done, the importer shall receive information in writing from the customs authority

(c) Are the prohibitions found in Article 7.2 delineated?

The prohibitions of Art. 7.2 have been fully observed.

6. How have the options found in Article 8.2 been handled? In the case of f.o.b. application, are ex-factory prices also accepted?

Costs of freight and insurance are included in the transaction value. Normally, the options in Article 8:2 (a) and (b) can not be separated. In case they are separated, (b) is excluded in determining the value of goods

7. Where is the rate of exchange published, as required by Article 9.1?

It is published by Central Bank (Nepal Rastra Bank) everyday in national newspapers.

8. What steps have been taken to ensure confidentiality, as required by Article 10?

It is the established practice of the Customs Authorities to ensure confidentiality in the spirit of Art. 10.

9. Questions concerning Article 11:

(a) What rights of appeal are open to the importer or any other person?

The aggrieved party may go to the court of law – Revenue Tribunal-in this case.

(b) How is he to be informed of his right to further appeal?

The right to further appeal is expressly mentioned by the adjudicating authority in the verdict.

10. Provide information on the publication, as required by Article 12, of:

- (a) (i) the relevant national laws;**
- (ii) the regulations concerning the application of the Agreement;**
- (iii) the judicial decision and administrative rulings of general application relating to the Agreement;**
- (iv) general or specific laws being referred to in the rules of implementation or application.**

The relevant laws and regulations related to customs valuation are published in Nepal Gazette. Judicial decisions are published in a journal published by the Supreme Court. The Seventh Amendment (1997) to the Customs Act 1962 embodies the rules applied to customs valuation. At the moment, no other legislation in this area is envisaged to be enacted.

(b) Is the publication of further rules anticipated? Which topics would they cover?

The rules may be amended in conformity with the entire provisions of WTO Rules.

11. Questions concerning Article 13:

- (a) How is the obligation of Article 13 (last sentence) being dealt with in the respective legislation?**

Article 13.6 of the Customs Act (Seventh Amendment) provides that the owner of goods may take delivery of his goods, if he so desires, after he has paid of the customs duty leviable thereon on the basis of the value as estimated by the customs officer and, in addition, furnished a deposit amounting to 10 percent of such customs duty. But in such cases customs duty shall be finally levied on the basis of the value as determined subsequently.

- (b) Have additional explanations been laid down?**

No.

12. Questions concerning Article 16:

- (a) Does the respective national legislation contain a provision requiring customs authorities to give an explanation in writing as to how the customs value was determined?**

Yes. Upon request of importer, the customs authority gives an explanation in writing as to how the customs value was determined, though there is no such provision in the law. This is an established practice.

- (b) **Are there any further regulations concerning an above-mentioned request?**

No.

- 13. How have the Interpretative Notes of the Agreement been included?**

The interpretative notes are applied to the extent described in the answers to questions 1 and 2 above. We have adopted the transaction method (price actually paid or payable).

- 14. How have the provisions of the Decision of 26 April 1984 on the Treatment of Interest Charges in the Customs Value of Imported Goods (Val/6/Rev.1) been implemented?**

Interest charges are not included.

- 15. For those countries applying paragraph 2 of the Decision of 24 September 1984 on the Valuation of Carrier Media Bearing Software for Data Processing Equipment (Val/8), how have the provisions of this paragraph been implemented?**

Not applicable.

ANNEX 5

INFORMATION ON TECHNICAL BARRIERS TO TRADE

1. Standards and technical regulations are governed by the Standards, Weight and Measurement Act and by the Quality Certificate Make and Rules Act. Standards and Technical Regulations are approved by the Nepal Council of Standards headed by the Minister of Industry.
2. The Bureau of Standards and Metrology, will be appointed as the inquiry point as foreseen in Articles 10.1 and 10.3 of the WTO Agreement on Technical Barriers to trade. The Bureau is currently fully operational. The Bureau will deal with the consultation as foreseen in Article 14 of the Agreement, and perform all the functions foreseen in Agreement.
3. The Bureau of Standards will be the only central government agency responsible for the notifications foreseen in Art. 10.11 of the agreement.

ANNEX 6

INFORMATION ON STATE-TRADING

I. ENUMERATION OF STATE TRADING ENTERPRISES

In fact, Nepal does not have enterprises which would be covered by the working definition agreed in the Understanding on the interpretation of Article XVII of GATT 1994. The only enterprise that could possibly be defined as state trading is the Nepal Oil Corporation. There are not products or groups of products except petroleum products for which an enterprise has exclusive or special privileges. The Nepal Oil Corporation has a special monopoly power to import petroleum products, however, other products like lubricants are free to import to private sector and State Trading enterprises. This following public enterprises, which are active in import trade, have not been granted any exclusive rights or privileges.

- (i) The Nepal Food Corporation.
- (ii) The National Trading Limited.
- (iii) The Nepal Oil Corporation
- (iv) The Salt Trading Corporation
- (v) The Agriculture Imports Corporation
- (vi) The Cottage and of Handicraft Emporium
- (vii) The Nepal Coal Company
- (viii) Nepal Transit and Warehouse

II. REASONS AND PURPOSE FOR INTRODUCING AND MAINTAINING STATE-TRADING ENTERPRISES

Nepal has a "dual" economy with a quite developed urban economic infrastructure and an under developed rural agriculture based economy. Due to its economic, social and cultural backwardness, the supply management is being a very big problem especially in the rural areas. The Nepalese law defines petroleum products as basic needs goods. Therefore, every citizen has equal right to get the products frequently and at a rational price. Nepal does not have its own petroleum products. So they are only imported. So for the purpose of regular and general supply and for preventing consumer prices from being increased artificially, the NOC has been created.

III. DESCRIPTION OF THE FUNCTIONING OF STATE TRADING ENTERPRISES

The Nepal Oil Corporation deals with imports of all petroleum products. However, it does not have exclusive rights as far as lubricants are concerned. The private traders are allowed to import lubricants and there is free competition between them and the NOC in this field.

The quantities of the different types of fuels to be imported are determined by the Board of Directors of the NOC consisting of the representatives from the government agencies as well as public and private enterprises. The decision on the quantity of import is based on trends and current information about demand and future projections. The Board meets regularly and special meeting may be convened if the situation so requires. The price of the imported products is determined on the basis of international prices plus transport and the average operational costs.

The NOC has long-term contract with the Indian Oil Corporation.

IV. IMPORT AND CONSUMPTION OF MAJOR PETROLEUM PRODUCTS

Qty. in Kiloliters

Description	F. Y. 1993/94	F. Y. 1994/95	F. Y. 1995/96	F. Y. 1996/97
Petrol	31,056	34,942	41,191	
High speed diesel	196,047	227,226	250,504	
Kerosene Oil	162,077	180,536	208,720	
Light diesel Oil	-	4,191	4,375	
Furnace oil	27,319	31,567	18,449	
Aircraft Turbine oil	30,250	37,536	40,621	

Source: Economic Survey HMG/Nepal, 1996/97.

ANNEX 7

SERVICES SECTORAL CLASSIFICATION LIST

1. BUSINESS SERVICES

A. PROFESSIONAL SERVICES

(a) Legal Services

Nepal Bar Council Act, 1993

This act has been enacted for the purpose of establishing Nepal Bar Council (NBC), an autonomous body to look after the interests and welfare of the legal practitioners, and causing their services to be more responsible towards the society at large. The main functions of NBC are: to issue licence and register individuals as legal practitioners on the basis of conducting bar examinations for these individuals; to follow up whether the legal practitioners are acting according to the professional code of conduct devised for that purpose, and take complaints against any violation of the code of conduct and refer the matter to the Disciplinary Committee for necessary action; to establish the working procedures for registering the name in the law practitioners list, and finalise the working procedure to be adopted by the Disciplinary Committee; to file suits against those who acted contrary to this Act; to arrange for the protection of the prestige, security, rights and welfare of the legal practitioners; to help standardise the legal education befitting the legal practice; and to organize training, seminars/workshops, conferences and visit programmes for the cause of legal profession. This Act has provided for only three grades of lawyers, such as senior advocates, advocates and pleaders. A senior advocate is a post of honour conferred by the Supreme Court to an advocate of eminence and long practice. From the year 1999 onwards no one below an advocate shall be eligible to practice law, since the designation "pleader" will have been abolished by then. No one can practice law without obtaining an advocate's licence. Only a Nepali citizen who has passed the Bar examination is not convicted for any criminal offence of moral turpitude and is at least a law graduate besides possessing other requirements for other careerists is eligible to get an advocate's licence. This Act prohibits any foreigner to practice law in Nepal except otherwise allowed by the competent Nepalese court to plead in a particular case representing a party to the case. Any person found practising law without having a licence or a foreigner pleading a case without getting the permission of the concerned court shall be liable to a fine up to NRs. 2,000 or an imprisonment up to six months or both.

FITTA, 1992

Section 3 (4) and Annex of Foreign Investment and Technology Transfer Act, 1992 prohibits foreigners to practice law or make an investment for that purpose.

(b) Accounting, auditing and bookkeeping services

Nepal Chartered Accountants Act, 1997

Enacted for the promotion of auditors' service, this Act provides for the establishment of an autonomous body called "The Institute of Chartered Accountants of Nepal". The Institute works as a regulatory body for promoting the audit services and service conditions of audit professionals. A Council as a central body has been made responsible to look after the affairs of the Institute. The Council is mandated among other things to conduct examination for those entering the audit profession, issue licence to them, provide membership of the Institute, follow the guidelines of

International Accounting Standards, International Auditing and International Federation of Accountants, and to execute the code of conduct of auditors. Members of the Institute are classified into Chartered Accountants and Registered auditors. But a foreign auditor or accountant is not eligible to get the membership of Institute. The Council may cancel the registration of membership or a license issued to a person if it is found to have been issued by mistake. The Council is also empowered to take help from foreign Chartered Accountants, Associations or foreign experts or foreign universities or associations for conducting auditors' examination. The Council may recognize foreign auditor's licence or foreign chartered institutes, or foreign auditor's examination with the prior approval of HMG. No one is allowed to engage in auditor's profession without obtaining an auditor's licence. The Institute has to publish the complete name-list of its members and of the auditors each year. For obtaining a licence, a fee as prescribed shall have to be paid. All the members and auditors shall have to abide by the code of conduct provided for in the Act. Whoever works as an auditor without obtaining a licence commits an offence, for which a fine not exceeding NRs. 2,000 or an imprisonment for a term not exceeding 3 months is imposed. The Council may also invite participation of an expert foreign auditor in the Council meeting as an observer. The Act does not make any specific mention of foreign auditors to work in Nepal.

(c) Taxation services

Taxation services in the private sector are conducted by lawyers and law firms, and private Chartered Accountants, and Auditors' firms on a clientele or job contract basis. Their activities are regulated not by any specific taxation service law or regulations but by their professional association laws. In the case of lawyers and law firms, it is provided by Nepal Bar Council Act, 1993 whereas in the case of Chartered Accountants and Auditors and firms it is provided by Nepal Chartered Accountants Act, 1997. Under the provisions of these Acts only Nepalese citizens can proceed with their professional services (inclusive of taxation services).

(d) Architectural services

Same as (see) engineering services.

(e) Engineering services

There is no specific law at present regulating separately the engineering services in Nepal in the private sector. But this service may be operated under the provisions of Industrial Enterprises Act, 1992 by any Nepalese citizen, and even the foreigners can provide their services, under this Act and under the Foreign Investment and Transfer of Technology Act, 1992.

(f) Integrated engineering services

Same as (see) engineering services.

(g) Urban planning and landscape architectural services

Basically, urban planning and landscape architectural work is a governmental responsibility and a state activity undertaken by the Ministry of Housing and Physical Planning. But these days some real estate firms or companies are also engaged in this field of service they purchase plots of urban land and planning and architectural designing suitable for residential landscape purposes and sell it in fragmented of residential plots. The Acts and regulations relating to this sector are:

(a) (i) Town Development Act, 1989

Implementation of this Act has to be undertaken by governmental agencies. The only provision relating to private sector is to get prior approval for any land development project to be launched by the real-estate business firms/companies and to conform to the land development standards set by the Land Development Board. It is the primary responsibility of the Town Development Board to see that its town planning and the urban residential settlement schemes are executed properly and effectively.

(b) (ii) Kathmandu Valley Development Authority Act, 1989

This Act aims to execute all the schemes set under it for the planned settlement and development of Kathmandu Valley. In working under this regime the real estate firms/companies have to conform to the schemes set by the Kathmandu Valley Development Authority.

(c) (iii) FITTA, 1992

Section 3(4) and Annex of the Foreign Investment and Technology Transfer Act, 1992 prohibit foreign investors to operate a real estate business in Nepal except in the construction industries.

(h) Medical and dental services

Nepal Medical Council Act, 1997

This Act provides for the establishment of a Medical Practitioners' Council for the purpose of adequately regulating the health services in the country and registering the name of medical practitioners according to their qualifications. No foreign citizen is eligible to get nominated or elected to the membership or continue to be a member of the Council. But a foreign medical specialist can be invited to attend the meeting of the Council as an Observer. The Act allows no person to engage in medical practice without being registered after one year of the entry into force of this Act. The Act is silent over the registration of a foreign medical practitioner in Nepal. The Act is yet to enter into force.

(i) Veterinary services

There is no specific veterinary service Act/regulation. Individuals and persons organised as firms and companies conduct veterinary services in the private sector. Mostly, the veterinary service technicians who are retired from or left the job of government veterinary hospitals or those still in job before or after official hours provide veterinary services to the customers by organizing them selves in a legal firm or otherwise.

(j) Services provided by midwives, nurses, physiotherapists and para-medical personnel

Nursing services are provided under the organisational aspects of Nepal Nursing Council Act, 1997. But there is no specific Act or regulation to provide the services of midwives, nurses, physiotherapists and para-medical personnel to be organised in the private sector. Besides the government hospitals or health centres or medical centres, there are private sector hospitals, nursing homes and medical clinics formed as firms or companies which provide these medical technician services. Traditional and trained (ex-employee) midwives, nurses, physiotherapists and para-medical persons often provide services in an individual or unorganized capacity formally or informally.

B. COMPUTER AND RELATED SERVICES**(a) Consultancy services related to the installation of computer hardware**

Services provided under this heading are run in the private sector rendering these services on a clientele or contract service basis, since no specific law has been enacted till now in this field. Computer and related services are rendered individually or through firms and companies.

(b) Software implementation services

Same as (a) as above.

(c) Data processing services:

Same as (a) as above.

(d) Data- base services

Same as (a) as above.

(e) Other

The Statistics Act, 1959

The Statistics Act, 1959 provides for collecting, compiling, publishing and analysing of statistics and data by a central governmental agency called Central Bureau of Statistics (CBS). HMG has been empowered to require any person, who is in possession of certain documents, information, or statistics or data, to submit to the Director-General of CBS, and direct CBS to collect statistics as notified. For this purpose, the Director-General has been authorised power by the Act to collect, publish, compile and analyse the information in the form of statistics.

This Act provides that if any foreigner (individual or institution) wants to collect any economic records, information and statistics for commercial purpose, he has to seek permission from the CBS. The foreigner, in seeking such permission, has to apply to the CBS showing in detail the reasons for collecting such statistics, the area of collecting such data and the methodology to be adopted or programme to be conducted for such collection. The CBS may put certain conditions or give certain directions before granting such permission. Such a foreigner is required to get certified from the CBS before making any use of such data or publishing them. Such a foreigner is also required to pay an amount to the CBS if pass on any such statistics to foreign individual, institution or international agency without obtaining permission of CBS. Any foreigner (individual, institution or international agency) violating these requirements mentioned herein above shall be fined up to NRs. 5,000 for each such offence committed. In case the offence is committed by a foreign institution, such fine shall be imposed on it is its chief officer unless proved that such offence was committed without his/her knowledge.

C. RESEARCH AND DEVELOPMENT SERVICES**(a) R&D services in natural sciences**

There is no specific law in this area. Various acts of different objectives make some references to R&D. There are certain governmental or government-controlled agencies or institutions (state enterprises) engaged in R&D activities. Certain university level R&D activities are conducted by their research centres and faculty research labs. Such labs are also operated by hospitals, clinics,

police and industries. Very few of such things could be found in the private sector operated individually or by firms and companies established as service industries under the provisions of the Industrial Enterprises Act, 1992. In this regard, the provisions of the following acts may be taken notice of:

(i) Royal Nepal Academy of Science and Technology Act, 1991

This Act provides for the establishment of Royal Nepal Academy of Science and Technology (RONAST) as a competent and corporate body for the development, research and promotion of science and technology, to cultivate a congenial atmosphere for scientific and technological activities, and to encourage and honour talented scientists and technicians engaged in the field of science and technology. The Act provides that the fundamental objective of RONAST shall be to develop and assist in the development of appropriate science and technology in the country for all-round development of the nation, to protect and modernize the indigenous technology and to assist thereon, to conduct and assist in conducting research on science and technology, and to identify foreign technology appropriate for the need of the country and to assist in the transfer of such technology.

The powers, functions and duties of the RONAST as provided by the Act shall be as follows: to conduct study, research, development and promotion of various aspects of science and technology on the basis of priorities; to assist His Majesty's Government on the formulation and execution of policies relating to transfer of technology; to operate and cause operation of programmes in coordination with the national and foreign agencies relating to science and technology; to develop a central records and information system relating to science and technology and to render service thereon; to arrange by itself or through others seminars, conferences, etc. on themes of science and technology and arrange for publication on science and technology; to establish, expand and consolidate relationship with regional or international and other foreign institutions and organizations on science and technology to maintain the mutual exchange of assistance; to seek and obtain financial, technical and other kinds of assistance from national and international entities for the operation of the Academy and for the functions related to science and technology and administer them; to honour and encourage persons or organizations who have made distinctive contributions towards the development, promotion and use of science and technology; to increase interest among the general public on the usefulness and suitability of science and technology and generate congenial atmosphere for the increasing use of science and technology; to conduct studies on programmes and achievements of national agencies relating to science and technology and prepare periodic reports thereon; to submit suggestions to His Majesty's Government relating to development programmes on science and technology; to advise His Majesty's Government on the establishment of new entities and laboratories for research and development of science and technology; to grant financial and technological assistance, as prescribed, for the development of entity or laboratory relating to science and technology of Nepal; to establish exhibition rooms for appropriate items of inventions and samples relating to science and technology; and to execute and get executed other activities essential for achieving the objectives of the Academy.

His Majesty the King is the patron of the RONAST. RONAST as operated to date has been engaged in undertaking R&D activities by constituting a number of laboratories and R&D Department under the provisions of the RONAST Act, 1991 and Rules made thereunder. The Senate is the apex body of the RONAST, but no foreign academician can be its (Senate's) member excepting that a foreigner can be nominated as an academician to the RONAST.

