Trade and Industrial Policy Environment in Nepal

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South Asia Watch on Trade, Economics & Environment (SAWTEE)
PO Box: 19366, 254 Lamtangeen Marg, Baluwatar, Kathmandu, Nepal
Tel: 977-1-4415284 / 4444438, Fax: 977-1-4444570
E-mail: sawtee@sawtee.org , Web: www.sawtee.org

ActionAid Nepal (AAN)
PO Box: 6257, Kathmandu, Nepal
Tel: 977-1-4436477/4419115, Fax: 977-1-4419718
E-mail: mail@actionaidnepal.org , Web: actionaid.org/nepal

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Trade and industrial policy environment plays a significant role in accelerating economic growth and achieving development goals not least because it attracts foreign direct investment (FDI). In the globalised era, as a least developed country (LDC), Nepal faces numerous challenges in ensuring an enabling trade and industrial environment. Ever since the implementation of First Five Year Plan (1956-61), various policies have been implemented to promote the trade and industrial sector but little progress has been made. Despite the implementation of economic reform measures, mainly in the 1990s, export performance continues to be weak. The expiry of quotas on textiles and clothing (T&C) beginning 1 January 2005 has posed further challenges for Nepalese exports. This has necessiated the review of current trade and industrial policies for devising strategies to enhance the export performance.

Realising such need, South Asia Watch for Trade, Economics & Environment (SAWTEE) and ActionAid Nepal (AAN) with support from United Nations Development Programme (UNDP) Asia Pacific Regional Centre in Colombo undertook a project titled *Addressing the Impact of the Phasing Out of Textiles and Clothing Quotas on Nepal*. The project encompassed four research studies namely, 'Impact of Textiles and Clothing Quota Phase Out on Nepal: A Study from Human Development Perspective', 'Export Diversification Strategy for Nepal', 'Trade and Industrial Policy Environment in Nepal' and 'Trade Negotiation Strategy for Nepal'.

This book is the outcome of the third study under the project. I would like to thank Lead Researcher Mr. Shivraj Bhatta and Researchers Ms. Chandni Singh, Mr. Gyanu Sharma, Ms. Manisha Pradhananga and Mr. Shivendra Thapa for their untiring efforts in conducting the study. I would also like to thank Mr. Kamalesh Adhikari for his comments and suggestions.

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Navin Dahal
Executive Director
SAWTEE

Contents

Abbreviations

APP	The Agriculture Perspective Plan
CBD	Convention on Biological Diversity
CFUGs	Community Forest User Groups
CITES	Convention on International Trade in Endangered Species of Wild Life and Fauna
DDCs	District Development Committees
DFO	District Forest Office
DPR	Department of Plant Resources
EPZs	Export Promotion Zones
FDI	Foreign Direct Investment
FITTA	Foreign Investment and Technology Transfer Act
FNCCI	Federation of Nepalese Chamber of Commerce and Industry
ICT	Information and Communications Technology
IFC	International Finance Corporation
ILO	International Labour Organization
IMF	International Monetary Fund
IPPC	International Plant Protection Convention
IPRs	Intellectual Property Rights
ISI	Import Substitution Industrialisation
IUCN	The World Conservation Union
MAPs	Medicinal and Aromatic Plants
MIGA	Multilateral Investment Guarantee Agency

MoST	Ministry of Science and Technology
MPFS	Master Plan for the Forestry Sector
NGOs	Non-Governmental Organisations
NITCC	National Information Technology Coordination Committee
NPC	National Planning Commission
NRB	Nepal Rastra Bank
NTDC	Nepal Tea Development Corporation
NTFPs	Non-Timber Forest Products
ODCs	Other Duties and Charges
OECD	Organization for Economic Cooperation and Development
PC	Phytosanitary Certification
PQS	Plant Quarantine Section
NAST	Nepal Academy of Science and Technology
SAP	Structural Adjustment Programme
TRIPS	Trade Related Aspects of Intellectual Property Rights
UK	The United Kingdom
UNEP	United Nations Environment Programme
VAT	Value Added Tax
VDCs	Village Development Committees
WTO	World Trade Organization

CHAPTER 1

Introduction

Context

Until the 1980s, most developing countries followed import substitution industrialisation (ISI) strategy. They focussed on setting up a number of public enterprises to provide essential goods and services. Domestic industries were protected and promoted through high barriers to trade. Keeping in consideration the low level of technological development, incentives were provided to support small scale industries such as cottage industries. However, by the 1980s, the failure of ISI strategy to spur growth in developing countries led to a change in international 'development thinking'. It was believed that the involvement of governments in regulating the market was actually retarding economic growth.