(ii) Environmental Protection Act, 1997

The basic aim of this Act is to protect environment and control pollution. The Ministry of Population and Environment has been recognized as the Ministry of liaison. For the execution of this

Act, an Environment Protection Fund and Environment Protection Council have been established. This Act provides for establishment of laboratories to help in out the programmes relating to environmental protection and pollution control. For this purpose, HMG may constitute various laboratories or authorize the existing laboratory(ies) to conduct lab work in the public sector under this Act. The rights, duties and functions of such laboratories are to be provided by the rules and regulations made under this Act. HMG has been empowered to formulate guidelines under the rules to be framed under this Act. The penal provisions of this Act may apply in case such a laboratory violates provisions of this Act.

(iii) Nepal Agricultural Research Council Act, 1990

This Act (inclusive of its latest amendment of 1997) provides for the establishment of Nepal Agricultural Research Council (ARC) in the public sector as an autonomous body, in order to identify the problems of agricultural sector and find solutions and undertake high-level study and research to find appropriate technology, knowledge and skills for the improvement of agricultural productivity and its quality. Some of the important powers and functions of ARC as provided by the Act are: to fix priorities for agricultural research; to coordinate, follow up, review and evaluate the research activities undertaken inside the country; to up-date the profile of research activities; and forward appropriate recommendations to HMG for devising National Agricultural Policy. ARC is empowered to formulate by- rules under HMG authorization for the implementation of the activities to achieve the objectives of the Act.

(iv) B.P. Koirala Memorial Cancer Hospital Act, 1997

This Act has provided for the establishment of an autonomous national cancer lead hospital for the purpose of producing high-level manpower for undertaking high-level study and research on cancer disease and making this sector self-reliant for the control of and cure and treatment of cancer patients in Nepal. This hospital is a public sector institution pursuant to this Act.

(v) B.P. Koirala Institute of Health Sciences Act, 1992

This Act has provided for the establishment of an autonomous national medical (health) institute for the purpose of producing high-level manpower for undertaking high-level study and research on public health, providing qualitative health services to the people and making this sector self-reliant in the field of health. This Institute is a public sector institution pursuant to this Act.

(vi) Nepal Health Research Council Act, 1990

This Act provides for the establishment of Nepal Health Research Council, an autonomous body in public sector, for the purpose of undertaking high-level study and research in the field of health and identify problems and recommend suggestions for solving these health related problems.

(vii) Drugs Act, 1977 and Composition of Drugs Consultative Council Regulation, 1980; Drugs Registration Regulation, 1981; and Inquiry and Inspection of Drugs Regulation, 1982

This Act is enacted with a view to control misuse or abuse of drugs or auxiliary substances of drugs, control false propaganda relating to the usefulness and use of drugs, and control the production, sales and distribution, export and import, storage and consumption of drugs which are not safe, effective and qualitative. This Act provides for the formation of a Drugs Advisory Board by HMG which is required to advise the Drugs Administration Department on matters relating to research and development and control of Drugs. The department is made responsible by this Act to work for the fulfilment of the objectives of this Act. The Act has provided for the establishment of Royal Drugs Laboratory as the chief agency of HMG in the field of scientific research, testing and

analysis of drugs. It has also made provision for establishing research laboratories by any national or foreign individual or body corporate for undertaking scientific research and development of any particular drug with the permission of HMG. Reliability of such research laboratories is demanded since they have to report and certify the validity, certainty and reliability or otherwise of these medicines to the concerned authorities.

(viii) Narcotic Drugs (Control) Act, 1976

This Act was introduced in order to control the cultivation, production, manufacture, sale, purchase, storage, traffic, consumption, export and import of narcotic drugs in order to maintain morality, health, convenience and economic well-being of the public. The Act has been made applicable to Nepalese and foreign nationals, who, while residing in a foreign country, conduct transaction of export and import of narcotic drugs from or into Nepal in contravention of this Act and rules or orders framed or issued thereunder. Extra-territoriality of this Act is applied both to nationals and foreigners, and commissioning of an act by any one in contravention of this Act amounts to prosecution and punishment. But this prohibition does not apply to HMG or any institution working under the full and complete supervision and control of HMG after obtaining a special licence for cultivating, processing, producing, manufacturing, exporting or importing narcotic drugs for purposes of medical or scientific research or from selling narcotic drugs to any person on the recommendation of a recognised medical practitioner pursuant to this Act.

(ix) The Plant Quarantine Act, 1972 and Plant Quarantine Regulation, 1974

This Act aims to control and eradicate the transport and spreading up of dangerous epidemic diseases of plants and plant products for export and import. HMG has been empowered by this Act to establish laboratories meant for examination and treatment of plants and plant products, check-points and plant quarantine stations and fix their powers, duties and functions. This Act also authorizes the Plant Protection Officer to provide facilities as necessary to the governmental or non-governmental or private agencies who import and treat plant and plant products for study, research or undertake any other scientific activities. No plant and plant products will be given permission for imports unless they are found safe and parasites-free by the lab - test.

(x) Seeds Act, 1978

This Act is introduced in order to increase agricultural production by supplying high quality seeds to farmers prepared by means of scientific production, processing and testing. For this purpose HMG is entrusted by this Act to establish a Central Seeds Testing Laboratory and other laboratories at various places as necessary. HMG may authorize private sector seeds laboratories to test the seeds under this Act fixing certain conditions. Rights, duties and functioning of these laboratories have been made to be regulated by Rules.

(xi) Animal Feed Act, 1975

This Act is enacted for the purpose of controlling adulteration in animal food products and manipulation in the natural qualities or utilities of these products. HMG is empowered by this Act to arrange for quality control of animal feed. For this purpose, HMG is required to make arrangement for sending such animal feeds to laboratory test in a prescribed laboratory for determining whether or not any feed is adulterated .

(xii) Foods Act, 1966 and Foods Regulation, 1969

This Act is introduced to control undesirable adulteration in human food products and manipulation in the natural qualities or utilities of these products, thereby maintaining the adequate

qualities of food stuffs in order to maintain the health and convenience of the general public. The basic objective of this Act is consumer protection in food products or stuffs. For this purpose, this Act and the various rules provide for the establishment of a Central Food Research Laboratory under the Food Research Section of HMG for determining whether or not a certain food stuff is harmful .

(xiii) Nepal Drinking Water Corporation Act, 1988

This Act provides for the establishment of an autonomous body called Nepal Drinking Water corporation for supplying safe drinking water and providing sewage facilities to the consumers. One of the powers, duties and functions of this public sector Corporation is to conduct study research and survey of the source of drinking water and its supply and sewerage facilities.

(xiv) Nepal Electricity Authority Act, 1983

This Act provides for the establishment of an autonomous public sector institution named Nepal Electricity Authority in order to authorize it to make the generation, transmission, distribution or supply of electricity effective, reliable and easily accessible. One of the functions, duties and powers of this authority is to undertake or cause to undertake research as necessary in relation to the generation, transmission and distribution of electricity.

(xv) Academic Research Laboratories

Universities established or yet to be established under the following acts have their own scientific research centres and faculty/institute level academic research laboratories meant specially for higher education purposes:

- (i) Tribhuvan University Act, 1992
- (ii) Kathmandu University Act, 1990
- (iii) Eastern Regional University Act, 1994
- (iv) Pokhara University Act, 1997

(b) R&D services in the social sciences and humanities

There is no specific law in this area. Acts hardly make any references to R&D in the social science and humanities. Certain governmental or government-controlled agencies/institutions undertake such research regularly or occasionally. Certain institutes and universities established or yet to be established under the following acts have their own social science research centres and faculty-level academic research programmes for higher academic and educational purposes.

- (i) Royal Nepal Academy Act, 1993
- (ii) Tribhuvan University Act, 1992
- (iii) Mahendra Sanskrit University Act, 1986
- (iv) Kathmandu University Act, 1990
- (v) Eastern Regional University Act, 1994
- (vi) Pokhara University Act, 1997

Very few R&D activities in the Social Sciences and Humanities can be noticed in the private sector operated individually or by firms and companies under the provisions of Industrial Enterprises Act, 1992 or even by profit-making trusts established operated under the Societies Registration Act, 1976 and Regulation, 1977.

(c) Interdisciplinary R&D services

There is no specific law in this area. Hardly any act makes references to interdisciplinary R&D services. Certain governmental and government- controlled agencies/institutions do undertake such research regularly or occasionally. But very few interdisciplinary R&D activities (services) can be noticed in the private sector operated individually or by firms and companies established under the Industrial Enterprises Act, 1992 or even trusts under the Societies Registration Act, 1976 and Regulation, 1977.

D. REAL ESTATE SERVICES

(a) Services involving own or leased property

(i) The Constitution of the Kingdom of Nepal, 1990

The basic source of real estate ownership entitlement is Article 17 (1) of the present constitution of the Kingdom of Nepal, 1990 which provides every citizen of Nepal rights to acquire, hold, dispose and use property in any manner under the provisions of the existing law. A Nepali citizen can dispose his/her property by either sale or any other means of transfer only if he/she is entitled to do so by law. Selling and buying a real estate is a constitutional right of the Nepalese citizens provided by Article 12 (2) (e) of the constitution under the rights to freedom to engage in a profession, business, industry and trade subject to reasonable restrictions of law. Hence, real estate firms can own and use real property.

(ii) Civil Rights Act, 1956

Section 6 (6) of the Civil Rights Act, 1956 also confirms the Nepali citizen's right to own and use real property in Nepal.

(iii) Muluki Ain, 1963 (Civil Code)

Section 2 of ADALKO MAHAL (Miscellaneous Chapter) of Muluki Ain prohibits any one to sell, mortgage, gift or endow or dispose any real property to foreigner (individual or body corporate or State) without prior permission of HMG. In case, transactions of such real property transfer are concluded in contravention of the above prohibition, the real property so sold or purchased shall be confiscated by HMG and will be transformed into government ownership. The amount of capital involved in the transaction of such real property shall be refunded to the creditor (foreigner) under a deemed promissory note. However, HMG is not empowered by any prevailing laws to give permission to any one to sell, mortgage or dispose or transfer by any means any property to a foreigner. Section 3 of the above chapter provides a foreign national who is found to be a heir apparent to any claim to an intestate or a coparcenary property of a deceased in Nepal; he is entitled to sell that property.

A substantial number of persons are engaged in operating real estate business in Nepal. But all the modes of real estate business have not yet commenced in Nepal. At present real estate business is operated in Nepal in the following ways: (a) direct selling and purchasing through brokers; (b) direct purchasing from the owner and selling for profit; (c) firms of legal draftsmen engaging as brokers; (d) unregistered real estate firms doing business; (e) established registered firms and companies doing land plotting, land developing and other components of real estate business. But an appropriate legal regulatory and monitoring mechanism is not yet available in Nepal relating to real estate.

(iv) Contract Act, 1967

It is the only act or law which provides for regulating contractual relationships between a real estate agency and its clients, especially in the leasing of one's real property to another. Legal rights, duties, obligations and liabilities of contracting parties, i.e., lessor and leasee are elaborated broadly under this Act. The contract document signed between the parties of a contract should conform to provisions of this Act.

(v) Lands Act, 1964

This Act has fixed land ceilings, beyond which Nepali citizens are not allowed to acquire, hold and dispose real property of it. But there is no such ceiling requirements to lands allotted to industrial and agro-industrial purposes for companies or firms undertaking such a venture. For companies that conduct real estate business without owning there are no such limitations on ceiling.

(vi) FITTA, 1992

Section 3(4) and Annex of the Foreign Investment and Technology Transfer Act, 1992 prohibit foreign investment in real estate business services in Nepal excluding construction industrial business.

(b) Services operating on a fee or contract basis

Real estate firms/companies or brokers can serve the clients on a fee or contract basis under the Contract Act, 1964. There is no legally fixed rate of fee or commission or contract service charge except tax payable to the real estate agencies, all of which is negotiable. At present no real estate business act exists in Nepal.

E. RENTAL/LEASING SERVICES WITHOUT OPERATORS**(a) Relating to ships**

There is no specific law which provides renting or leasing of shipping services without operators. However, renting/leasing of maritime ships may be undertaken under the following two schemes: leasing the ship owned or taken under a rental basis by HMG, and leasing the ship owned or taken under rental basis by private sector. For the leasing of maritime ships either by HMG or by the private sector provisionally with operators, the following acts and rule are the governing ones:

(i) Shipping Registration Act, 1971 and Nepal Shipping Registration Regulation, 1972 and two other acts relating to Flag and Certification and Daybook of Registered Ships

This Act was enacted for the purpose of registering mercantile ships as the national flag carriers. This Act has extra-territorial application. The following categories of Nepali mercantile ships have to be registered in the registry book of Nepal shipping office: a ship holding at least 51 per cent share of Nepali citizens or as a body corporate established under the prevailing Nepal laws and with its principal business office situated inside Nepal; Nepali citizens holding more than 51 per cent seats in the Board of Directors; owners and co-owners applying jointly for ship registration in the Ship Registration office of Nepal; and those whose registration is cancelled in case the ship contained foreign registration. HMG is authorized by this Act to establish Nepal Shipping office and appoint its Registrar by notifying in the official Gazette. The fees and procedures of registration of ships are provided in the Nepal Shipping Registration Regulation, 1972 framed by HMG under the provisions of this Act. The Act requires that the Master and 75 per cent of the Navigators (operators) are to be Nepali citizens. But in case they are not available in a particular ship, foreigners can be hired proportionately from the second year of plying the ship making the required figure to be 75 per cent

Nepali citizens on the eighth year of its service. But no citizen of a foreign country, with whom Nepal has a warring state of enmity, can be hired. Despite the above requirements the Act provides that in recruiting the Master or any employee of the ship, Nepalese citizens should be given preference. It specifies that the Registry book of Nepal Ship kept in Nepal Shipping office is a public document open to everybody. Such books are of two types, one relating to the registration of mercantile ships and the other relating to the registration of boats. Each such book contains different folios, such as particulars, ownership, charge and restrictions. The Act provides that the Certificate of Nationality issued by the Registrar of Nepal Shipping Office is also a public document. It contains the name of the ship, date and place of its purchase, name and address of its owner, name of its Master, details of its tonnage, design and manufacturing particulars. As provided by this Act, no transfer of share or partial ownership of a Nepali ship shall be made to a foreign citizen or foreign body corporate, nor any transaction of the ship shall be made which creates any liability towards a foreign citizen or institution contrary to the provisions set under sections 4 and 28 of this Act, which provide that the ownership of Nepalese citizens or institutions or HMG shall not be less than 51 per cent of such a Nepali ship. HMG has been empowered to inspect the ship and shipping business and seek details and reports on a regular basis. The standard and format of contract document to be prepared for the operation of ship leasing business are to be in accordance to the rules.

As regards the penal provisions, the Act provides that any person supplying false details for the registration of a ship or falsifying the certificate of registration by means of over-writing on it or failing to submit reports or details to HMG shall be liable to a fine up to NRs. 50,000 or up to two years imprisonment or both. The use of national flag by that ship in such a case may be withdrawn or suspended for a certain period. The owner of the ship shall be fined up to NRs. 10,000 in case the name and registration number of the ship are not painted on the body of the ship as provided or if an unauthorized name is painted or the name of the ship is changed without the permission of the Registrar or if information regarding the loss of the ship or its withdrawal from the shipping business or any other matter causing the cancellation of its registration is withheld. The Registrar of the Nepal Shipping office is provided to be the first court of instance exercising and following all the powers and procedures of the District Court in the finalization of the case. An appeal against his/her decision could be made to the local Appellate Court within 35 days of the decision.

There are two other important acts which are not only related to the above Act but also considered as the part and parcel of this Act. One of them is Flag of the Mercantile Ship of the Kingdom of Nepal Act, 1971 which outlines the objectives and facilities of flag, envisage the rights and duties of the flag carrier, conditions for which use of the flag cannot be made, and the penal provisions and authorities to hear cases. The other is, Nepal Ship (Certification and Daybook Keeping) Act, 1971, which provides various documents relating to the ship, such as Certificate of Registration, Provisional Certificate of Nationality, Navigators Index, Safety Certificate, Tonnage Certificate, Certificate of Mice Eradication, Ship Daybook, Engine Daybook, Sanitation Daybook, Radio Daybook, and provides for penalties and hearing of cases.

(b) Services relating to aircraft

(i) Civil Aviation Authority of Nepal Act, 1996

This Act has been especially enacted for establishing an autonomous institution, named Civil Aviation Authority of Nepal (CAAN) Act, 1996, in order to make the operation of national and international air flights, air communication, and navigation and air transportation service safe, regular, qualitative and effective. Working under the Ministry of Tourism and Civil Aviation, CAAN is the competent authority in the matter of civil aviation in Nepal. Among other things, important process, functions and duties of CAAN are: to grant permission and certification, and suspend or cancel the permission as prescribed to the licensed institutions to operate airlines services; to conduct air flight training; to manufacture aeroplanes and its parts and equipments; to conduct maintenance and testing;

to provide services of technicians and other services related to airlines to grant recognition to foreign airlines, and entities relating to aircraft engineering, to conduct maintenance and testing of Nepalese aircrafts; to conduct registration and provide markings to aircrafts as prescribed; to provide certificate of air- worthiness, renew or cancel it; to determine conditions for air cargo and other industrial activities to be run by aircraft in; to fix air routes, entry points for arrival to and departure from Nepal except the non-flying zones; to provide air traffic service, flight information service, alerting service, air traffic advisory service, air traffic control service, air navigation service and facilities, area control service, approach control service and aeroplane control service; to control air noise and prohibit air pollution from aircraft; to prohibit, control and quantify air cargo of dangerous goods; to grant flight permissions and determine the functions and duties of pilots; to advise HMG of the rates of air carriage of goods and passenger fares; to make the best commercial and economical use of the airport and the facilities and services available there; to undertake insurance of the buildings, aircraft, machines and equipments at the disposal of CAAN; to execute the standards set and recommendations made by the Convention on International Civil Aviation as accepted by HMG, and as determined by International Civil Aviation Organization (ICAO); and undertake any other activities related to it and do or cause to do other functions as instructed by HMG under this Act. HMG may make available any private land necessary to CAAN for the execution of its project work causing it to pay due compensation to its owner. The Act has empowered CAAN to create its own fund by making use of its resources, by taking loans and grants from local and foreign governments and agencies and by means of any other commercial strategies.

CAAN is authorized by the Act to undertake joint venture projects and conduct programmes with the national and foreign investors with prior approval of HMG in this regard. CAAN has been provided to have a Board of Directors to look after and manage its affairs. The Board is required to give thrust to the commercial principles. Keeping in mind the business profession of air services and the security of the passengers in the course of managing its affairs, HMG is required to give security to the airport and its vicinity until CAAN makes its own security arrangements. The Act totally restricts all the officials and officers of CAAN to take part directly or indirectly in business transactions or contracts for personal benefit. Audit of the accounts of CAAN is conducted under the Auditor General's Office. CAAN is empowered to recover any dues, fees, etc. from an body under the Governmental Arrears Recovery Process. HMG has been conferred immense power by the Act in the implement of this Act. It may issue stop any work which is being or likely been undertaken by any one contrary to the provisions of this Act and the Rules. It may annul fully or partly any order(s) made by CAAN if it feels it necessary for public interest. It may by public notification exempt any aircraft or person from paying any charge or fee or fare fully or partly. It may dissolve CAAN in case of any omission or commission of the Act for failing to carry out the works of HMG or for causing any loss to CAAN or for any reasons calling for its dissolution. After the dissolution all the properties and assets of CAAN go to HMG ownership. It is further provided that after the commencement of this Act, all the property of air transportation service or project conducted by HMG shall after its valuation be transferred to CAAN as HMG's capital investment to it. CAAN is authorized to issue any order whatsoever necessary for the safety, protection, regulation and management of the matters relating to air services to anybody, civilian or governmental, and it is their duty to carry it out. After the commencement of this Act the responsibility of running the civil aviation services shall be transferred to CAAN and the employees serving hitherto in the Civil Aviation Department shall either be transferred to CAAN or retained in any other government service according to their choice. It is also provided by this Act that matters which are not covered by this Act but have the connection with matters relating to civil aviation service shall be governed by prevailing laws. CAAN has been empowered to impose fine on a person for violating its orders, terms and conditions of its permission or obstructing its works, which is up to NRs. 50,000 or NRs. 25,000 or NRs. 16,000 depending upon the cases. This Act has been made to have extraterritorial application.

(ii) Civil Aviation Act, 1959

This Act (inclusive of its latest amendment of 1996) which is in force at present provides to regulate the operation of civil aviation in a manner the country could get maximum benefits out of it and create an environment conducive to the development of civil aviation in Nepal. This Act has extraterritorial application. In order to achieve the objectives of the Act, HMG may formulate rules especially in the following matters; matters relating to the permission for establishing and operating airports by private sector and the fees thereof; prohibition for flying over a particular area or regulating flights at a particular situation and time; and adoption of the necessary measures to protect an individual's life and physical security; determination of the amount of compensation and its payment in the case of demolition of a private house or its premises for undertaking a project relating to air-field construction; prohibition, control and regulation of air carriage of certain goods, permission for conducting air flight services, flying school operation, manufacture of aeroplanes, their equipment, maintenance, testing and overhauling of them; search and rescue of aeroplanes in distress; and control of noise and banning of air flight - caused pollution. Pursuant to this provision, the Civil Aviation Rules, 1962 Aircraft (Landing, Parking and Housing) Fees Regulation, 1970 have come into force.

The Act has authorized HMG to take the following steps necessary for public security and maintaining peace ensuring and order to cancel or suspend any licence or certificate; to prohibit or regulate flying over the whole or any part of the territory of Nepal by all or any class of aircraft; to prohibit or regulate, with or without condition, constructing or manufacturing, establishing, undertaking maintenance or keeping or maintaining of airports, aircraft industries, flying schools or others; and to hand over things and equipment as aforesaid to HMG and put them for public use. If any direct loss is caused to anyone by these steps he shall be duly compensated by HMG. Any one not carrying out the orders issued by HMG as above may be imprisoned for up to three years or fined up to NRs. 5,000 or inflicted both penalties. HMG is also empowered to formulate rules relating to aircraft accidents and make an execution thereof, according to which the Civil Aviation (Investigation of Accidents) Rules, 1967 have been in existence. HMG has been given special powers by this Act to formulate rules and take immediate necessary action to control the transmission of epidemic or other communicable diseases to the passengers and to the general public. For any violation of the provisions pointed out above, an individual is subjected to a prison term up to 3 months or a fine up to NRs. 1,000 or both. The Act defines the following acts committed by anyone as crimes: illegal trespass; flight encroachment; air hijacking, and flight security risks; safety risks to aircrafts; security risks to airports; security risks to persons connected with air transportation. There are different sets of punishments imposed upon the offenders of these crimes, for instance, for the crime of illegal trespass and flight encroachment, it is one to three years imprisonment; in the case of air hijacking, flight security risks and security risks to aircrafts, the punishment is life imprisonment; it is 15 to 20 years imprisonment in the case of an attempt to commit the crime or being an accomplice to it, in the case of a crime relating to security risks to airport, the punishment is one to five years imprisonment plus recovery of the total amount of loss in cash; for the crime of security risks to persons connected with air transportation, the punishment is five to ten years, imprisonment; and in case a person dies or an aircraft gets blasted in the course of committing a crime, the punishment is life imprisonment or 15 to 20 years, imprisonment to both the main criminal and the accomplice plus confiscation of their property. In case the crime as outlined above is committed by a foreign national, he/she will be extradited from Nepal to the country of demand under the provisions of the Extradition Act, 1988. In case he is not extradited on technical reasons, a legal case shall be processed in the regular court of Nepal. This Act has clearly stipulated that cases under local criminal jurisdiction may be processed pursuant to the existing Nepal laws, besides the one being processed under this Act. The Act makes provision to facilitate the despatch of a hijacked aircraft in case it has landed in Nepal to its normal destination with its crew, passengers and goods on board. It makes provision and lays down procedures as to how HMG would recognize the international conventions on the control of unlawful interference in air service. Another set of punishment is also provided to a person who flies aircraft

endangering individual's life and property and threatening loss and damage to another aircraft for which a maximum 6 months imprisonment and fine ranging between NRs. 50,000 to NRs. 100,000 can be imposed. For entering a prohibited areas as prescribed fine up to NRs. 200 is charged. The Act provides for checking and search of passengers' and other persons' body and baggage for security reasons.

Cases under this Act are treated as government cases and are heard by the local District Court. The court may also order confiscation of aircraft and goods therein if it is established that there have been illegal activities. The Court is required to adopt the procedures laid down in the Special Court Act, 1974 in the trial and proceedings of cases relating to the safety of aircraft and air flight. An appeal against the decision of the District Court lies in the local Appellate Court within 35 days of such decision. HMG may also constitute a special court or tribunal to try cases relating to the safety of aircraft and air flight. Customs duty regulations are also applied in the air transportation services.

(iii) Royal Nepal Airlines Corporation Act, 1962

This Act has provided for the establishment of the Royal Nepal Airlines Corporation (RNAC), an autonomous public sector entity, to operate national flag carrier for domestic and international airlines services. The main powers, duties and functions of the RNAC under this main objective are: to conduct commercial and other air transport services at promotional and possibly at cheap air freight; to manufacture and repair aircraft and their parts and equipments; to take help from foreign airlines; to award and get awarded contracts and leases; to act as an agent or contractor of other airlines; to undertake joint venture air transportation services and to advise HMG whether or not a foreigner (individual, body corporate or government) should be given permission to start new air transportation services. The rules of procedure and decisions of the RNAC are to guide negotiations on leasing of air services without operators.

(c) Services relating to other transport equipment

(i) The Railways Act, 1962

This Act provides for the regulation and safety of railway transportation of goods and passengers, penalties for railways offences, railway administration, paying of fares, freight and demurrage charge by passengers and customers, and payment of compensation by the railways for any loss and damage of goods etc. This Act does not provide anything about rental/leasing services of railways without operators.

(ii) Vehicles and Road Transportation Regulating Act, 1993

This Act has been enacted to control road accidents, provide compensation to the parties affected by such accidents, arrange for insurance, and make available to the general public simple and accessible transportation services, which make the road transportation service strong, efficient and effective. This Act applies to all types of vehicles. It provides for registration and certification and renewal of vehicles, inspection and checking of vehicles; sale and transfer of vehicles, driving licence, foreign vehicles and transports; road and route permit, and registration of the name of transport services and carriers; rates of fares and ticketing; safety of passengers and goods; seat arrangements; traffic control arrangements; parking and stations; code of conduct for drivers; insurance arrangements; powers, duties and functions of the Transport Management Board of HMG, penal provisions, road accidents and compensation to parties affected.

This Act requires that all the commercial transportation services have to be undertaken in a healthy, reliable, safe, comfortable, well-managed, scientific and competitive manner. Under this legal

framework leasing of transport equipments may also be undertaken by dealing under the Contract Act, 1967.

(d) Services relating to other machinery and equipment:

(i) Contract Act, 1967

Rental/leasing services relating to other machinery and equipment without operators may also be undertaken by negotiating under the terms and conditions agreed on the contract made or concluded under the Contract Act, 1967.

F. OTHER BUSINESS SERVICES

(a) Advertising services

There is no single or specific act regulating all the modes of advertising services, but some provisions of the following acts deal with it:

(i) National Broadcasting Act, 1992

Under the provisions of sections 14, 15 of this Act, any person (whether a national or a foreign individual, firm or body corporate) who wants to advertise anything in public may be provided time in the media by the concerned broadcasting agency after collecting the prescribed advertising fee from it. Advertisement programmes which are harmful to public health, such as smoking, use of tobacco and drinking of alcohol, are provided to be discouraged. But advertisements in the following matters are not allowed to be released, those which are against the interests of political parties; are vulgar; are provocative and intend to overthrow the elected government by using violent means; are of a nature causing unnatural public fear and havoc; are contrary to the non-aligned foreign policy of Nepal; and contain elements misinterpreting, insulting and undermining any community, language, religion and culture.

(ii) Gorkhapatra Corporation Act, 1962

This Act has been enacted specially for the establishment of an autonomous corporate body, though government-controlled, named Gorkhapatra Corporation, for the publication of a daily newspaper Gorkhapatra, The Rising Nepal and other regular or periodic publications. As part of its functions and duties, Gorkhapatra Corporation is required to publish advertisements by charging fees for it besides its scheduled activities.

(iii) Press and Publication Act, 1990

This Act regulates, among other things, the publication of advertisements through press. The Press Registrar who is responsible for keeping records of journals and periodicals published from Nepal is authorized by this Act to provide details of any journal or periodical to any person, who seeks it for publishing advertisements-on it, by collecting the fees prescribed from them.

(iv) Press Council Act, 1990

This Act which provides for the establishment of a Press Council for helping out the government devising appropriate policy on journalism, may also work for regularizing advertisement. The Journals Distribution Scrutiny Board constituted under this Act, a representative of the Advertisement Association, is also nominated by HMG as its member, which signifies that advertising services have a place of their own.

(v) Based on the above legal regulatory schemes plus the provisions of Industrial Enterprises Act, 1992, advertising services have to be carried out under the following legal forms:

- by forming a sole proprietorship private firm under the Private Firm Registration Act, 1959 and Regulation, 1977;
- by forming a partnership firm under the Partnership Act, 1963; and
- by forming a company under the Company Act, 1997.

(b) Market research and public opinion polling services

(i) Not a single regulatory Act or Rule is available as yet in this area. But it is undertaken sometimes by people without organizing under a legal form or by organizing as a private firm, partnership, company or even a Society under Societies Registration Act, 1977 and Regulation, 1978.

(ii) Central Bank Act, 1955

Under section 15 of this Act, Nepal Rastra Bank (Central Bank) undertakes market research on a regular basis for the purpose of survey, evaluation and analysis of economic situation of the country.

(iii) Management consulting service

- Not a single Act/Rule is available as yet. But such a service may be undertaken under the Industrial Enterprises Act, 1992 by an individual, firm or a company.
- But foreigners are prohibited to engage in management consulting service under section 3(4) and Annex of the Foreign Investment and Technology Transfer Act, 1992.

(d) Services related to management consulting

Same as (see) (iii) of b. above.

(f) Services incidental to agriculture, hunting and forestry

There is no legal formality required to engage in this service unless it is organized as corporate agricultural farming under the Industrial Enterprises Act, 1992.

So far as hunting is concerned, it is not a common service. Hunting of nationally protected animals or wildlife is totally prohibited, violation of which is considered a criminal offence. Hunting of wild animals or creatures which are not protected can not be done by anyone without the written permission/licence of the concerned authority under the provisions of the following acts/rules for a certain duration and time, and on certain terms and conditions and charges payable for that:

- Forests Act, 1992
- National Parks and Wildlife Conservation Act, 1973 and Regulation, 1974; Royal Chitwan National Park Regulation, 1974; Wildlife Conservation Regulation, 1976; Himalayan National Park Regulation, 1978

As regards the forestry services no specific, provisions are made by any Act or rules in the private sector except in the case of growing and exploiting private forests.

(g) Services incidental to fishing

(i) No specific law is available. The service is found in the unorganized sector. Foreign investment is prohibited under section 3(4) and Annex of FITTA, 1992.

(ii) Aquatic Protection Act, 1961 and Aquatic (Lease) Rule, 1962

This Act prohibits catching or fishing of certain species of aquatic animals in the national or government waters outside the private ones. Those which are outside the protection net may be allowed by HMG to fish or catch under certain terms and conditions of a contract.

(h) Services incidental to mining

(i) Mines and Minerals Act, 1985

This is the only Act regulating mining and mineral exploration and exploitation outside the exploration and exploitation of petroleum and natural gas. According to the provisions of this Act, all the mines and minerals found and located under any type of land in the government or private ownership shall be the property of HMG. HMG has been given absolute monopoly to undertake mining or mineral operations. The Department of Mines and Geology may on behalf of HMG undertake this activity on its own or give it in contract to any national or foreign party or undertake it in foreign collaboration. In case of undertaking mines and mineral operation through another party, the Department may issue licence on a renewal basis putting the terms and conditions on it. The licence-holder may export the minerals unless it is restricted only for domestic consumption and required for national security. The licence-holder is required to pay HMG the royalty and other fees at the rate prescribed. Other obligations required by this Act and the Rules made under it and set out in the contract document have to be discharged by both the parties. Any dispute arising out of the contract has to be resolved finally by arbitration unless resolved mutually.

(ii) FITTA, 1992 and Industrial Enterprises Act, 1992

The protection, facilities and incentives of the Industrial Enterprises Act, 1992 are provided to the mineral industries, and those of FITTA, 1992 cases of foreign investment and technology are involved.

(i) Services incidental to manufacturing

There is no specific Act/Rule available as yet regulating manufacturing services. However, the protection, facilities and incentives of the Industrial Enterprises Act, 1992 are provided to manufacturing industries, and those of FITTA, 1992 in the case of foreign investment and technology.

(j) Services incidental to energy distribution

No particular Act is available as yet, but the services may be conducted under a job contract or contract service basis.

(k) Placement and supply services of personnel

(i) There is no specific Act on inland placement and supply services of personnel for any type of governmental, non-governmental, semi-governmental or private sector requirements. Any Nepali citizen taking notice of it through public or private means may try to get that opportunity.

But as regards the foreign citizens' service opportunities in Nepal, and the Nepalese citizens serving in foreign countries, the following acts are relevant:

(ii) Labour Act, 1991 and Industrial Enterprises Act, 1992

Section 4(1) of the Labour Act, 1991 and the Nepalese Supreme Court's decision and interpretation on this section (vide Writ No. 2156, and section 22 of the Industrial Enterprises Act, 1992) require that the manpower required for any industry shall have to be recruited from among the Nepalese citizens. But if any industry cannot be operated without persons living outside his/their own country (expatriate manpower), foreign nationals may be appointed in such industry with the prior approval of the Department of Labour for a maximum period of five years. If a person so appointed happens to be a technician of a special category but not available within Nepal, such a person may, with the approval of Department of Labour be appointed for up to an additional period of five years. Such a foreign employee is allowed 75 per cent of his earning to be repatriated in convertible foreign currency.

(iii) FITTA, 1992

For foreign nationals working under FITTA, 1992, arrangements also fall under the above labour requirements.

The above labour requirement forms the rule and legal basis for all agencies employing foreign nationals.

(iv) Foreign Employment Act, 1985

This Act (with its latest amendment in 1992) aims at controlling and regulating the business or trade of arranging employment of Nepalese citizens in foreign countries. No one is allowed to operate this business without obtaining a licence. Such licence is issued only to the body corporate established under the existing law after collecting the licence fee and security deposits in advance from the licensee. A licence contains certain terms and conditions, any default of which or of the existing acts or rules or order may cause cancellation of such licence. However, in certain special situations HMG may cancel a licence at any time. The supply of Nepalese labour can be made only in those countries as notified by HMG in the official Gazette. The ownership and liability of the business concern can not be transferred or changed without the permission of HMG. A licensee has to secure prior permission from HMG for the selection of workmen to be sent for foreign employment, for which he has to apply by furnishing the required particulars. After obtaining such permission the licensee has to publish a public advertisement for selecting the workers. Each selection has to be made impartially and in the presence of a government representative and the representative of the foreign employer in case it wishes so. But in no case shall minors and females be provided foreign employment without the consent of their guardians. A licensee is entitled to obtain a prescribed amount of service charge from the workman for getting foreign employment. HMG may give permission to the licensee to send workers for foreign employment only after a formal copy of contract document is signed between the licensee and the employee is produced before HMG. The employee has to be made fully aware of the background details of the foreign country of employment. A detailed record of the workmen sent abroad has to be presented by the licensee and HMG may inspect it. Any irregularity found to be maintained in the process of foreign employment may be investigated by HMG. The licensee should follow the directives given by HMG in this regard. A licence has to be renewed every year. This Act provides for the formation of an Advisory Committee to advise HMG in matters of foreign employment. HMG may formulate rules as necessary to enforce the Act. A licensee violating the legal provisions and the directions of HMG may be fined NRs. 5,000 to NRs. 50,000. A person operating the business without obtaining a license or cheating a sum of money from persons on a false pretext of providing foreign employment shall be required to refund such amount of money and an amount of

interest at the rate of 18 per cent, and the costs of travel to and from the foreign country along with a fine of NRs. 50,000 to NRs. 200,000 or an imprisonment of one to five years or both. The penalty would be half in case the workman has not yet been sent abroad. Penalty for forging the documents related to foreign employment is fixed at NRs. 25,000 to NRs. 100,000 or six months to 3 years imprisonment or both. This leads to the cancellation of licence as well as non-reissuing of licence. Cases under this Act fall under the Government cases Act, 1992 in which, the State is a party. The foreign Employment Act, 1985 is, however, silent about the foreigners' participation in Nepal in this business.

(m) Related scientific and technical consulting services

No particular act or law is available as yet. The services may be conducted under a contract service basis in a few cases.

(n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment)

No particular act or law is available as yet. It is conducted under a job contract or contract service basis by practising technicians or technical firms for certain types of equipments.

(o) Building-cleaning services

No particular Act or law is available as yet. It is conducted under a job contract or contract service basis by certain contractors or labourers.

(p) Photographic services

No particular law is available as yet. It is conducted under a job contract or contract service basis by photographers or photo studios as individuals or firms or companies (attracting the provisions of Industrial Enterprises Act, 1992).

(q) Packaging services

No particular law is available as yet. It is conducted under a job contract or contract service basis by individuals or firms or companies (attracting the provisions of Industrial Enterprises Act, 1992).

(r) Printing, publishing

(i) The Constitution of the Kingdom of Nepal, 1990

Article 13 of the constitution guaranteeing Press and Publication Right stipulates that no news item, article or other reading material shall be censored, provided that nothing shall prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of the Kingdom of Nepal, or which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes or communities; or on any act of sedition, defamation, contempt of court or incitement to an offence; or on any act which may be contrary to decent public behaviour or morality. It further provides that no press shall be closed and seized for printing any news item, article or other reading material. It furthermore provides that the registration of a newspaper or periodical shall not be cancelled merely for publishing any news item, article or other reading material.