In the early 1990s, a new 'neo-liberal' paradigm, that identified the market as the most efficient mechanisms for resource allocation became the dominant principle in the development field. A new set of policies for economic growth was actively promoted by Washington based institutes such as the International Monetary Fund (IMF), the World Bank and the United States (US) treasury. The policy package, also known as the Washington Consensus, pushed for trade liberalisation, privatisation and deregulation in developing countries. As a result, for instance, tariffs were reduced and rationalised, public enterprises were privatised and government monopolies were completely or partially ended. These efforts emphasised the role of exports and foreign direct investment (FDI) for economic growth. In the mid-1990s, it, however, became clear that the Washington Consensus failed to bring about significant economic growth wherever it was prescribed. Most developing countries encountered a host of implementation related problems and supply side constraints. Some of these constraints created bottlenecks in the value chain and inflated the cost of doing business while others created barriers in realising export potentials.

Realising the constraints of state led development process as well as market led development process, a new development paradigm known as the Post Washington Consensus has come to the forefront. It advocates that the government should have a decisive role to play in the development process and in using trade as a means to address problems emnating from poverty, hunger and unemployment.

Economic policymaking in Nepal has also closely followed the dominant international trend of the time (Khatiwada 2003). However, Nepal has been unable to achieve sustained growth and development. Particularly, in relation to trade and industrial environment, the country has not been able to develop areas with export competitiveness and attract required FDI. This book identifies factors that affect the trade and industrial environment of Nepal and presents a case of trade and industrial policy environment in the five export potential sectors[1] – tea, herbs, leather, tourism and information and communication technology (ICT).

Objectives

The broad objective of the study was to review and assess the trade and industrial policy environment in Nepal. The specific objectives were to:

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[1] SAWTEE and AAN conducted four research studies under the project *Addressing the Impact of the Phasing Out of Textiles and Clothing Quotas on Nepal*. This book is the outcome of the third study *Trade and Industrial Policy Environment in Nepal*. The second study titled *Export Diversification Strategy for Nepal* has identified these five sectors as having export potential for Nepal.

- Identify the major supply side determinants of trade and industrial environment.
- Assess the trade and industrial policy environment and identify the major policy constraints that hinder Nepal's exports.
- Recommend policy measures to be undertaken to improve trade and industrial environment in Nepal and promote export potential sectors.

Content

The book is divided into four chapters. Chapter 2 reviews the policies adopted by the Nepalese government after the mid-1980s. These include: industrial policy, investment policy, trade policy, monetary policy, fiscal policy, agricultural policy, competition policy, labour policy and policy related to intellectual property rights (IPRs). Chapter 3 presents an assessment of the trade and industrial environment in Nepal. The chapter draws on the findings of the 'Doing Business Report 2007' produced by the World Bank and the International Finance Corporation (IFC) to highlight the trade and industrial environment in Nepal. Finally, Chapter 4 focuses on five export potential sectors – tea, herbs, leather, tourism and ICT. The chapter reviews, analyses and provides sector specific recommendations for the improvement of trade and industrial policy environment in the selected sectors. An action matrix has been included at the end of the book to list policy and sector specific recommendations for the various stakeholders.

CHAPTER 2

Trade and Industrial Policies

Industrial Policy

Nepal's first Industrial Policy was formulated in 1962. The policy was amended twice and a new industrial policy was introduced in 1974. The policy aimed to promote both import substituting and export oriented industries and provided tax incentives to cottage industries based on the level of their initial investment. A revised industrial policy was brought in 1981. It simplified procedures and introduced an improved incentive system. However, industries could not benefit from such incentives due to poor administration and other 'distortions'.

The liberalisation measures, implemented since 1985, sought to open up the economy through internal and international competition. Various measures were introduced to attract foreign investment such as reduction in tariff rates, removal of quotas and industrial licensing system. Industrial Policy, 1987 aimed to promote export oriented industries by providing incentives such as pre-export loans, duty drawback system and bonded warehouse facility.

The current Industrial Policy, 1992 encourages private sector participation by creating an environment favourable for increased private investment. The policy aims to strengthen linkages between the manufacturing and agricultural sectors, and promote export oriented industries. Incentives are provided to attract investment through tax and risk reduction. The policy also emphasises on the need to privatise the public enterprises. Other features of the policy include curtailment of government interference in fixing the price of industrial products, rehabilitation of sick industries, adoption of policies that determine wage on the basis of productivity and reduction of administrative bottlenecks and procedural delays.