(ii) Press and Publication Act, 1990

This Act confirming the above constitutional right of press and publication freedom provides for registration of printing press and newspaper or periodical and other matters related to it. It requires a press or a newspaper or a periodical to get registered before coming into operation. It also requires that once a book is published, two copies of it have also to be submitted to the local District Administration Office for documentation before the book is distributed or sent to market for selling. The ownership of a press or newspaper or periodical may be sold and transferred pursuant to this Act. No prior restriction is imposed except on the following grounds (nothing of these can be published) in addition to those stipulated under Article 13 of the constitution for publishing any news, article or any other reading materials: causing disregard or hatred or contempt or enmity against His Majesty or Royal family and disturbing the security, peace and order of the Kingdom of Nepal. HMG by publishing notification has the power to restrain for a certain period publication of any news item, notice or any reading material relating to a particular issue, event or region or order to publish it after getting it checked by the concerned authority. HMG has been empowered to forbid the import of certain foreign publications which are objectionable for the same reason provided under Article 13 of the Constitution and those mentioned above in this Act. No one is allowed to import and sell the publications which are banned. This Act also provides licensing of press correspondents of national or foreign press or communication institutions. It lays different penalties for offences committed under this Act.

(iii) FITTA, 1992

It does not prohibit foreign investment in printing and publication services except for security printing as provided under its section 3(4) and Annex.

(s) Convention services

No particular Act or regulation is available as yet. But this service may be conducted under a job contract or contract service basis.

2. COMMUNICATION SERVICES**A. POSTAL SERVICES**

The following Act and Rules and Regulations made under it are attractive to it:

- (i) Post Office Act, 1962, and Additional Post Office Regulation, 1976; Postal Saving Bank Regulation, 1975; Letters without Postal Stamp Regulation, 1976; Money-Order Regulation, 1974; Internal Postal-Parcels (Insurance) Rules, 1961; Post-Office Regulation, 1963

Post Office Act, 1962 has given monopoly to HMG to provide postal communication services to the people. Only courier services and air document services are out of its purview. Through a recent amendment to this Act, HMG has been authorized to issue licence to the private sector to run postal services under certain conditions. In providing postal services to the people, HMG has been given immense power under the detailed provisions of this Act. Accordingly, HMG may fix domestic postal charges, fix foreign postal charges with an agreement between HMG and members or non-members of World Postal Union (WPU) under the Convention of WPU or on the basis of understanding with a non-member of WPU; arrange and introduce different types and costs of postal stamps; fix conditions for the dispatch of postal - objects; conduct postal registry, undertake insurance and recovery of stamp charges from the postal due letters; dispose undelivered postal objects; conduct domestic and foreign money-order; operate postal savings banks; and frame rules and regulations for the execution of the

provisions of the Act. This Act has prescribed a long list of fines and punishments for different offences committed under this Act. Offences under this list are normally criminal offences legal actions and proceedings for which are initiated under the Government Case Act, 1991.

B. COURIER SERVICES

(i) Post Office Act, 1962

Section 3 of this Act provides for courier services. For this purpose, item 3 A of this Act authorizes HMG to issue licence laying certain conditions upon a person or institution to run private postal services or courier services in the private sector. In case of violation of the terms and conditions of the licence or violation of any of the related provisions of Postal Office Act, 1962 the licence-holder has to pay compensation for any loss caused and may have to bear imprisonment up to five years or a fine up to NRs. 2,500 or both.

(ii) FITTA, 1992

Section 3(4) and its Annex does not allow foreign investment in the internal courier service.

C. TELECOMMUNICATION SERVICES

- (a) **Voice telephone services**
- (b) **Packet-switched data transmission services**
- (c) **Circuit-switched data transmission services**
- (d) **Telex services**
- (e) **Telegraph services**
- (f) **Facsimile services**
- (g) **Private leased circuit services**
- (h) **Electronic mail**
- (i) **Voice mail**
- (j) **On-line information and database retrieval**
- (k) **Electronic data interchange (EDI)**
- (l) **Enhanced/value-added facsimile services, including store and forward, store and retrieve**
- (m) **Code and protocol conversion**
- (n) **On-line information and/or data processing (including transaction processing)**
- (o) **Other**

Services of all the sub-headings (a to o) under this heading are governed by the following Act and are to be undertaken mainly by the public sector operations:

(i) Telecommunication Act, 1996

This Act provides for the establishment of Nepal Telecommunication Authority for the regulation of telecommunication services in accordance with the legal provisions and the communication policy of HMG. The Authority has been mandated to make arrangements for easy and accessible distribution of telecommunication services in all the urban and rural areas of the Kingdom as a basic service. For this purpose it may engage the private sector both from local and foreign investors. The Authority may among other things give permission for operating telecommunication services in the private sector. It may approve and regulate the rates of service charges. It is empowered to operate radio frequency services, engage in R & D activities for updating and using the latest telecom technology, engage in human resource development useful for the telecommunication

sector and work for introducing Nepal as an international transit point of telecommunications. It is also empowered to settle disputes between the licence-holders and/or consumers, and exercise supervision over the activities of licence-holders. HMG has also been empowered either to operate telecommunication services on its own or authorize others to operate them. The government exercises its privilege in controlling transmission provisionally at the time of emergency or for the reason of national security.

The Act authorizes no person to operate telecommunication services without obtaining a license from the Authority. A licence is granted within 120 days after completing a long process of formalities and collecting the charges. Licence fee, renewal fee and royalty sums are negotiable. A person unable to obtain licence within the said period may lodge a complaint with HMG, and the decision of the later in this regard is final. A licence is granted for a period of ten years at the minimum in one term, the total period of which is 25 years at the maximum. A licence is automatically cancelled once it is not renewed. Renewal is done for a maximum period of five years for each term by collecting fees for that purpose. Amendment to a licence has also been made possible by the Act. A licence can be sold, purchased or transferred with the prior permission of the Authority and by paying fees for it. A licence can also be cancelled in case services are not rendered within the period as prescribed in the terms and conditions of licence or worked contrary to the legal provisions or the directions given by the Authority. An appeal lies with HMG against the license cancellation decision made by the Authority within 35 days, and the decision of HMG is final in this regard. A licensee has to invest certain percentage of its investment services out of the total in the rural areas as directed by the Authority. The Act facilitates licensees to interlink certain of their telecommunication systems developed by each of them with the permission of the Authority or under the terms and conditions agreed by them. All the real estate property and assets of the telecommunication enterprise having more than fifty per cent foreign investment (individual and corporates may operate it after paying the prescribed value of these properties and assets to HMG and getting a new licence. But in case of foreign investment having up to 50 per cent of the total investment of the project, the ex-licensee may operate it again after getting a new licence. If HMG deems fit to encourage investment in the telecommunication services, it may by notification exempt the licensee from paying tax, customs duties, sales tax and other charges for the import of telecommunication equipments for a period determined by HMG.

If foreign investment is employed for the operation of telecommunication services in Nepal, HMG shall make available to the licensee the required amount of foreign currency at the prevailing rate for refunding and repatriating the foreign loan with interests and the amount of foreign capital. The amount required of foreign currency shall also be made available to the licensee for importing telecommunication equipments and tools. The Authority may fine a person up to NRs. 50,000 for violating the legal provisions and orders and instructions issued by it, but losses may also be repaired from the offender for any loss caused to anyone. Operating a service business without obtaining a licence or breaching the terms and conditions of licence shall amount to a fine up to NRs. 50,000 and closure of such illegal operations. For any misuse of telecommunication services or causing loss or damage to any property and assets relating to telecommunication services, the offender may be required to pay the total amount of such costs and a sum of fine equivalent to such amount. For damaging or causing to damage telecommunication installations, etc., the Authority may penalise the offender with a payment of a sum equivalent to the amount of with such damage and a fine equivalent to that amount or order an imprisonment up to five years or both. Appeal against the order made by the Authority shall lie before a competent committee to be constituted within 35 days of issuing such order. The decision of such Committee is final. A case under section 47(5) of the Telecommunication Act, 1996 is a Government case to be processed under The Government Cases Act, 1992.

D. AUDIOVISUAL SERVICES

(a) Motion picture and video tape production and distribution services:

(i) Motion Picture(Production, Projection and Distribution) Act, 1969

A licence is required for the production, projection and distribution of motion pictures in Nepal. Upon an application filed by a willing party, the Ministry of Communications issues a license. All the procedural aspects of licensing, fees and terms and conditions to be met by the licensee are provided by the Motion Picture (production, projection and distribution) Rules, 1976. The Rules provide different rates of fee for Nepalese and foreigners to get a license. There are separate fees, duration for cinema production, exhibition and distribution and the period of licence and their renewal. But, HMG may not charge any licence fee in the case of documentary films and mobile films based on the theme of national developmental progress. There are certain other requirements, especially for a licensed foreign film-maker (producer), in which case he/she has to meet all the expenses (which includes allowances and insurance fees) of a liaison officer deputed by the Ministry of Communication during the period of film shooting. Such a foreign film-maker before projecting a film produced in Nepal should first exhibit it before the nearest Royal Nepal Embassy or Consulate General's Office or Consulate's office and seek permission for releasing that motion picture in that foreign country. The foreign film-maker should also submit a copy of that film to the Ministry of Communications. All the film producers who are engaged in this business are required to seek permission from the Censor Board constituted by HMG for releasing the film. The Censor Board reserves the right to give or deny permission, specify the changes it demands or define the nature of the viewer community. But no permission is given if national sensitivities as outlined in the Act are being hurt. The permission given by the Censor Board may be refused or amended at any time by HMG for the same reasons shown above. A person aggrieved by the decision of the Censor Board may appeal to HMG within 35 days of the order issued. Anyone who violates any provision of the Act and its Rules or produces, exhibits and distributes a cinema without obtaining a licence is fined up to NRs. 5,000; the licence is cancelled and the cinematographic tools used for that purpose may also be seized by the Chief District Officer. An appeal against such a decision lies in the local Appellate Court.

(ii) FITTA, 1992

But in no case is a foreigner allowed to establish, run or operate a motion pictures business in Nepal for producing motion pictures in Nepali national languages and the language of the nation (Nepali) under s. 3(4) Annex of Foreign Investment and Technology Transfer Act, 1992.

(b) Motion picture projection service

Same [see (a) of D] as above.

(c) Radio and television services:

(i) Radio Act, 1958 and Radio (Licence) Rules, 1968

No person (which may include a foreign person) is allowed to keep, manufacture or use a radio instrument without obtaining a licence. HMG is fully empowered by this Act either to exempt any person or entity from the provisions of this Act by framing rules to that effect. The procedures for obtaining a radio licence as well as the fees payable for the licence and its renewal are provided in detail in the Radio (licence) Rules, 1970. A person who has been refused a licence may appeal to HMG against the order of refusal issued by the concerned authority within 35 days of such order. Decision made by HMG in this regard will be final. An offender keeping or manufacturing or using a radio equipment without obtaining a license may be fined up to NRs. 800 and this amount may be

doubled each time in case the offence is repeatedly committed. Repetition of the offence may also amount to confiscation of such radio equipment. Committing an offence repeatedly other than the above shall amount to a fine of NRs. 800 at the maximum for each repetition. Before confiscating a radio equipment a search warrant is also issued to the offender's place. A person not satisfied with the order or decision made by HMG may appeal to the local Appellate Court. HMG is also empowered to frame other rules for the fulfilment of the objectives of the Act.

(ii) National Broadcasting Act, 1992

HMG has been empowered by this Act to look after the broadcasting activities and formulating policies for national broadcasting. No one is allowed to broadcast any programme without obtaining a license under this Act. Any person, either a national or a foreigner (individual or body corporate), or under a joint-venture between them, may operate broadcasting services by installing a satellite or cable television or any other mechanism may seek permission from HMG. HMG may grant such permission with conditions after a thorough check-up of the requirements fulfilled and fees paid. HMG has the power to prohibit broadcasting of any objectionable programme for a period not exceeding six months in one term. HMG may, after giving an opportunity of representation, cancel a licence for violation of the provisions of this Act and the Rules made thereunder. Other provisions relating to the installation of satellite broadcasting earth station and broadcasting may be as prescribed. Fees payable to HMG or designated authority by the Broadcasting agency for the distribution and operation of the programme and the fees to be collected from the users of such programme shall be as prescribed. The Act has outlined a priority list for producing and broadcasting a programme, to which the broadcasting agency shall give preference. Private sector participation may be included in the broadcasting service for making the programme impartial, simple, qualitative and effective pursuant to the Act. Foreign broadcasting agencies or communication media may be allocated time on condition that they broadcast programmes which are educative, entertaining and informative and not against the national interest. Time for advertisement may be allocated to persons national/foreigners etc. after collecting a prescribed fee. Advertisement programmes which adversely affect public health such as smoking and drinking alcohol are to be discouraged. But advertisement on the following matters are not allowed these, which are against the interest of political parties, those which are vulgar, are provocative and intended to overthrow the elected government by using violent means, are of a nature causing unnatural public fear and havoc, are contrary to the objectives of Nepalese non-aligned foreign policy, and contain elements misinterpreting, insulting and undermining any community, language, religion and culture. The Act has also provided the functions, duties and powers of the broadcaster. Penalty for broadcasting a programme without obtaining a licence and operating programme by installing a satellite earth station with the permission of HMG or acting contrary to the provisions of the Act and the Rules made thereunder, is fixed to a maximum NRs. 10,000 or one month imprisonment or both. A person not satisfied with the order issued or punishment imposed by HMG or a designated authority may appeal to the local Appellate Court within 35 days. The Act has also required HMG to provide security to the broadcasting agency as necessary.

(d) Radio and television transmission services

Same (see (c) of D) as above.

(e) Sound recording

Same (see (a) and (c) of D) as above.

3. CONSTRUCTION AND RELATED ENGINEERING SERVICES

- A. GENERAL CONSTRUCTION WORK FOR BUILDINGS
- B. GENERAL CONSTRUCTION WORK FOR CIVIL ENGINEERING
- C. INSTALLATION AND ASSEMBLY WORK
- D. BUILDING COMPLETION AND FINISHING WORK
- E. OTHERS

Sub-headings A to E of this heading are covered by the following legal scheme:

(i) There is no particular act or law relating to them. Construction work for government or government-controlled or foreign-aided development project and buildings of large and unique size and cost are normally undertaken by big contractors [either by local or global tendering under on the Fiscal Administration Rules, 1985] on a turn-key contract basis. As regards the construction work for buildings below the above size, it is normally undertaken under a labour contract and piece-meal contract basis and in few cases under a turn-key contract basis.

(ii) Contract Act, 1967

It applies in the cases of construction contract services.

(iii) FITTA, 1992

It applies in construction industries under its section 3(4) and Annex. 4.

4. DISTRIBUTION SERVICES

- A. COMMISSION AGENTS' SERVICES

(i) Nepal Agency Act, 1958, and Agency (Amendment and Consolidation) Rules, 1962

The basic objective of this Act is that the agents, distributors, stockists, nominees or representatives of a local or foreign company/firm to Nepal shall not take undue profit from the sale of goods and commodities. No person can engage himself/herself as an agent without registering himself/herself as an agent under this Act. An agent is registered only after he/she deposits a prescribed amount of fee and security and gives a written bond to the Department of Commerce. The Act gives preference to Nepalese citizens for getting registered as an agent. A registered agent is required to submit statement showing the goods collected, sold and in stock, and the rates of the goods. The Agency (Amendment and Consolidation) Rules, 1962 made under the provisions of the Act has fixed the rates of fees, security deposits, the forms of statements and other procedural matters. The Act has prescribed different amounts of fines and different terms of black-listing an agent who violates the provisions of this Act.

B. WHOLESALE TRADE SERVICES

C. RETAILING SERVICES

Both these aspects (Sub-heading B and C of heading 4 above) are governed by the following acts to the extent of relevancy only).

(i) The Black-Marketing and other Social Offences and Punishment Act, 1975

The main objective of this Act is to control black-marketing, illegal profiteering, hoarding, adulteration of goods and commodities and other social offences in order to maintain good health, quality of life and economic well-being of the people. In this course, this Act has required certain code of conduct on the part of the wholesale and retail traders. Primarily, the wholesalers and retailers should sell goods and commodities at a price fixed by HMG. In case the price is not so fixed by HMG, the wholesalers should fix the price by themselves keeping in mind the views of the concerned sectors and the objective that the consumers shall get a reasonable fixed price. While fixing the price, consideration should be given to the following aspects: costs of the goods and commodities; transportation costs; customs duties, taxes, fees, charges and the reasonable amount of other expenditures payable for importing and producing goods and commodities, office expenditures; dealers, retailers and agents; amount of commission payable the and reasonable amount of profits of the producers and importers. This Act authorizes HMG to form different Price Fixation Advisory Committees for price. This Act fixes a maximum fixing of 20 per cent as the outer limit of profit making on the actual price of goods and commodities. The Act requires every wholesaler and retailer to display a price-list of the goods and commodities at the selling-counters. The Act prohibits all dealers and retailers to sell in any areas elsewhere, other than the zones and districts for which selling quotas are fixed on the prescribed goods and commodities. This Act also prohibits sellers to hoard and create artificial scarcity and forbids the sale of adulterated goods and medicines. Any violation of these prohibitions and other provisions of the Act done by any wholesaler or retailer will make him pay different amounts of fines and terms of imprisonment which may also extend to life imprisonment depending on the seriousness of the offences committed.

(ii) Essential Commodities Control (Conferment of Power) Act, 1961

This Act has been introduced mainly for the purpose of conferring powers to the authorities to take strong control measures for maintaining regular supply of the daily consumable foodstuffs, goods and commodities essential to the general public. Accordingly, HMG is empowered by this Act to regulate and control the distribution and trade of such goods which it specifies through an order notified for increasing the volume of supply of certain goods, maintaining or equally distributing it or making it available at a reasonably fixed price. Those who violate the provisions of the Act and the orders issued by HMG in this regard may be fined and imprisoned, recovering the amount or seizing the goods and commodities involved. The Act has requires HMG to keep a serious vigilance on the activities of wholesalers and retailers and achieve a very effective execution of this Act.

(iii) Foods Act, 1967 and Foods Regulation, 1968

The objective for which this Act has been introduced is the protection of consumers from adulterated food products. This Act prohibits the sale or distribution of harmful and adulterated food products. HMG may confiscate such harmful and adulterated food products. The Act requires the wholesalers or retailers to take a letter of permission for selling or supplying certain foodstuffs. But in case of sealed food packets, the secured retailers need not take any such letter. HMG may by notification announce from time to time what food stuffs should contain what type of quality, standard or quantity. The Act lays different sets of punishments for violating the provisions of the Act. The Foods Regulation referred to above provides detailed regulation on what a wholesaler or retailer is

required not to do in relation to food adulteration, the status of food, the pollutant aspects of food, use of food preservatives, the permission/letter and the terms and conditions that a permission-holder is required to fulfill.

5. EDUCATIONAL SERVICES

A. PRIMARY EDUCATION SERVICES

(i) Constitution of the Kingdom of Nepal, 1990

Article 18(2) of the Constitution of the Kingdom of Nepal guaranteeing educational right to the people provides that each community residing within the Kingdom of Nepal shall have the right to operate schools up to the primary level in its own mother tongue for imparting education to its children.

(ii) Education Act, 1971 and Education Regulation, 1992

This Act provides a two-way scheme of primary education: the one is run in the public sector as free education under state expenditure, and the other in the private sector with costs for users. Primary education is also divided into pre-primary and primary education with or without boarding facilities. It is one of the primary functions of the state and the government as laid down by the constitution to make arrangements to establish and run primary schools in each of the small units of local wards. Primary education may be imparted in the child's mother tongue as provided by the constitution. The goals and objectives of primary education shall be as set by the government under its total education policy. Therefore, the school education is always guided by HMG. The Act requires each school to use the course and curriculum as prescribed by HMG. Primary school leaving certificate examination is also required to be conducted under the instructions of the local District Education Office of HMG. Anybody other than HMG willing to establish a primary school shall have to get permission from the District Education Office of HMG by fulfilling all the requirements. In each primary school a school management committee is required to be constituted with the representatives of District Education Committee, local ward office, school guardians and educationists. The school Management committee can be dismissed by the District Administration Office on solid grounds of mismanagement. HMG has the power to issue directives to the concerned educational authorities such as the District Education Committee, Teachers Selection Committee and School Management Committee. The property and assets of every school are treated as public property. But the property invested by promoter of a private school may be refunded to him by the school management with the permission of District Education Officer. The Act has granted full exemption to all the schools from paying real estate registration fee to HMG. The Act has imposed certain fines on those who cause loss and embezzle the property of the school. certain other actions can be taken against on those who violate the provisions of this Act.

Education Regulation, 1992 provides for the arrangements relating to obtaining permission to open school; composition, functions, duties and powers of the District Education Board, and School Management Committee; and the functions, duties and powers of the Regional Education Director, District Education Officer and Supervisor; Teachers Selection Committee and Headmaster; conducting and control of examination; composition, level and grading of school education service; service conditions of the teachers and employees of public schools; school course and curriculum; the code of conduct of teachers and students, teachers, training, school fees and collection; extra-curricular activities of schools; protection to schools; property and assets; library arrangements; financial aspects of the schools; District Education Fund and School Fund; government grants to public schools; school flag, logo and prayer; etc.

B. SECONDARY EDUCATION SERVICES

(i) Education Act, 1971 and Education Regulation, 1992

This Act provides for secondary education up to class X. Secondary education is imparted by the government as well as the private sector, with or without boarding facilities. HMG has declared free education (without paying school fee) up to the secondary level, which applies to government schools only. The government authority to give permission to open a secondary school is the Regional Educational Director. In between primary education and secondary education, there is a level called Lower Secondary Education, which comprises education of classes VI to VIII. School Leaving Certificate examination of the secondary level is conducted each year by the Controller of Examinations Office of HMG on an all-Nepal basis.

The provisions of the Education Act, 1971 and Education Regulation, 1992 are all similar to those discussed above in relation to primary education (under sub-heading A of heading 5 as above) excepting the differences on requirements between these two levels of education.

(ii) Higher Secondary Education Act, 1988 and Higher Secondary Education Regulation, 1996

This Act was enacted for the purpose of introducing 10+2 higher secondary school education to produce a qualitative medium-class manpower needed for the country and prepare good entrants for higher university education. An autonomous Higher Secondary Education Board is provided to be constituted under this Act, which has been made responsible for executing Higher Secondary Education Programme. Any existing secondary school willing to run higher secondary education may be granted permission or affiliation by this Board to run classes XI and XII of higher secondary education for students passing the S.L.C. examination in case it fulfils all the requirements set. Such requirements are, mainly, adequate physical facilities, adequate number of qualified teachers, required amount of security deposits in the Bank and, good performance in the last 3 years' S.L.C. examination of that school and other matters. Initially, the Board confers provisional affiliation of that School to the Board, but after assessing the examination results of the first batch students and other aspects, it may confer permanent affiliation. Those who pass 10+2 examination of this Board shall be recognized as equivalent to the Intermediate level of education hitherto rendered by universities. The main function of the Board is to grant affiliation, set the course and curriculum, and conduct examinations. As a transitional arrangement, the intermediate level classes run by campuses may be transformed into Higher Secondary classes conducted by the Higher Secondary Schools. It has been made mandatory by this Act that Tribhuvan University and any other university shall not give affiliation to any intermediate level public or private campus after this Act is commenced. This Act empowers the Board to delegate all or some of its powers to the Regional Education Director, District Education Officer or other committees or officers. The Board has to execute the education policy and other directives of HMG. This Act has provided to constitute a higher Secondary Education Assembly to formulate policies regarding the raising of quality of education and coordinating between the Higher secondary schools. The Board may also grant affiliation to an higher secondary school established by individual or institution provided it fulfils the requirements set above.

The Higher Education Regulation, 1996 provides on matters relating to affiliation and its cancellation, composition, powers, functions and duties of the Higher Secondary Management Committee of the school, procedures of meetings, and the powers, functions and duties of the Board and its office-bearers. Management of the Higher Secondary School is done by its Management Committee represented by the Board, the District Education Office, local bodies, educationists and women, guardians and donors and teachers. The Board has to seek consultation of HMG before dissolving this managing committee. The Board may with the prior permission of HMG, arrange or

operate a joint programme of research, consultancy and training by signing agreement with the local or foreign governmental or non-governmental agencies pursuant to this Regulation.

C. HIGHER EDUCATION SERVICES

(i) Tribhuvan University Act, 1992

Tribhuvan University (TU) is the oldest, and largest university in Nepal, established in 1959 under the old Act and to date under the TU Act, 1992. It renders higher education in science, arts, commerce, law, education and other technical subjects such as engineering, medicine, forestry and agriculture. TU as an autonomous higher education institution has the following functions, duties and powers pursuant to this Act: to constitute academic institutes, faculties, research centers and departments, and to look after and supervise them in order to conduct different kinds of teaching, training and research activities; to award degrees and certificates to the students acquiring higher education in particular subjects from the university and their campuses and affiliated (private) campuses, and to trainers and researchers, and also confer *honoris causa* degrees to the distinguished personalities; to grant permission to open campuses in the private sector and give them affiliation with TU and determine the amount of facilities and assistance to be provided by TU to them; to keep relationship with the national or foreign universities and educational institutes; to obtain financial assistance from national or foreign academic, educational or other institutions or individuals, and arrange for academic exchange programme; to arrange for awarding scholarships, medals and rewards; to conduct games and sports programmes and launch other welfare activities within the university; to frame rules of procedure as necessary; and undertake other activities as necessary.

This Act provides the organizational set-up of TU in the following order: University Assembly, Academic Council, Executive Council, Service Commission, institutes, faculties, departments, university campuses, affiliated campuses, research centres, and other bodies. This Act has also listed an order of authorities, who lead the above constituents of the university system. The Act has provided for the composition and powers, functions and duties of the above organizations of TU. His Majesty the King is the Chancellor of TU and Education Minister is the Pro-Chancellor whereas a Vice-Chancellor is appointed by the Chancellor under the recommendation of a recommendatory committee. TU Assembly has passed various rules of procedure to execute the provisions of this Act. Basically, it is a State-funded public sector university pursuant to this Act.

(ii) Mahendra Sanskrit University Act, 1985

The main objective of this Act is to establish Mahendra Sanskrit University, an autonomous body which is the only Sanskrit University of Nepal. The main functions, powers and duties of this university are: to establish, operate and manage Sanskrit Colleges to impart higher sanskrit education; to conduct Ph.D. programmes and courses at the Masters, Bachelors and Intermediate levels in Sanskrit and confer the relevant degrees or certificates, to try to elevate the image of the country; as a land of knowledge and inspiration of sanskrit studies by promoting study and research on it; to preserve the achievements of and contributions made in the area of Sanskrit through measures that would help sustain; people's respect for the traditional values in religion, morality and good conduct. This Act provides an organizational set-up and functioning arrangement of this University which is basically similar to that of Tribhuvan University discussed above. In totality, this is a State-funded public University pursuant to this Act.

(iii) Kathmandu University Act, 1990

This Act has provided for the establishment of Kathmandu University, an autonomous academic institution established in the private sector to impart higher education in Arts, Science, Commerce and Technology through various teaching and research constituents of the University. This

is the only private sector university of the country chartered under the Act. It has organizational structure similar to that of Tribhuvan University, excepting that it does not have the post of Rector, Service Commission and research centres. The Prime Minister is the Chancellor of this University. The University is empowered to frame rules for the execution of this Act. This Act provides the composition, powers, functions and duties of the different organizations of the University.

(iv) Eastern-Regional University Act, 1993

The main purpose of this Act is to establish an autonomous Eastern - Regional University in Biratnagar sub-metropolitan area under the regional and multi-university concept of HMG. This University has not yet commenced its academic programme, but aims to be established under the financial management and active participation of the local people and to conduct higher education (teaching and research) in Arts, Science, Law, Management, Education, and Technology. It also aims to create conducive academic and educational environment in the country. It has the organizational set-up similar to that of Tribhuvan University excepting that it does not contain the post of Rector. This Act has provided the composition, powers, functions and duties of the university. The Prime Minister is the Chancellor and the Minister of Education is the Pro-Chancellor of this University. This Act requires the University to function under the national educational policy of HMG.

(v) Pokhara University Act, 1997

This Act aims to establish an autonomous Pokhara University in the Pokhara sub-metropolitan area in the western development region of the country. The purpose, objectives, organizational and functional set up of this University are similar to those of Eastern - Regional University provided under the Eastern -Regional University Act, 1993 discussed above. The Act is yet to enter into force. Option lies with the existing campuses of other universities whether they want to get affiliated with Pokhara University with the consent of their affiliated universities, which is a provision similar to that of the Eastern-Regional University Act, 1993.

(vi) B.P. Koirala Institute of Health Sciences Act, 1992

See *supra* (under V of sub-heading (a) R&D services on natural science of heading CS R&D Services).

(vii) University Grants Commission Act, 1992

University Grants Commission (UGC) has been established under this Act, as an autonomous high-level institution. The main functions, duties and powers of UGC are: to give advice to HMG in the course of establishing new universities; to formulate policy decisions in relation to conferring financial grants to the universities; to recommend to the concerned grant giving institutions for making available grants and additional grants; to cause coordination among the universities for standardizing the academic programme to be launched at the universities; to make arrangements necessary for raising the quality of education; to make arrangements necessary for exchanging scholarships and fellowships between the universities and educational institutions inside and outside of Nepal. For discharging the functions mentioned herein above, UGC may ask for supplying relevant financial and academic statements and details of the universities concerned, but UGC has the power to inspect the concerned universities. After the commencement of this Act, grants to the universities have to be channelled only through the UGC. Not only the university, UGC may also provide financial assistance to the private campuses that fulfill the requirements set by it.

D. ADULT EDUCATION

(i) Education Act, 1971 and the Education Regulation, 1992

This Act has made a provision that adult education shall be conducted under the rules or regulation made under it. Accordingly, the Education Regulation, 1992 provides adult education under its arrangement of Informal Education. The Regulation provides that adult education shall be a regular campaign launched under the coordinated programme of action between HMG, NGOs and INGOs. Any adult education programme so launched is required to be communicated to the District Education Office. An adult education programme should be imparted only to the illiterate persons of 15 to 45 years in age. It has to be carried out with the help of that curriculum which is designed in accordance with the objectives of the national literacy programme. Normally, an adult literacy programme shall be of six months duration.

HMG may constitute a 21-member high-level National Informal Education Council under the chairmanship of the Minister of Education, Culture and Social Welfare Ministry. The Ministry may determine the functions, duties and powers of the Council under the recommendation of the Council itself. There is a high-level District Informal Education Development Committee constituted for the purpose of conducting, managing, coordinating and inspecting informal education at the district level. The powers, functions and duties of this committee shall be as determined by the Council. The District Informal Education Committee may constitute village and ward level Literacy Campaigning Committees, if necessary. An Informal Education Development Fund may also be created at the national and district levels for launching informal education programme.

E. OTHER EDUCATION SERVICES

(i) The Education Act, 1971 and Education Regulation, 1992 provide the following educational programmes.

(a) Child Education

Pursuant to the rule-making provisions of this Act, the Education Regulation, 1992 provides for child education as part of informal education discussed above. Child education programme may be conducted in the following manner. In order to include children of 8 to 14 years of age group in this programme who were unable to get education for different reasons, arrangement may be made to send such children for formal education and include them in other programmes of informal education. Institutions engaged in providing child education should introduce the courses and curricula set by the Ministry of Education. Child education programme may be launched phase-wise. Normally each phase consists of nine months. Those children who have completed child education programme may be admitted into the appropriate classes.

Other matters relating to informal education discussed above under the topic 'adult education' shall also apply to the child education programme.

(b) Special Education

Schools that provide special education to blind, deaf, dumb, physically disabled or mentally-retarded children may be granted facilities and incentives as determined by HMG. HMG may constitute a high-level Special Education Council under the Chairmanship of the Minister of Education for the purpose of formulating policies regarding Special Education, executing such policies into programmes and coordinating and supervising such programmes. The powers, functions and duties of this Council and other matters are also provided in the Education Regulation.

(c) Coaching Classes

Coaching classes for the academically weak students of schools may be organized by a school itself before or after school time or during school vacations. An individual or institution other than a school willing to run coaching classes supplementary to school education should obtain permission of the local District Education Office. The rate of fees and other amounts to be charged to the students by the coaching institutes should be as approved by the District Education Office. But in no case shall the duration and time of coaching classes be equivalent to the school classes. Such classes should be run only in the approved levels of classes and subjects. Coaching classes should be taken by qualified and experienced teachers of related subjects. Issuing of certificates to the students who complete the coaching classes is prohibited. No grant or any other type of assistance is to be given to the coaching institutes by the government or related agencies. Permission granted to an individual or institution for running coaching classes may be cancelled in case such persons are not acting in conformity to the objectives of coaching classes. They have to follow the instructions issued by the Ministry of Education from time to time.

(d) Language Classes

An individual or institution willing to run language classes should seek permission from the local District Education Office by applying along with the curriculum of such language course. The District Education Office may grant permission if adequate physical facilities, qualified language trainers and running capital are available. All the investments in such language institute are required to be made by the promoter since no government grants can be made available to it. The promoter may fix the rates of fees with the approval of the District Education Office. The District Education Office has the power to give instructions to the language institutes, supervise them and cancel the permission-letter issued to the Language Institute in case the conditions for smooth running of such classes are not met or the actions are contrary to the objectives of the course or instructions given to it are ignored.

(ii) Council for Technical Education and Vocational Training Act, 1987

This Act was enacted for the purpose of establishing an autonomous body called Council for Technical Education and Vocational Training (CTVT). This is a high-level Council established under the chairmanship of the Minister of Education or State Minister of Education. The main objectives, powers, functions and duties of CTVT are: to make arrangements for the teaching, training and research for the development of technical education and vocational training; give permission for the establishment and operation of technical education and vocational training in the private or non-governmental sector, and make an arrangement for giving facilities and assistance to them; maintain relationship with the national universities and institutions in relation to technical education and vocational training; emphasize quality education and training, chalk out programmes and determine the level, and draft policies in relation to technical education and vocational training and get them approved from the Technical Education and Vocational Training Assembly; conduct basic level skills and training programme and produce medium-level manpower; establish and operate or cause to establish and operate Polytechnic Institutes; introduce or get introduced the curriculum prescribed for it; arrange coordination among the different training programmes; arrange for technical trainers, training, apprenticeship training, short term or mobile training package; arrange for classification, testing and authentication of skills; obtain national or international assistance to CTVT and to that purpose sign agreement or contracts with national, foreign and international agencies or institutions with the approval of HMG; advise HMG in matters relating to technical, educational and vocational training; and execute the programmes approved by the Technical Education and Vocational Training Assembly. This high-level body has been constituted under the chairmanship of Minister or State Minister of Education with the basic mandate that it should give guidelines to CTVT, to formulate policies and arrange for its effective execution, and evaluate or cause to evaluate whether the

development and expansion of technical education and vocational training are keeping pace with time. This Act has authorized the Assembly and the CTVT to invite any national or foreign expert or consultant to its meeting if it is deemed necessary.

6. ENVIRONMENTAL SERVICES

A. SEWAGE SERVICES

(i) Nepal Drinking Water Corporation Act, 1988

Nepal Drinking Water Corporation has been established under this Act, as an autonomous public corporation with the mandate to make regular supply of clean drinking water and make adequate arrangement of sewage system at different places of the kingdom of Nepal. This Act provides to establish different offices of this corporation at different places of Nepal. As regards to sewage services, the main functions, duties and powers of this corporation are: to devise sewage planning and make an execution of that; undertake studies, research and survey on the various aspects of sewage; undertake or cause to undertake construction works relating to sewage works; accomplish acts as decided to be performed under the agreements signed in relation to sewage system between HMG and foreign governments or international or foreign institutions; execute sewage development projects assigned by HMG; provide sewage service to the people by charging them fees; impose conditions for the use of sewage facilities; repair and maintain sewage pipelines; do other activities necessary for the fulfilment of the objectives of the corporation.

The activities of this corporation are managed by its Executive Committee. HMG has the power to issue orders to the corporation in the execution of this Act, and the corporation is required to follow it. HMG has the power to constitute or dissolve the corporation and also frame rules. The corporation may frame rules of procedure with the consent of HMG, The liaison ministry of the corporation is Ministry of Housing and Physical Planning.

The Act prohibits all to disturb, misuse, break pipeline or destroy and sewage system. Anybody found acting contrary to these restrictions and other violations of the Act and orders or decisions of the corporation may have to suffer penalties devised under this Act.

B. REFUSE DISPOSAL SERVICES

(i) Solid Waste (Management and Resource Mobilization) Act, 1986, and Rules, 1988

This Act aims to establish an autonomous body corporate named Solid Waste Management and Resource Mobilization Centre. This centre as a public corporation has been mandated to perform the following duties and functions: to devise policy decisions on the projects related to the centre and see that the decisions are being executed; undertake the basic construction and maintenance works and obtain cooperation of the concerned municipality in this connection if necessary; provide container service to the people at the appropriate places for disposing refuse, collecting or dumping it; take away the solid wastes so collected at the last dumping site for dumping or recycling or producing compost fertilizers, briquette, biogas or other items; make arrangement of pollution-free emission of refuses; classify the solid wastes and make arrangement for their prevention; undertake studies and research as necessary for control of solid wastes and resource mobilization; provide technical advice or other necessary assistance to any person, organization or entity in respect of management and control of solid wastes; arrange public toilets, bathrooms and slaughter-houses as necessary; conduct training relating to management of solid wastes and environmental cleanliness; engage local participation for solving and controlling the problem of solid waste disposal; arrange coordination among different agencies in this pursuit; and do other works as necessary for the fulfilment of the objectives of this Act.