As part of the policy, Industrial Enterprise Act was also introduced in 1992. The Act provides tax incentives to industries based on national priority, location of industrial establishment, their contribution in employment generation and on the amount of exports. The Act was amended in 1997. However, it has been perceived that the Act is no longer consistent with the incentive package prescribed in Industrial Policy, 1992 as incentives sought in the policy to promote industrial growth have been removed.

Investment Policy

Industrial Policy, 1992 has identified foreign investment promotion as an important element for achieving economic growth. Foreign investment was expected to supplement domestic private investment through foreign capital flows and enhance access to the international market. Accordingly, the government has taken various initiatives to attract foreign investment. The Foreign Investment and Technology Transfer Act (FITTA), also known as 'the foreign investment law', Industrial Enterprises Act and a Single Window System were introduced in 1992 to attract FDI. Some of the salient features of Industrial Enterprises Act, 1992 and Foreign Investment and Technology Transfer Act, 1992 (as amended in 1996) are as follows:

- Foreign investors, barring few cases, are allowed to hold 100 percent ownership in industries. Foreign investment has been allowed in most sectors except in cottage industries, arms and ammunitions, security printing, currencies and coinage, retail business, travel and trekking agencies and consultancy services. Similarly, industries using tobacco as raw materials and industries producing alcohol are also prohibited for foreign investment.

- Technology transfer is encouraged in all public industries and nationalisation of private sector industries has been prohibited.
- The government does not intervene in price fixing of industrial products.
- The statutory provision of FITTA guarantees full repatriation of the amount received from the sale of equity, profits or dividends and interest on foreign loans, and the repatriation of the amount received under an agreement for the transfer of technology.
- Foreign investors are granted a business visa as long as the investment is retained. A resident visa is provided for a foreign investor, who at a time makes an investment in excess of US$ 100,000 or equivalent and retains it.

Nepal is a member of the Multilateral Investment Guarantee Agency (MIGA). It has signed Reciprocal Encouragement and Protection of Investment Agreements with various countries including France, Germany, the United Kingdom (UK) and Mauritius. Agreements to avoid double taxation are effective with India, Norway, Thailand, Sri Lanka, Mauritius, Austria, Pakistan, China and Republic of Korea.

Despite these initiatives, the flow of FDI into Nepal is still very low compared to other Asian countries. In addition, investment is limited to products that require low level of technology and are labour intensive and many of the foreign investors in Nepal are individuals rather than corporations.

Monetary Policy

Nepal's Monetary Policy is geared towards managing liquidity to achieve domestic price stability and improving the balance of payments situation of the country. NRB exercises direct instruments of monetary control through open market operations. Besides, the bank's reserve rate and the cash reserve ratio are other additional instruments deployed by the Central Bank for monetary control.

Nepal deregulated interest rates in 1984. In 1989, interest rates were completely liberalised leaving them open to market forces. However, due to Nepal's segmented banking system that excludes a large portion of the population from formal banking investment is dependent on growth prospects rather than on the interest rate (Khatiwada 2003). The Nepalese Rupee has been pegged to the Indian Rupee at the rate of NRs 1.6 per Indian Rupee since February 1993. Due to the currency peg and heavy cross-border transaction, currency substitution of Nepalese Rupee to Indian Rupee has occurred. The Indian Rupee has been in circulation in Nepal despite legal prohibition on its use for transaction.

Exchange rate regimes also affect international competitiveness and exports. Due to Nepal's peg with India, there has been a real appreciation of the Nepalese Rupee against the Indian Rupee and a real depreciation against the US dollar. However, empirical evidence shows that Nepal's exports are not sensitive to exchange rates but the relationship is strong for imports and exchange rates (Khatiwada 2003). This is one of the reasons why Nepal's imports have been concentrated with India.

Due to Nepal's currency peg, the Monetary Policy has little control over inflation. Inflation in Nepal has improved over the years; the average double digit inflation rate during the 1980s has been reduced to single digit in the 1990s. Though Nepal's Monetary Policy has been undermined by the presence of a large informal market and the currency peg, the peg has also lowered inflationary pressure, promoted confidence for Indian investment in Nepal, and facilitated cross-border trade between the two countries. In addition, low sensitivity of Nepal's exports with exchange rate also implies that Nepal's weak exports performance is mostly due to structural factors rather than Nepal's price competitiveness (Khatiwada 2003).