This centre may establish its branch offices at different places of Nepal. The centre is administered by an executive committee constituted by HMG. The solid wastes and refuses collected or contained in the areas and matters related to it under its jurisdiction are the property of the centre. The center has the power to issue instructions to the public to avoid doing things which are prohibited by this Act and cooperate in the mission of the centre. Failure to comply with the provisions of the above Act, Rules and orders by anyone will lead penalties.

C. SANITATION AND SIMILAR SERVICES

(i) Municipality Act, 1991

This Act provides for the establishment of municipalities all over the kingdom as autonomous local-self government units. Such municipalities are given multifarious functions, duties and powers by this Act to undertake various activities related to sanitation. They should make arrangements for the following: sewage and drainage system; city cleaning; collection and disposal of solid wastes; public toilets; crematorium and cremation areas, and washing places; slaughter houses; catching stray animals and their auction; the control of epidemics; prohibition of the sale of meat of diseased and prohibited animals; disposal of the mad and street dogs and burial of the dead ones; and public health.

For performing these functions the municipality may use their own funds and resources or engage public participation, NGOs and others.

(ii) Village Development Board Act, 1991

This Act provides for the establishment of Village Development Boards all over the kingdom as autonomous local self government units. Such Village Development Boards are conferred various functions, duties and powers by this Act to be undertaken by them within their local jurisdictions among which the aspects sanitation those are similar to of the municipalities. The funding aspects of these activities are also similar to those belonging to the municipalities.

D. OTHERS

(i) The Environmental Protection Act, 1997

See, (ii) of (a) R&D services on natural sciences of C. R&D services of 1 of this Annex-1.

This Act prohibits anybody from polluting environment on a hazardous scale or on a scale endangering public health or creating noise, heat, releasing radioactive radiation or emitting or causing to emit refuses from any mechanical equipments, industrial enterprise or places. If anyone is found causing adverse impact upon the environment through these activities, the concerned authority may impose conditions or restrictions upon such activities. HMG may also ban the use of certain materials, fuel, equipments and machinery if they are found creating immense adverse impact upon the environment. The Act provides the appointment of Environment Inspectors for reducing, removing and controlling the level of pollution for acting or causing to act effectively in the areas suggested by the initial environmental testing and or Environmental Impact Assessment Report. The inspectors have some sanctioning authority for enforcing this Act. The Act also provides to arrange payment of compensation to the aggrieved party affected by pollution caused by some one through the above mentioned instrumentality. The Act empowers HMG to frame rules, to issue guidelines, constitute committees etc., for the enforcement of this Act.

7. FINANCIAL SERVICES

A. ALL INSURANCE AND INSURANCE-RELATED SERVICES

- (a) **Life, accident and health insurance services;**
- (b) **Non-life insurance services;**
- (c) **Reinsurance and retrocession;**
- (d) **Services auxiliary to insurance (including brooking and agency services).**

Services of all the above mentioned sub-headings (a to d) under this heading are governed by the following acts.

- (i) Insurance Act, 1992

It provides for the formation of an autonomous Insurance Board for arranging, regulating, providing and controlling insurance business in Nepal. Besides the representation of ministries, two insurance experts and one insured person are also included in the Board. The Board is the governing body for the execution of this Act. No one is allowed to operate insurance business in Nepal without obtaining a licence. National or foreign insurance concerns willing to operate insurance business in Nepal shall have to apply to the Board for registering as an insurer by furnishing the required particulars accompanied by a required amount of fee. The Board, after examining the application thoroughly and obtaining permission from HMG, issues a licence to the insurer on a renewal basis each year. But no insurance concern whether national or foreign can be registered as an insurer if registration is sought of a name resembling the name of an already registered insurer, and if the insurer fails to show a paid capital not less than 30 million rupees. Registration of an insurer can be cancelled by duly notifying him on the following grounds: in case the insurance business is not started within six months of obtaining a licence; if his/her liabilities exceed his/her assets; in the case of default of the insurer in making good his/her liabilities beyond three months of a final court decree in the case of an insurance policy issued inside Nepal; in case a Nepalese insurer is not provided national treatment in the country of the head office of an insurer incorporated outside Nepal; if an insurer fails to establish an office inside Nepal; and in case of omission or commission of acts made by an insurer.

Cancellation of registration is complete only after proper representation has been made and the notice of such cancellation has been issued in two leading newspapers of Nepal. But no cancellation is retrospective. An insurer after the cancellation of its registration shall have to refund the amount of fund to the insured persons in the manner and time fixed by the Board. An insurer is required to repair the losses it has made to an insured person. Liquidation proceedings can be ordered by HMG upon the dissolution of an insurance company caused by the cancellation of registration. An insurer is required to maintain his books of account and funds. An insurer should allocate a reserve fund for meeting any liabilities to be incurred in the course of running insurance business inside Nepal. An insurer is required to submit annual statement of his insurance business income earned inside Nepal along with copies of the Auditor's report to the Board. An insurer is required to appoint an agent in his Nepal-based head office. The Act also regulates the licensing of insurance agents and surveyors, which apply both to national or foreigners in somewhat the same manner applicable to insurers. Insurance Rules (First Amendment) 1996, require insurers to operate their life insurance and insurance business in the name of two separate business firms. A fine of NRs. 3,000 to NRs. 10,000 is fixed for any violation of the legal regulations made by an insurer, or insurance agent or a surveyor or any other person, and for the reoccurrence of such offence NRs. 500 shall be charged for each such person. The fine is NRs. 10,000 in case of undue handling of business. Punishment for falsifying or not maintaining or not submitting the books of accounts or documents is up to NRs. 30,000 or two years imprisonment or both. An appeal against the decision of the Board shall lie on the local Appellate Court within 35 days of such decision. The Board may charge for any service rendered by it

to the insurers or agents at the rate of 1 per cent of his annual income. HMG may also constitute an Advisory Board for determining insurance policy rates.

(ii) National Insurance Corporation Act, 1967

Pursuant to this Act an autonomous public sector institution named National Insurance Corporation has been established. The main function and duty of this Act is to undertake insurance business including life insurance or non-life insurance, reinsurance or other insurances under the provisions of the Act or the rules made under this Act. Besides this main function and duty, it undertakes many other activities for benefiting the corporation. Among them, the major ones are: to make local investment in profitable areas and take steps as are necessary for acquiring the benefits and securing the investments; issue loan by taking cash or kind securities, and take control of and use such securities for a certain period; borrow loan by mortgaging or depositing security of the corporations' properties or assets; let, lease, sell or make an arrangement of any property of the company to assist in the issuance of shares and debentures of other corporations, guarantee and underwrite them, and undertake agency business; invest in foreign countries if necessary; make share investments in other corporate bodies; appoint agents and give them commissions; give guarantees; sell and purchase shares, bonds, debentures, promissory notes, and movable and immovable properties; give and take discount commissions and engage in brokerage; issue debentures or bonds and preference shares; and do other things as necessary.

This Act provides punitive provisions, empowers HMG with various powers and authorities.

B. BANKING AND OTHER FINANCIAL SERVICES (EXCLUDING INSURANCE)

(a) Acceptance of deposits and other repayable funds from the public

(i) Commercial Bank Act, 1974

This Act provides for the establishment and operation of public or private sector banks in Nepal. Under this Act various banks only with local investment or with foreign joint venture have been established and operated as autonomous and limited liability companies. These banks may operate throughout the kingdom of Nepal through their branches. The bank may perform the following functions in addition to banking transactions: to accept the amount with or without interest and open fixed account, current account and savings account in the name of the depositors.

(ii) Agricultural Development Bank Act, 1966

An Agricultural Development Bank has been established under this Act as an autonomous and public institution with limited liability of its shareholders. This Bank is operating throughout the Kingdom of Nepal through its various branches. The Bank while performing its functions has to follow the commercial principles and policies suitable to agricultural development pursuant to this Act. Without disregarding its basic role of working for agricultural development, the Bank may engage in general commercial banking activities under the Commercial Bank Act, 1974 with the consent of the Central Bank. While undertaking commercial banking activities it may accept the amount with or without interest and open fixed account, current account and savings account in the name of depositors.

(iii) Development Bank Act, 1996

This Act provides for the establishment of development banks as public limited companies incorporated under the Company Act, 1997 to make available loans to the people required to make investment in fixed assets and running capital needed to run productive businesses which are feasible

from the point of view of projects relating to agriculture, industry, service, trade and other professions. The Act empowers the bank to accept deposits under the conditions set by the Central Bank in transacting its business.

(iv) The Finance Companies Act, 1985

This Act is enacted to provide incorporation and management of finance companies for non-banking business through institutionalized investment consolidating the scattered capital in the country. Such finance companies are limited liability companies incorporated mostly in the private sector with the permission of the Central Bank having raised capital through sale of shares for the objective of carrying out the financial transaction. This Act empowers finance companies to accept deposits.

(v) Nepal Industrial Development Corporation Act, 1989

This Act provides for the establishment of Nepal Industrial Development Corporation (NIDC), an autonomous public sector limited liability corporation for the promotion of industrial development in Nepal. But no shares of this corporation can be sold to foreigners without the permission of HMG. The duties, functions and powers of NIDC as provided by this Act include the following also: to undertake the business of merchant banking; and to mobilize capital and engage in banking activities under the existing commercial banking law for industrial promotion.

(vi) The Cooperatives Act, 1990

This Act provides for the establishment of cooperative societies in order to require them to render services and provide facilities to their members' economic and social development in accordance with the principles of cooperatives. A cooperative society once registered under this Act assumes the name of an autonomous institution with limited liability. These societies may accept deposits from the members or other persons and engage in banking business with the permission of the Central Bank.

(vii) The Post Office Act, 1962, and Postal Savings Bank Regulation 1975

See (i) of A. Postal Services part of 2. Communication Services, also of this Annex.

This Act has empowered HMG to prescribe some post offices to accept small amounts of deposits from low income people. For this purpose HMG has framed Postal Savings Bank Regulation, 1975 after consultation with the Ministry of Finance and the Central Bank. The Regulation provides for three types of accounts to be opened for deposits which are: personal account, joint account and minors account. An account may be opened with a minimum of NRs. 5 to maximum NRs. 30,000 as deposits and the rate of interest is 8 per cent. Other matters relating to such savings deposits are also provided by the above regulation.

(viii) Citizens' Investment Fund Act, 1990

This Act was enacted for the purpose of establishing a Citizens' Investment Fund. This fund, which is so established, is an autonomous public institution with limited liability. It may sell its shares to foreign individuals or bank or finance companies with the permission of HMG. The main objective of this fund for which it is so established is to encourage the people for savings and increase the opportunities of investments and bring dynamism to the capital market. Pursuant to the provisions of this Act, the Fund may institute and operate Investment Account and Citizens' Unit Scheme in the name of investors for making investments in different sectors under certain conditions. In these

schemes, Nepalese nationals living inside and outside Nepal may deposit amounts for making investments. HMG may exercise its privilege by requiring civil servants and employees of government corporate bodies to deposit compulsorily a certain percentage of the amount of their monthly salary under these schemes.

(ix) The Central Bank Act, 1955

This Act has provided for the establishment of Nepal Rastra Bank (Central Bank) in order to ensure proper management of the issuance of Nepalese currency notes, make proper arrangement for the circulation of Nepalese currency throughout the Kingdom and stabilize the exchange rates of the Nepalese currency, mobilize capital for development, and encourage trade and industry in the Kingdom, and also to develop the banking system in Nepal. This Bank which is in operation now is an autonomous corporate body and operates also as a government bank, through various branches and sub-branches throughout the kingdom. It receives all deposits of HMG. Commercial banks and financial institutions are required to maintain funds in this Bank against their total deposit liabilities in such percentage, method and manner as prescribed by the Bank from time to time. Pursuant to this Act, no person, firm or corporate body is allowed to accept deposits without the prior approval of this Bank.

(b) Lending of all types, including, *inter alia*, consumer credit, mortgage credit, factoring and financing of commercial transaction

(i) Commercial Bank Act, 1974

This Act provides the Bank to perform the following functions in addition to banking transaction: to provide loans or make investment against the guarantee of HMG or any foreign government, or against the security of movable or immovable property or title deeds pertaining thereto, Bills of Exchange, Promissory Notes or Shares and Debentures of a Company or against the guarantee of any other security acceptable to the Bank; provide loans not exceeding NRs. 100,000 without any collateral to any Nepali citizen trusted by the Bank with or without surety of any other person with due consideration to the feasibility of the project in the fields of the agriculture, cottage industry, irrigation, power generation or any other fields specified by HMG; secure additional immovable property pledged against the margin in order to ensure the security of loans provided by the banks, provide hire purchase facilities against necessary collateral, and provide loans to service industries; provide loans on the basis of co-financing according to the agreement concluded among the banks or between the bank and financial institutions, so as to divide the collateral paripassue; to provide loans against the guarantee provided by any local or foreign bank or financial institution trusted by the banks; grant overdraft to the person trusted by the bank; ascertain the conditions as per necessity in the interest of the bank while operating transactions with or providing the loan to any person; conduct inquiries in order to determine whether or not any loan obtained from the bank has been utilized for the purpose for which it has been received; provide a fresh loan in a lump sum or in instalments against the security of the same movable and immovable assets which have already been pledged with the bank, or with any other bank or financial institution to the extent of the total value of such security; provide loans not exceeding the amount specified by the Rastra Bank to low income families with the provision of individual or collective responsibility; and to exchange among the Rastra Bank, or other banks and financial institutions particulars, information or notices regarding debtors or customers who have obtained loans or any other individuals who have used the services of the Bank.

In addition, the banks have to comply with the directives issued by the Rastra Bank from time to time regarding the accounts of bank, the loans provided by the bank, classification of the loans and interest suspense.

Notwithstanding anything mentioned in the prevailing law, the bank may provide loans against security of movable property in the following circumstances, and the bank shall provide the loans only after stipulating the conditions acceptable to it: in the case of movable property acceptable to the bank as security under its possession by entrusting the security to the possession of the borrower on the condition that the bank may take possession of the property whenever it so wants; if the movable property of the borrower is not in its possession, it obtains a document showing its ownership with the additional provision that loans may be provided only on the condition that the right to the property of the borrower rests with the bank; if the loans provided by the bank cannot be secured by the movable property of the borrower after loans are provided as above, the bank may also take over the immovable property of the borrower as security.

The bank may also provide loans to borrowers with the movable or immovable property of a third person acceptable to the bank as surety or under conditions stipulated in the agreement concluded between the bank and the person who provides surety in such a manner as to protect the interests of the bank.

If any person, institution or industry fails to comply with the terms of the agreement or any terms regarding loans, or fails to repay loans to the bank within the time limit stipulated in the documents, or in case the bank finds through investigation that any person, institution or industry concerned has not invested the amount of the loan in the stated project, or has misappropriated it, notwithstanding anything mentioned in the loan agreement or in the prevailing law, the bank may auction or otherwise dispose of any property pledged to it, or the security deposited with it, and thus recover the principal and interest.

(ii) Agricultural Development Bank Act, 1966

The bank may undertake lending activities in the following manner pursuant to the Act: provide short-term, mid-term and long-term loans to any company, individual, cooperative society or village committee for agricultural development; provide loans and other facilities as required to the small irrigation projects and development of technology for agricultural development; provide loans to the educated unemployed; provide loans on the basis of co-financing according to the agreement concluded between the bank and commercial banks or other financial institutions so as to divide the collateral *paripassu*, and to free the securities in proportion to the loans recovered; to give consumer credit; to give loan for the establishment and operation of agro-based cottage and small-scale industries; and to give loan at concessional rates of interest to the tenants to purchase the land he/she has tilled as a tenant.

The bank may for achieving a specific purpose, fix special terms of conditions of loan and fix the limits of loan if it is necessary. The bank is required to extend loan only by taking security, but in the following cases the bank may issue loan without taking any security: loans to the cooperative societies or village committees; loans to the educated unemployed for promoting profession; and in the case of issuing loan according to the provisions of the agreement concluded between the institution providing loan, grant or cooperation.

The bank may issue additional loan from the revaluation of the same security if it satisfies the security requirements. The bank may while making loan investment for any particular purpose provide loan by taking the assets earned from the loan as its security.

If the bank is convinced that the purposes of the loan investment are not being fulfilled due to some *force majeure*, in such a case the bank may by revising the terms and conditions of the agreement extend the time limit of loan repayment, issue additional loan or do any other thing as it deems fit.

As a special arrangement, the bank may issue loans to small farmers' and small farmers groups with the provision of individual or collective responsibility with or without taking full or partial security or surety. In case, someone does not repay his share loan or the loan taken under collective responsibility by small farmers or small farmers group is not paid back, the bank may recover the amount of such loan from the earning of the project for which the loan was sanctioned. In case, it is not recovered from the project concerned then it may be recovered from the borrower's household property. In case, it is not still recovered it is recovered by sale through auction or by any other means.

But in other cases, the bank is empowered by this Act to recover its amount of capital and the interest so accrued to it by selling through auction the security assets or by any other means including direct sale of such assets or assuming the ownership of such assets by the bank itself, if the borrowing individual, industry, village committee or corporate body breaches the terms and conditions of the loan agreement concluded with the bank.

(iii) Development Bank Act, 1996

As part of its functions, duties and powers, the bank may perform the following functions pursuant to this Act and the Memorandum and Articles of Association of this bank: to provide loans to meet the fixed and running capital of any productive enterprise with due consideration to the feasibility of the project in the fields of agriculture, industry, service, trade and other professions; to provide loans jointly on the basis of co-financing according to the agreement concluded among the banks and financial institutions; to make loans available to persons who supply raw materials, arrange markets, provide technical or management consultancy services needed for the promotion and development of projects; to provide loan against the security acceptable to the bank or on the basis of hypothecation; to provide loans within certain limits to low-income families or to other specified classes of persons on collective responsibility without taking any security to launch a feasible project; to provide loans to other banks, to distribute amounts as loans received from HMG or other national or foreign institutions for the promotion of projects; to conclude agreement by fixing terms and conditions as necessary and at the interest of the bank while transacting any business or giving loan to other persons under the agreement; to investigate whether the loans taken by the bank are used for the purpose, to issue fresh loan against the security of the same movable or immovable property which has already been kept as security in the same bank or other banks or a financial institution to the extent of the total value of such security; exchange with the Rastra Bank, and other banks and other financial institutions particulars, information or notices regarding debtors or customers who have obtained loans or any other individuals who have obtained loans or any other facility from the bank. The bank may recover the amount of loan (principal and interest) from the borrower in the same manner as other commercial banks do.

(iv) Finance Companies Act, 1985

The finance companies may carry out any or all financial transactions mentioned below: to make available instalment or hire purchase credit or loan to any individual, firm, company or institution of agricultural or non-agricultural sector for the purchase of vehicles, machinery, tools, equipment, durable household goods or other similar movable property as required by them; to extend, credit to any individual, firm, company or institution for purchasing or construction of residential houses or godowns or purchasing of lands for the construction of such residential houses or godowns; to extend credits for medium-term or long-term duration for operating an industry, trading or business likely to promote economic development, or to act as an intermediary in respect thereto or to provide guarantee thereof.

This Act requires the finance companies not to issue loans without taking any securities. These companies have to comply with the instructions or orders made by the Central Bank in

connection with the issue of loans and the rate of interest. The loans issued by these companies may be recovered from the debtors in the same manner as the commercial banks do.

Finance companies may be established in foreign collaboration also pursuant to this Act.

(v) Cooperatives Act, 1990

Cooperative societies may also provide loans to their members pursuant to this Act.

(vi) Nepal Industrial Development Corporation Act, 1989

Nepal Industrial Development Corporation (NIDC) may perform the following functions pursuant to this Act: to make available loans for the establishment, operation and modernization, diversification, expansion and increase of productivity of the technically and economically feasible industries; make loans available to the industries on the basis of co-financing; provide loans against hypothecation; provide loans against of securities and title-deeds.

NIDC is empowered by this Act to be flexible in setting conditions while sanctioning loans. It has also power to recover loans from the borrowers in the same manner as banks do. It can recover the amount of loan with interests before the expiry of the time of the agreement in case misstatement is contained in the loan application, the conditions set in the agreement are not being fulfilled, the security assets are not insured ,or additional security assets are not deposited as demanded when they lose in value.

(vii) Central Bank Act, 1955

The Bank may issue directives from time to time to commercial banks and financial institutions regarding credit, and these banks and institutions should abide by them. The rate of interest of the loans issued by banks and financial institutions shall be as fixed by the Bank. In case, it is not so fixed, they shall fix it with the approval of the Central Bank. Any one engaged in banking or financial business is not allowed to issue loan without taking prior approval of the Central Bank. The Commercial Bank and financial institutions shall have to supply credit in the specified areas as specified by the Bank.

With due consideration to the monetary situation, the Bank shall provide loans or refinance to any commercial bank or banks or financial institutions which supply agricultural or industrial credit on conditions prescribed by it against the necessary security or guarantee. The Bank is granted privilege by this Act to fix any time limitation on the documents of loan against the loan or refinance provided by the Bank.

(c) Financial leasing

(i) Commercial Bank Act, 1974

Pursuant to this Act, the Bank may provide hire purchase facilities against the necessary surety.

(ii) Finance Companies Act, 1985

Pursuant to this Act, the finance companies may make leasing finance available to any individual, firm, company or institution for the purchase of vehicles, machinery, tools, equipment, durable household goods or other similar movable property on lease or to provide such movable property on lease.

(iii) Nepal Industrial Development Corporation Act, 1989

Nepal Industrial Development Corporation (NIDC) may by standing guarantee make available on lend lease or rent lease the plants, machinery, equipment needed to industries.

(d) All payment and money transmission services

(i) The Commercial Bank Act, 1974

While conducting banking transactions, the commercial banks are required by this Act to make payments of cheques, bills or orders duly drawn. They are also required to remit or transmit amount to different places within or outside the kingdom of Nepal through bills of exchange, cheques, or hundis. In the capacity of commission agents on behalf of customers these banks remit or transmit the interests, dividends and income from real property so earned by the customers from their investment, within or outside Nepal.

(ii) Development Bank Act, 1996

This Act empowers the Development Bank to undertake banking activities, which may include making payments and money transmission services.

(iii) Agricultural Development Bank Act, 1966

This Act empowers the Bank to engage in general commercial banking activities under the Commercial Bank Act, 1974 with the consent of the Central Bank. This implies that it may make payments and provide money transmission services to its customers.

(iv) Finance Companies Act, 1985

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

(v) Central Bank Act, 1955

This Bank undertakes payment and money transmission services inside or outside Nepal for HMG and its related agencies.

(e) Guarantees and commitments:

(i) Commercial Bank Act, 1974

This Act empowers the banks to issue bank guarantees on behalf of its customers, have such customers execute necessary bonds in consideration thereof, obtain security, and acquire their movable or immovable assets as collateral or on mortgage, or the assets of third individuals as collateral. In addition, the banks may help to issue shares or debentures of a company or any other corporate body by standing guarantee.

(ii) Development Bank Act, 1996

This Act provides the Bank to stand guarantee for its customers for securing loans from other banks or financial institutions.

(iii) Finance Companies Act, 1985

This Act empowers a finance company to make available credits for medium-term or long-term duration for operating any industry, trading or business likely to promote economic development, or to act as an intermediary in respect thereof or to provide guarantee thereof.

(iv) Central Bank Act, 1955

This Bank is authorized by this Act to guarantee the cash deposit certificate or stock and debentures issued or loans obtained by the commercial banks, financial institutions and cooperative societies.

(v) Nepal Industrial Development Corporation Act, 1989

This Act empowers Nepal Industrial Development Corporation (NIDC) to stand guarantee of industries who are borrowing loan from any national or foreign bank or financial institution.

(f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, on the following:

- **money market instruments (cheques, bills, certificate of deposits, etc.);**
- **foreign exchange;**
- **derivative products including, but not limited to, futures and options;**
- **exchange rate and interest rate instruments, including products such as swaps, forward rate agreements, etc.;**
- **transferable securities;**
- **other negotiable instruments and financial assets, including bullion.**

(i) Commercial Bank Act, 1974

The bank is authorized by this Act to operate transactions in such bonds, promissory notes or bills of exchange relating to commerce or crops as are redeemable within Nepal; to operate transactions in bills of exchange regarding export commodities produced in Nepal; operate transactions in foreign exchange subject to prevailing Nepal Law; issue, accept, redeem, discount, or deal in bills of exchange, promissory notes, cheques, drafts, hundis; issue, discount or endorse letters of credit, drafts and travellers cheques; and to purchase sale or accept the securities of HMG.

(ii) Central Bank Act, 1955

Pursuant to this Act, this Bank shall have the right to deal in exchange transactions between Nepali and foreign currency at exchange rates determined by the Bank on the basis of the par value fixed by HMG. The Bank may give right to deal in foreign currency transactions to commercial banks and financial institutions also. HMG consults the bank while fixing the basis of the par value.

This Bank may issue directives from time to time to commercial banks and financial institutions regarding banking operations, currency and credit. It shall be the duty of the commercial banks and financial institutions to abide by such directives.

Notwithstanding anything contained in the prevailing law, the rates of interest to be paid and charged by commercial banks and financial institutions on loans and deposits shall be as fixed by the Central Bank. It may fix the interest rates to be applied retrospectively in such cases where the bond or agreement has already been existing between the parties of loan or deposits. If the Bank has not

fixed interest rates as above, the commercial banks and financial institutions shall obtain the Central Bank's approval in fixing interest rates. In other words, the corporate bodies who have right to accept deposit to provide loan or to issue debentures as per prevailing laws, while fixing the interest rates to be paid for debenture or deposit or to be taken for loan, shall fix it according to the provision in relation to the interest rates specified by the banks from time to time.

The Central Bank publishes from time to time the rates prescribed for purchasing or redistributing the bills of exchange or for purchasing other commercial documents, which it may purchase under the provisions of this Act.

The Central Bank as authorized by this Act may carry out the following transactions: to sell and purchase cheque, draft and hundis; rediscount promissory notes or bills of exchange on commission; purchase and sell securities or promissory notes of HMG or foreign governments, or foreign central banks, or international institutions, and realize principal and interest thereon; establish and negotiate letters of credit on behalf of HMG and the Bank; and to sell and purchase gold, silver, ginni (guinea) and asarphi.

(iii) Negotiable Instruments Act, 1977

All the banks and financial institutions who deal with negotiable instruments should follow the provisions of this Act in their dealings.

(iv) Foreign Exchange (Regulation) Act, 1961

Individuals, firms and companies, banks and financial institutions who deal with foreign exchange should follow the provisions of this Act. No one is allowed by this Act to engage in foreign exchange business without obtaining licence from the Central Bank. Certain restrictions, impositions, regulations and penalties are also provided under this Act.

(g) Participation in issues of all kinds of securities, including under-writing and placement as agent (whether publicly or privately) and provision of service related to such issues

(i) Commercial Bank Act, 1974

This Act authorizes a commercial bank to help to issue shares or debentures of a company or any other corporate body, guarantee or underwrite such shares or debentures, and undertake any agency business but not become thereby a managing agent; work as an agent of the Central Bank on the conditions specified by it, and accept, collect, hold amounts, bullion or securities or perform similar other functions on behalf of HMG; arrange for the sale or purchase of bullion, shares, debenture etc. of companies, and collect dividends accruing on shares of companies, and interest of promissory notes, debentures etc. as an agent of its customers; accept and arrange for the sale or purchase of shares, debentures, securities and collect interest, dividends or securities of limited company in the capacity of a commission agent on behalf of customers, and remit or transmit such interests, dividends to places within or outside of Nepal; make arrangement for the management of any real estate or other property, collect and income therefrom and remit payments within or outside of Nepal; and to purchase, sale or accept the securities of HMG.

(ii) Development Bank Act, 1996

This Act authorizes a development bank to sale and purchase or underwrite shares, debentures, bonds of agricultural, industrial, service, trading and other productive enterprises so established and operated or cause to establish or cause to operate them.

(iii) Finance Companies Act, 1985

This Act authorizes a finance company to sell and purchase the bonds issued by HMG or securities issued by other companies or institutions, underwrite them and form syndicates for such purpose or to participate in such syndicates and act as broker under the Security Exchange Act, 1983.

(iv) Nepal Industrial Development Corporation Act, 1989

This Act empowers NIDC: to establish or cause to establish industries and purchase or cause to purchase and underwrite the shares and debentures of them; issue debentures and bonds; purchase and sell shares, debentures and bonds of industrial enterprises through the institution recognized to deal with security exchange business.

(v) Central Bank Act, 1955

This Act authorizes the Central Bank to act as an agent of HMG for the following purposes: the sale and purchase of securities and promissory notes; sale and purchase of gold, silver, ginni, asarphi; opening accounts out of the kingdom, with any bank or principal currency authority or international banks and acting as their agent and purchase shares of international bank; sale, purchase or underwriting of the shares or debentures of the commercial banks and financial institutions in case it is necessary for the development of agriculture, industry and banking; and establishment or provision of assistance for participating in the establishment of non-profit making institutions necessary for the economic and banking development of the country.

(i) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services.

(i) Commercial Bank Act, 1974

Pursuant to this Act, the Commercial Bank's functions on this issue are to accept and arrange for the sale or purchase of shares, debentures, securities and collect interest, dividends or securities of the limited company in the capacity of a commission agent on behalf of customers; remit or transmit such interests, and dividends to places within or outside the kingdom of Nepal; make arrangement for the management of any real estate or other property; collect income therefrom and remit payments within or outside the kingdom of Nepal.

Pursuant to this Act., all the receipt of HMG shall be deposited with the bank on such conditions as may be agreed upon between HMG and the Central Bank, and the Bank shall transact banking operations like making payments and remittances and undertaking foreign exchange operations up to the amount standing to the credit of HMG on the instruction of HMG.

(j) Settlement and clearing services for financial assets, including securities, derivative products and other negotiable instruments.

See as above, especially Commercial Bank Act, 1974

(k) Advisory and other auxiliary financial services on all the activities listed in Article IB of MTN. TNC/W/50, including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

(i) Central Bank Act, 1955

Pursuant to this Act, this Bank renders advice to HMG on financial matters.

(ii) Development Bank Act, 1996

This Act authorizes a development bank to undertake or cause to undertake study, research, survey for the establishment operation and evaluation of projects, and provide training, consultancy and other information in this regard, and undertake merchant banking activities.

(iii) Nepal Industrial Development Corporation Act, 1989

This Act authorizes NIDC to undertake or cause to undertake all kinds of study, research, survey, analysis with or without charging service fees for the establishment and operation of industries, and provide training, consultancy and other information in this connection.

(l) Provision and transfer of financial information and financial data processing and related software by providers of other financial services.

(i) Commercial Bank Act, 1974

This Act requires a commercial bank to exchange among the Central Bank, the bank and financial institutions particulars, information or notices regarding debtors or customers who have obtained loans or any other individuals who have obtained loans or any other facility from the Bank.

This Bank is also required to do the following : to submit to the Central Bank, within four months after the closure of the Bank's accounts, a separate particular of accounts which have remained unoperated for ten years; submit to the Central Bank within 4 months after the closure of the Bank accounts, a particular of dividends payable to those shareholders who have not come to claim the payment thereof within five years from the date of declaration of the dividend; submit regularly financial and other necessary particulars to the Central Bank in the specified format and time as directed by the Central Bank, and to publish in the prominent newspapers for public information of the balance-sheet and profit and loss account so audited within a period of five months from the date of expiry of its financial year.

(ii) Finance Companies Act, 1985

This Act requires the finance companies to do the following also: to submit the statement of loan and investment to the Central Bank within 15 days of the end of every month; notify the Central Bank in writing if it is unable to bear the liability or is unable to make payment to the investors; submit the information and statistics to the Central Bank in relation to its business activities regularly in a time and format as prescribed by the Central Bank; submit to the Central Bank the statement of the deposits which are not paid back for 15 years within four months from the end of the fiscal year, and to submit to the Central Bank the statement of shareholders who have not claimed their dividend for three years from the date of declaration of such dividend within four months from the end of the fiscal year of the company.

(iii) Development Bank Act, 1996

This Act requires a development bank to submit to the Central Bank and the concerned Department within 30 days of the general meeting held, the particulars showing the number of shareholders attending that meeting, proposals presented before the meeting, the balance-sheet and profit and loss account approved by the meeting and the Auditor's Report and the report of the Board of Directors.

It also requires to exchange among the Central Bank, the Bank, other banks and other financial institutions particulars, information or notices regarding debtors or customers who have obtained loans or any other individuals who have obtained loans or any other facility from the bank.

It is required by this Act to publish for public information its balance-sheet, profit and loss account in the same manner as that of the commercial banks discussed above.

(iv) Nepal Industrial Development Corporation Act, 1989

This Act requires NIDC to prepare its balance-sheet and submit a copy of it to the Department of Industries. It should show its balance-sheet to its members as required and submit financial information to the Central Bank when asked for.

8. HEALTH- RELATED AND SOCIAL SERVICES

(Other than those listed under I.A. h-j)

A. HOSPITAL SERVICES

(i) B.P. Koirala Memorial Cancer Hospital Act, 1997

See, (iv) under I.C.a.

(ii) B.P. Koirala Institute of Health Sciences Act, 1992.

See, (v) under I.C.a

(iii) No other specific hospital services acts are available as yet. But HMG runs hospitals and health centers and health posts all over Nepal. A Teaching Hospital under the Tribhuvan University Act, 1992 exists. Besides, hospital services may be provided by establishing and operating hospitals, nursing homes, polyclinics in the private sector under the Industrial Enterprises Act, 1992 as firms or corporate bodies.

B. OTHER HUMAN HEALTH SERVICES

No particular law is available as yet. But services may be operated in the private sector by organizing under firms or corporate bodies. Sometimes such services are also provided on an individual and private basis.

C. SOCIAL SERVICES

(i) Social Welfare Act, 1991

This Act has been enacted with a view to bring social welfare activities in close harmony with nation building and development process for the overall development of Nepal and Nepalese society,

and enable the weaker and helpless persons or sections of the society to lead a human life, to raise the prestige and dignity of persons and institutions engaged in social service and to bring coordination among the activities of NGOs. Under the framework of this Act, HMG through the Ministry of Youths, Sports and Social Welfare and NGOs, may launch various social welfare and social services programmes, especially for the welfare of children, the aged, helpless and disabled persons and backward communities, for the protection of rights and welfare of women in order to enable them to actively participate in the development process and , to enable them to lead a dignified and respectful life; help the persons involved in juvenile delinquency, drug addiction or other bad addictions and social evils, to help the unemployed, poor or uneducated persons to live a respectful life, and to help in the proper management of the activities of religious shrines and trusts.

A Social Welfare Council has been constituted under this Act as an autonomous body with the mandate of executing this Act by coordinating, assisting, promoting and consolidating various social organizations committed to social welfare and service. Any foreign NGOs or INGOs wishing to operate or work inside Nepal have to seek approval of the Council by signing agreement with it. A local NGO without getting approval a for its projects can not get any assistance from the local and foreign governmental and non-governmental and international agency today. But no project shall be approved by this Council which is against the national interest. Once a local NGO gets any financial or material assistance from foreign institution, it has to inform to the Council and the amount of money received through such assistance shall have to be remitted to the NGO through the local commercial bank.

(ii) Other Acts

There are the following few other acts and laws which are related to the social services sectors.

(a) Chapter "Destitute " of Muluki Ain (Civil Code), 1963

It assigns HMG through local administration to arrange for the welfare of the destitute children.

(b) Children Act, 1992 and Children's Regulation, 1994

This Act was enacted to protect the rights and interests of the children and to provide them appropriate maintenance and education for their physical, mental and intellectual development. It has been introduced basically to conform to the UN Convention on the Rights of the Child 1989 to which Nepal is now a party.

(c) Societies Registration Act, 1977

Any local NGO can be formed by registering itself under this Act, as a non-profit making institution with the objective of social services or social work.

(d) The Disabled Protection and Welfare Act, 1982 and Disabled Protection and Welfare Regulation, 1993

This Act intends to protect and promote the interest of the disabled persons by controlling and eradicating the situation causing disability, and by arranging for the welfare measures of their health, education, care, training, enjoyment of the right of equality and employment, thereby to make them competent, active and productive citizen.

9. TOURISM AND TRAVEL RELATED SERVICES

A. HOTELS AND RESTAURANTS (INCLUDING CATERING)

(i) Industrial Enterprises Act, 1992

Hotels, restaurants and catering businesses can be established and operated as service industries under this Act.

(ii) FITTA, 1992

Section 3 (4) and Annex of FITTA, 1992 prohibits foreign investment in tourist lodging business.

(iii) Hotel Management and Sale and Supply of Alcohol (Control) Act, 1966

This Act prohibits hotel owners to sell and supply alcohol before or after the time fixed for such selling. It also prohibits them to organize vulgar and shameless entertainment or stage shows. Hotels or any of its nomenclature are forbidden to sell alcohol to children and drunken persons. This Act has also set other requirements and penal provisions on this theme.

(iv) Tourism Act, 1978 and Hotel, Lodge, Restaurant, Bar and Tourist Guide Regulation, 1981

The Department of Tourism may register a hotel or lodge or a bar as of tourist standard after a thorough scrutiny of the application and on the advice of the Standard Classification Committee and also after recovering a registration fee as prescribed by the corresponding regulation of 1981.