However, because of India's steady economic growth and Nepal's stagnation, questions have been raised concerning the optimality of the peg for Nepal's competitiveness and macroeconomic stability. Given that Nepal's exchange rate with India has not been reviewed since 1993, a periodic review mechanism needs to be established.

Fiscal Policy

The Fiscal Policy of Nepal is geared towards providing essential public services and building infrastructure. Currently, Nepal's Fiscal Policy is geared towards reduction of unproductive expenditure in the public sector; reform of the income tax structure by lowering high rates and broadening the tax base; reduction of net domestic borrowing; and streamlining of bureaucracy. An important aspect of the fiscal reform was the withdrawal of price and capital subsidies on food, fertiliser, ground irrigation, and operations of public enterprises. The government pursued a tax reform programme with the aim of raising public savings, broadening the tax net and improving overall efficiency and fairness of the tax system. Nepal's tax reform included streamlining the tax system with the system of Value Added Tax (VAT), minimising exemptions and rebates and strengthening the tax administration to promote private and foreign investment.

Public spending in Nepal has been low due to low resource availability and the small proportion of public spending in relation to GDP continues due to slow growth of revenue. A majority of the government's revenue is derived from indirect taxes, of which customs and sales tax/VAT constitute the largest portion. Another big source of revenue is direct tax on income and property. Non-tax revenues include interests and payments made to the government and money obtained from public utilities. The government also derives a large proportion of taxes from international trade as nearly 50 percent of the total tax revenue comes from taxes on imports and other taxes related to cross border trade.

Despite the low growth of revenue, Nepal's fiscal deficit has been decreasing over the years. It declined from 8.1 percent of GDP in 1990 to 4.7 in 2000. This improvement in fiscal deficit is primarily due to reduction in development spending, which declined from 19.4 percent of GDP during the 1980s to 9.8 in the 1990s. High reliance on foreign loans to finance the fiscal deficit has led to a rapid rise in foreign debt. Outstanding foreign debt liability increased from 35 percent of GDP in 1990 to 50 percent in 2000.

The government has been increasing support to social services, withdrawing support from economic services. In this regard, it is important to consider that the increase in the budget for social services (especially education and health) is a positive development but the need to expand social services and reduce fiscal deficit has led to a decline in spending in economic services. Within economic services, the agricultural sector has suffered the most. This reduction in budget has slowed the growth of irrigation facilities, and hence impeded the development of the agriculture sector.

Table 2.1 Contribution of trade related taxes in revenue (NRs. in million)

	2000	2001	2002	2003	2004	2005
Customs	10764.8	12479.0	12492.6	14236.4	15554.2	15701.5
Excise on imports	48.5	73.1	166.3	183.5	1286.6	1084.0
VAT on imports	6119.9	7303.0	7354.9	8629.2	8874.7	12270.2
Income tax on trade*	2077.1	2204.2	3054.8	2226.3	2332.1	2553.1
Total trade related tax	21010.3	24060.3	25070.6	27278.4	30051.6	33613.7
Trade tax/ total revenue (%)	49.0	49.2	49.7	48.5	48.2	47.9

** It is assumed that 75 percent of the private business income taxes come from trade.*

Source: MoF, Economic Survey (various issues).

Competition Policy

There is no separate competition policy in Nepal but the government has recently enacted Competition Promotion and Market Protection Act, 2007 to regulate anti-competitive practices and create 'competition culture'. Stakeholders in Nepal, mainly the consumers and their groups and some entreprenuers, have also been lobbying for its effective implementation.

Before this law, various other laws concerning competition and anti-competitive practices such as Consumer Protection Act, Black Marketing and Certain Other Social Offences Act and Essential Services Operation Act were also enacted but the government has not been able to implement them effectively.

Labour Policy

Ministry of Labour (currently Ministry of Labour and Transport Management) was established as a separate entity in 1981 to formulate and implement labour policies in the country. Till now, the government has introduced various acts and regulations to enhance the efficiency of the labour market and address the grievances of trade unions and employers' associations.

Labour Act, 1992, Foreign Employment Act, 1985 and Trade Union Act, 1992 are the major laws that deal with labour issues. Nepal has also ratified nine International Labour Organization (ILO) conventions concerning bonded and child labour, union activities and workplace discrimination. Labour Act, 1992, which came into existence in the aftermath of the democratic movement, has consistently been criticised by the business community as being "more regulatory than promotional," which they claim is detrimental to investment and employment generation. International studies also seem to support the suggestion that Nepal's labour laws are "labour friendly" at the expense of investment.