The Department may inspect or cause to inspect the hotel, lodge, restaurant or bar as registered, and may examine or cause to examine the food and drinks consumed there. If it is found from such examination that the standards are not maintained as required, the Department may ask to maintain the standard or suspend the registration for a maximum period of one year and finally cancel the registration if the required standard is not maintained. Every hotel, lodge, restaurant or bar registered under the Act should send the notice of its tariff to the Department and advertise it accordingly. Non-registration limits the chances of full-scale operation of the business and can lead to paying of heavy fines imposed by the Department.

B. TRAVEL AGENCIES AND TOUR OPERATORS SERVICES

(i) Tourism Act, 1978 and Travel and Trekking Agency Rules, 1980

The Act requires an individual who wants to operate a travel or trekking agency to obtain a licence. A licence is issued by the Department of Tourism on a renewal basis by charging a fee of NRs. 3,000 as prescribed under the Travel and Trekking Agency Rules, 1980. HMG may grant facilities to the classified tour and trekking agency. The license should notify the Department of Information about the rate of fee being charged from the tourist. The rate of fee should be published and advertised in a manner prescribed by the Department of Tourism. These service bills to the licensee have to be paid in foreign currency by the foreign tourists. Foreign currency earned inside or outside Nepal should be deposited in the Central Bank. The Department of Tourism may investigate whether such transactions have really been made by the licensee. The Department may suspend the license of a travel or trekking agency for a period not exceeding six months on any violation of the provisions of the Act. However, a licensee is given fifteen days, time for making representation prior

to such suspension. If the licensee violates the law in the same manner again after the expiration of such suspension, HMG may cancel the licence as prescribed. The Department may order the closure of the agency if any person operates travel or trekking agency without obtaining a licence, and a fine not exceeding NRs. 20,000 is charged. A fine not exceeding NRs. 20,000 is charged to a person who operates the business of tourism during the suspension of a licence and this licence may be cancelled. A person failing to make or get the payment of a bill in foreign currency is charged a fine not exceeding NRs. 40,000 if the offence is committed for the first time. For any repetition of such offence the fine is NRs. 80,000 for each term. The Department may cancel the licence of such travel and trekking agency, which pursuant to the existing law on foreign exchange has been penalized for three or more times for violating the requirement of transacting foreign currency through the Central Bank. The person aggrieved due to the order issued by the Department may make a complaint to HMG within 35 days of the order.

This Act further provides the procedures of registration, renewal, operation, suspension and cancellation of some other tourism related businesses such as rafting, gliding, ballooning, jungle safari, camping, hiking, bird watching, skiing and other activities as specified.

(ii) FITTA, 1992

Section 3 (4) and Annex of FITTA, 1992 prohibits foreign investment in travel agency, trekking agency, water rafting, pony trekking and horse riding business in Nepal.

C. TOURIST GUIDES SERVICES

(i) Tourism Act, 1978 and Hotel, Lodge, Restaurant, Bar and Tourist Guide Regulation, 1981

A person intending to work as a tourist guide under this Act has to obtain a licence. Such a licence is issued to him by the Director General of the Department of Tourism if he has become successful in the course of tourist guide training and has obtained a certificate from the Hotel Management and Tourist Guide Training Centre and does not possess the prescribed disqualifications and pays a prescribed fee. Licence is issued for a period of five years on a renewal basis. A tourist guide is prohibited to do the following acts: to ask for or accept cash or any other material from the tourist and ask the tourist to purchase any goods or services; compel the tourist to appoint himself as his guide; and lend his licence to others and cause and help them work as guides. The Department of Tourism imposes different amounts of fines on a person who is acting as a guide without obtaining a licence or who has renewed it or who does not obey this Act or the Regulation or the order issued under this Act. A tourist guide obtains a sum of remuneration as provided in the licence. He is required to submit a report of his experience with the tourists every 6 months to the Department of Tourism.

10. RECREATIONAL, CULTURAL AND SPORTING SERVICES (OTHER THAN AUDIOVISUAL SERVICES)

A. ENTERTAINMENT (INCLUDING THEATRE, LIVE BANDS AND CIRCUS SERVICES.)

Not a single regulatory Act or Rule is available as yet. But it may be undertaken by people without organizing under a legal firm or by organizing as a firm or company or even a non-profit-making society. In any such form entertainment services may be provided under a job contract or contract service basis.

B. NEWS AGENCY SERVICES

(i) National News Agency Act, 1962

This Act provides for the dissemination, exchange, search, release or reporting of impartial and authoritative national or foreign news among the national or foreign users of news. For this purpose, an autonomous public sector news agency called Rastriya Samachar Samiti (RSS) (National News Agency) has been established under this Act. The functions of RSS as provided by this Act are to open branch offices, appoint press correspondents and editors or create news subscribers within or outside Nepal for the collection, sell and supply of news.

But this protective Act for RSS does not prohibit the engagement of other news agencies in Nepal. Any other national or foreign news agency may with the permission of the Ministry of Communications staying Nepal and collect news and send it to foreign countries. But these news agencies can sell and supply their news in Nepal only through the legally constituted news agencies or HMG.

C. LIBRARIES, ARCHIVES, MUSEUMS AND OTHER CULTURAL SERVICES

(i) Archives Preservation Act, 1989

For the protection and preservation of important national archives, HMG has constituted a government agency named "National Archives". All the national documents of archival importance are kept in the National Archives. Any person may deposit any document in his possession having national archival importance with the National Archives as a contribution. The National Archives may permit any person to read any archival material other than those prohibited, but for making copies or duplicates, fees as prescribed have to be paid. Obliterating or altering the archives is prohibited. Heavy punishments have been laid down in the Act for violating the provisions of this Act.

(ii) Ancient Monuments Protection Act, 1957

This Act aims to protect ancient monuments and historical or artistic goods, control the trading of archaeological goods and excavation and digging of places of ancient monuments. This Act provides the basis for establishing museums. HMG may pursuant to this Act declare particular places as protected monumental places. From the ownership point of view ancient monumental places have been classified as public ancient monuments and private ancient monuments and from the importance point of view they are classified as of international importance, national importance and local importance. The Department of Archaeology of HMG is the competent authority for the execution of this Act. This Act prohibits the export and shifting from one to another places and collection of ancient monuments and archaeological goods or curios of the description notified in the Gazette. But no such bar applies in the case of other goods. Any foreigner bringing any archaeological good inside Nepal may do so by filling in the customs declaration form.

(iii) Social Welfare Act, 1991

This Act which has been referred to earlier also provides for the proper arrangement of the activities of religious shrines and trusts.

(iv) Chapter "Trusts" of Muluki Ain (Civil code), 1963

This Act provides for the establishment and management of religious and charitable trusts in the private sector. It lays down various duties and obligations on the part of trustees regarding their

succession, arrangements and management of the properties and assets, religious sanctity of such trust, liabilities and penalties for mismanagement and embezzlement of priorities. It authorizes HMG to give government land if sought by anyone planning to establish charitable institutions such as hospitals, schools and other public institutions. Any privately run trust may be transformed into a public management body under HMG on certain conditions under this part of the Law.

(v) Royal Nepal Academy Act, 1993

This Act provides for the consolidation of Royal Nepal Academy established in 1958 under the old Act. This Act through this autonomous and public body, the "Academy", aims to achieve the development and progress of Nepali language and national languages, literature, arts and artisans, music, drama, culture, and other social science through study, research and publication of original and valuable books and materials, to give due honour and respect to the scholars and talents of these fields; introduce activities at the national and international levels; and to enlist people's participation and interest in creative thinking and actions for the overall development of intellectual and cultural spheres of the nation. The Academy is required to secure permission from HMG for concluding any agreement with the foreign party in the course of its functioning.

(vi) There are no specific acts on libraries, museums and cultural services. Libraries of different nature and scale are established by different interests and purposes. There are national libraries, institutional libraries, university, faculty and campus level libraries, foreign agency libraries. Cultural services may also be organized under individual firm or corporate level (discussed already) and undertaken under a job contract or contract service basis. Voluntary cultural programmes are also the common phenomena of the day.

D. SPORTING AND OTHER RECREATIONAL SERVICES

(i) Sports Development Act, 1992

This Act aims to develop sports in Nepal by conducting training of sports and organizing all kinds of sports events and thereby enable appropriate participation of Nepal in international sports competitions as well as to cultivate an efficient and disciplined citizenship through the appropriate physical and mental development of students and public in general by means of sports.

An autonomous body called National Sports Council is provided to be established under this Act for the development of sports. Some of the important powers, functions and duties of the Council are as follows : to arrange district, regional, national and international level sports competitions in order to augment the standards of sports; send the athletes, members and employees of the Council to foreign countries for participating in sports competitions and meetings; arrange for providing training to athletes by national or foreign coaches. But for requisitioning foreign coaches, a prior permission of HMG is necessary.

The Council has to secure permission of HMG for signing agreement with foreign parties.

11. TRANSPORT SERVICES

A. MARITIME TRANSPORT SERVICES

- (a) Passenger Transportation
- (b) Freight Transportation
- (c) Rental of vessels with crew
- (d) Maintenance and repair of vessels
- (e) Pushing and towing services

- (f) Supporting services for maritime transport.

Maritime transport services subsumed under the subheadings (a) to (f) are not presently available.

However only the following acts a rules make provision for these :

- Shipping Registration Act, 1971
- Nepal Shipping Registration Regulation, 1972
- Flag of the Mercantile Ship of the Kingdom of Nepal Act, 1971
- Nepal Ship (Certification and Daybook keeping) Act, 1971

See, discussion (i) listed under I.E (a) (under Rental/Leasing services without operators: relating to ships).

B. INTERNAL WATERWAYS TRANSPORT

- (a) Passenger Transportation
- (b) Freight Transportation
- (c) Rental of vessels with crew
- (d) Maintenance and repair of vessels
- (e) Pushing and towing services
- (f) Supporting services for internal waterway transport

None available as yet.

C. AIR TRANSPORT SERVICES

- (a) Passenger Transportation
- (b) Freight Transportation
- (c) Rental of aircraft with crew
- (d) Maintenance and repair of aircraft
- (e) Supporting services for air transport.

See discussion (i), (ii) and (iii) listed under I.E. (b) (under rental/leasing services without operators: relating to aircraft)

D. SPACE TRANSPORT

None.

E. RAIL TRANSPORT SERVICES

- (a) Passenger Transportation
- (b) Freight Transportation
- (c) Pushing and towing services
- (d) Maintenance and repair of rail transport equipment
- (e) Supporting services for rail transport services.

See, discussion (i) listed under I.E.(c) (under rental/leasing services without operators: relating to other transport equipment)

F. ROAD TRANSPORT SERVICES

- (a) Passenger Transportation
- (b) Freight Transportation
- (c) Rental of commercial vehicles with operator
- (d) Maintenance and repair of road transport equipment
- (e) Supporting services for road transport services.

See, discussion (ii) listed under I.E.(c) (under rental / leasing services without operators: relating to other transport equipment)

G. PIPELINE TRANSPORT

- (a) Transportation of fuels
- (b) Transportation of other goods.

None of (a) and (b) as above available as yet.

H. SERVICES AUXILIARY TO ALL MODES OF TRANSPORT

- (a) Cargo - handling services
- (b) Storage and warehouse services
- (c) Freight transport agency services
- (d) Other

No particular acts / rules are available as yet for the (a) to (d) services listed as above. However, the Customs Regulation, 1969 refers to HMG and private storage and warehouse services.

All these may be undertaken by negotiating under the terms and conditions agreed on the contract made or concluded under the Contract Act., 1967 with the private transport carriers.

I. OTHER TRANSPORT SERVICES

None.

12. OTHER SERVICES NOT INCLUDED ELSEWHERE

Personal Services -

Somewhat based on a job contract or contract service basis.

ANNEX 8A

BILATERAL FOREIGN TRADE AGREEMENTS ENTERED INTO BY NEPAL

	Country	Year
1.	Republic of Bangladesh	1976
2.	Republic of Bulgaria	1980
3.	People's Republic of China	1981
4.	Czechoslovak Socialist Republic	1992
5.	Arab Republic of Egypt	1975
6.	Republic of India	
	(a) Treaty of Transit	1991
	(b) Treaty of Trade	1991
(c)	Agreement of Co-operation	1991
7.	Democratic People's Republic of Korea	1970
8.	Republic of Korea	1971
9.	Mongolia	1992
10.	Islamic Republic of Pakistan	1982
11.	Republic of Poland	1992
12.	Republic of Romania	1984
13.	Democratic Socialist Republic of Sri-Lanka	1979
14.	United Kingdom of Great Britain and Northern Ireland	1965
15.	United States of America	1947
16.	Union of Soviet Socialist Republics	1970
17.	Socialist Federal Republic of Yugoslavia	1965

ANNEX 8B
TRADE AGREEMENTS OR PARTS OF THEM
WHICH CONTAIN PREFERENTIAL TRADE PROVISIONS

TREATY OF TRADE BETWEEN NEPAL AND INDIA SIGNED ON 6 DECEMBER 1991.

Article III

Both the Contracting Parties shall accord unconditionally to each other treatment no less favourable than that accorded to any third country with respect to (a) customs duties and charges of any kind imposed on or in connection with importation and exportation and (b) import regulations including quantitative restrictions.

Article IV

The Contracting Parties agree, on a reciprocal basis, to exempt from basic customs duty as well as from quantitative restrictions the import of such primary products as may be mutually agreed upon, from each other.

Article V

Notwithstanding the provisions of Article III and subject to such exceptions as may be made after consultation with His Majesty's Government of Nepal, the Government of India agree to promote the industrial development of Nepal through the grant on the basis of non-reciprocity of specially favourable treatment to imports into India of industrial products manufactured in Nepal in respect of customs duty and quantitative restrictions normally applicable to them.

PROTOCOL TO THE TREATY OF TRADE BETWEEN NEPAL AND INDIA.

WITH REFERENCE TO ARTICLE IV.

The following primary products would be eligible for preferential treatment:

- (i) Agriculture, horticulture and forest produce and minerals which have not undergone any processing.
- (ii) Rice, pulses and flour.
- (iii) Timber.
- (iv) Jaggery (gur and shakhar)
- (v) Animals, birds and fish.
- (vi) Bees, bees-wax and honey.
- (vii) Raw wool, goat hair and bones as are used in the manufacture of bone-meal.
- (viii) Milk, home made products of milk and eggs.
- (ix) Ghani-produced oil and oilcakes.
- (x) Ayurvedic and herbal medicines.
- (xi) Articles produced by village artisans as are mainly used in villages.
- (xii) Akara.
- (xiii) Yak Tail.
- (xiv) Any other primary products which may be mutually agreed upon.

It is understood that in the matter of internal taxes or charges the movement of primary products of either Contracting Party to any market destinations in the territory of the other shall be

accorded treatment no less favourable than that accorded to the movement of its own primary products within its territory.

It is also understood that the aforesaid provisions will not preclude a Contracting Party from taking any measure which it may deem necessary on the exportation of primary products to the other.

WITH REFERENCE TO ARTICLE V: *

1. The Government of India will provide access to the Indian market free of customs duties and the quantitative restrictions for all articles manufactured in Nepal.

2. (i) Import of articles in accordance with the paragraph 1 above shall be allowed by the Indian customs authorities on the basis of a Certificate of Origin to be issued by the agency designated by His Majesty's Government of Nepal in the format prescribed at Annex B for each consignment of articles exported from Nepal to India. However, this facility shall not be available for the articles listed at Annex C.

(ii) In the event of the above facility leading to a surge in the imports generally or in the import of any particular article, the two Governments shall enter into consultation with a view to taking appropriate measures.

(iii) In the case of other articles made in Nepal which do not fulfil the conditions required by the Certificate of Origin prescribed at Annex B including those Articles listed at Annex C for the purpose of preferential treatment into India, the Government of India will provide normal access to the Indian market consistent with its MFN treatment.

3. On the basis of a Certificate issued, for each consignment of products manufactured in the small scale units in Nepal, by His Majesty's Government of Nepal, or by an agency designated by His Majesty's Government of Nepal that the relevant conditions applicable to the products manufactured in similar Small Scale Industrial units in India for relief in the levy of applicable Excise Duty rates are fulfilled for such a parity, Government of India will extend parity in the levy of Additional Duty on such Nepalese products equal to the treatment provided in the levy of effective Excise Duty on similar Indian products under the Indian Customs and Central Excise Tariff.

4. The "Additional Duty" rates equal to the effective Indian Excise duty rates applicable to similar Indian products under the Indian Customs & Central Excise Tariff will continue to be levied on the imports into India of products manufactured in the medium and large scale units in Nepal.

In regard to "additional duty" collected by the Government of India in respect of manufactured articles other than those manufactured in "small" units" Wherever it is established that the cost of production of an article is higher in Nepal than the cost of production in a corresponding unit in India, a sum representing such difference in the cost of production, but not exceeding 25 percent of the "additional duty" collected by the Government of India, will be paid to His Majesty's Government of Nepal provided. His Majesty's Government of Nepal have given assistance to the same extent to the (manufacturers) exporters.

5. Export of consignments from Nepal accompanied by the Certificate of Origin will normally not be subjected to any detention/delays at the Indian Customs border checkpoints and other places en route. In case any need for clarification arises, this will be obtained expeditiously, by the Indian border Customs authorities from the Indian and Nepalese authorities, as the case may be.

* Replaced by the Letters of Exchange between His Majesty's Government of Nepal and Government of India at Kathmandu on 3 December 1996.

6. Where for social and economic reasons, the import of an item into India is permitted only through public sector agencies or where the import of an item is prohibited under the Indian Trade control regulations, the Government of India will consider any requests of His Majesty's Government of Nepal for relaxation and will permit the imports of such an item from Nepal in such a manner as may be found to be suitable.

7. For the purpose of calculation of import duties customs valuation procedures, as prescribed under the prevailing customs law, will be followed.

ANNEX C:

Negative List Of Articles Which Will Not Be Allowed Preferential Entry From Nepal To India On The Basis Of Certificate Of Origin To Be Given By His Majesty's Government Of Nepal

- (i) *Alcoholic Liquors/Beverages and their concentrates except industrial spirits.
- (ii) Perfumes and Cosmetics with non-Nepalese/non-Indian Brand names,
- (iii) Cigarettes and Tobacco

Note: Government of India may, in consultation with His Majesty's Government of Nepal, modify the above list.

* Nepalese beers can be imported into India on payment of the applicable liquor excise duty equal to the effective Excise duty as levied in India on Indian beers under the relevant rules and regulations of India.

AGREEMENT ON SAARC PREFERENTIAL TRADING ARRANGEMENT (SAPTA)

The SAPTA agreement was signed by Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. The principles of SAPTA are overall reciprocity and mutual advantage; gradual expansion of preferential treatment to all products, manufactures and commodities in their raw, semi-processed and processed forms; and recognition of the special needs of the least developed contracting states. The arrangements under SAPTA may cover tariffs, para-tariffs, non-tariff measures and direct trade measures. At the Ninth Summit of SAARC, the contracting states have decided to move from SAFTA (South Asian Free Trade Area) by the year 2001.