The Act has provisioned that a worker must be granted a permanent worker status after six months of employment, also making it difficult for the employer to dismiss the worker once he/she is made permanent (MOICS 2004). However, from the perspective of trade unions, the anti-dismissal provision of the Act is essential to provide social security and job safety to workers.

Given the disagreements between the employers and the employees, tripartite negotiation among the government, trade unions and the employers' associations seems essential for improving labour efficiency in Nepal.

Agricultural Policy

The agricultural sector employs about two-thirds of the total population and comprises 40 percent of the GDP. To accelerate agricultural growth, the government introduced the APP in 1995. Some of the major objectives of the APP are:

- To accelerate agricultural growth through increased factor productivity.
- To transform subsistence farming to commercial agriculture through diversification and realisation of comparative advantage.
- To identify immediate, short-term and long-term strategies and provide clear guidelines for future plans and programmes.

The APP concentrates on four input investment priorities for the agricultural sector: irrigation, roads and power, technology and fertilizer and identifies four priority outputs: livestock, high-value crops, agribusiness and forestry.

The high informal trade between Nepal and India hinders growth of the agricultural sector. Indian farmers benefit from a host of government subsidies on fertilisers, seeds, pesticides, power for irrigation, and agro-processing equipments and services. It is estimated that up to a quarter of the production cost is offset by such subsidies. The Nepalese government also provides subsidies on the import and transportation of chemical fertilisers and for soil tests to be carried out on the request of farmers but there is a concern that no specific incentives are being provided for the export of agricultural commodities. It has not only eroded Nepal's price competitiveness against Indian agricultural products but has also encouraged food imports.

Trade Policy

In the mid-1960s, Nepal adopted export diversification and import substitution strategies. In 1977, the government introduced the Dual Exchange Rate System, which was modified in 1978. In 1981, a cash subsidy programme was introduced to promote exports. Other important measures adopted by the government include duty exemption on export commodities, special financial arrangement for production and export, simplification of licensing and customs procedures, and introduction of new industry and trade-related acts.

Some schemes for export promotion were also introduced in first Trade Policy, 1983. Delicensing of exports, waiver of income tax on export earnings, introduction of duty drawback system and bonded warehouse facility, simplification of customs procedures, establishment of a National Export Trade Development Council were the main features of this policy (Khanal et al 2005).

In the mid-1980s, Nepal initiated economic liberalisation through the implementation of Structural Adjustment Programme (SAP) and adopted various measures for trade policy reform. A new liberal Trade Policy was introduced in 1992. The major objectives of this policy are to promote internal and international trade, encourage private sector participation, diversify trade in terms of both commodities and markets, strengthen backward linkages, expand employment oriented trade and reduce trade imbalances.

Import and Export Strategies

Trade Policy, 1992 also contains import and export strategies. The major import strategies are to:

- Simplify existing import licensing and control system and gradual replacement of quantitative restrictions on imports with tariffs;
- Simplify import procedures and documentation; and
- Allow import of all goods except some limited items through purchase of foreign exchange at the rate fixed by the market mechanism in order to make Nepalese currency fully convertible.

The policy also seeks to facilitate imports by making foreign exchange arrangements more flexible. For goods imported through auction, NRB has the authority to make foreign currency available at the rate fixed. NRB has also sought to make Nepalese currency fully convertible and gradually allow currency to be bought and sold under the rates determined by market mechanism. For this purpose, commercial banks have been given permission to make foreign exchange available for import of industrial raw materials, spare parts and services and for payments of foreign loans and interests of the non-governmental sector.

Similarly, the major export strategies stipulated in Trade Policy, 1992 are:

- Introduction of container service and expansion of existing bonded warehouses;
- Implementation of duty drawback scheme to refund duty paid on import of inputs used for export;
- Establishment of Export Promotion Zones (EPZs);
- Move towards full convertibility of the Nepalese currency and gradual elimination of the Export Valuation System;
- Establishment of quality checks to improve the standard of exportable products;
- Exemption of income tax for earnings from exports; and
- Emphasis on development of the packaging industry.

Nepal's export policy seeks to increase the production and quality of exportable products and make them competitive in the world market. The policy emphasises the need to export high value added products. The export policy recognises the need to identify new markets and products to promote exports. The policy also recognises the potential of service-oriented activities in increasing foreign exchange earnings.

Legal and Administrative Procedures, Taxes and Trade Rules

As indicated in WTO Working Party Report of Nepal, to conduct business in Nepal, companies, both national and foreign, have to be registered with the Department of Industry (limited liability companies, including joint venture agencies, sole proprietor and partnerships, business undertakings for industrial ventures) and at the Department of Commerce (sole proprietor undertakings and partnership businesses).

Registration procedures differ for private firms and companies. The Private Firm Registration Act, 1956 governs the registration of a private firm, while the registration of a company is governed by the Company Act, 1997. The registration of enterprises with respect to trade in services is governed by other laws such as Nepal Agency Act, 1958 and Partnership Act, 1964. All registered companies can import and export goods for business purposes on the basis of existing import and export regulations. Foreign firms, without establishing a physical presence or investment in Nepal, can register to import or export their own pro-

duce if they do not intent to distribute imports in the domestic market. Retail business in Nepal is reserved for citizens of Nepal only.

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Customs tariff: The prevailing basic customs tariff rates are 5, 10, 15, 25, 40, 80 and 130 percent and the majority fall in the range of 10 percent to 20 percent. The current unweighted average customs duty rate for imports is approximately 14 percent. As a general rule, Nepal applies *ad valorem* duties. Some products such as motor fuels, kerosene oils, gas and fuel oils, cement, liquor, tobacco and tobacco, etc., are subject to specific duties.

Tariff rate quotas and tariff exemptions: Nepal does not apply tariff quotas on imports. To facilitate the import of specific goods, the government provides tariff exemptions and reductions. Goods exempted from import duty are books, equipment and vehicles for trolley bus services, medical equipments for public health projects, cold storage equipments for the preservation of agricultural products, alternative power development equipments, high quality printed materials imported for the promotion and publicity of tourism in Nepal, threshing and husk-machines (Pankhi), raw jute, crates for keeping eggs, etc.

Other duties and charges (ODCs): To promote decentralised local development and generate fiscal revenue to respond to critical local needs, a local development fee of 1.5 percent on the value of imports has been fixed. However, Nepal has committed to eliminate these ODCs within 10 years of Nepal's accession to the WTO.

Charges for services rendered: No duties and charges are imposed on imports for customs processing. However, 1 percent of the total value of the imported goods is charged as import licence fee.

Licensing procedures: Automatic licensing is applied to both imports and exports of goods and is issued by the Department of Commerce. A letter of credit must be presented at the customs office during the time of export and import.

Customs valuation: In accordance with the Customs Act, as amended in 1997, customs value of imported goods is assessed on the basis of the invoice price shown in the invoice document provided by the importer.

Application of internal taxes: Both domestically produced goods and imported goods are subject to VAT and excise taxes. Every person (defined in the Act as any individual, firm, company, association, institution, partnership firm, cooperative, joint business, religious endowment or fund; or any government body, any religious organisation, charitable trust or similar other bodies and branches or sub-branches engaged, with or without profit, in taxable transactions) engaged in any transaction is required to apply for registration. Exemption from registration is provided to small vendors whose commercial transaction value is less than NRs. 2 million.

Excise tax: Excise tax is levied on products specified in the Finance Act. This tax is not applicable to imported goods. Imported goods that are listed in the Act are subject to an equalising duty levied at the rate of the excise tax.

Export financing, subsidy and promotion policies: Income from exports has been exempted from income tax. The duty drawback system for the import of raw materials for exportable commodities has been made more effective. Nepal does not provide direct incentives to any industry. There are certain exemptions in terms of income tax, sales tax, excise duty and customs duties to the industries qualifying under the conditions stated in Industrial Enterprise Act,1992.

With regard to services, according to Industrial Enterprises Act, 1992, human resources required for any industry, including all services shall be recruited from Nepalese citizens. Nevertheless, foreigners are permitted to work in Nepal on technical grounds, and in accordance with its commitment made at the WTO during its accession to the rules-based multilateral trading system. A work permit issued by the government is, however, required for foreigners to work in Nepal.

IPR Policy

The government has introduced Patent, Design and Trademark Act, 1965, Copyright Act, 2002 and Copyright Rules, 2004 for the protection of intellectual property rights (IPRs). However, following Nepal's membership in the World Trade Organization (WTO), the country is required to amend the existing and introduce new IPR legislation as the WTO's Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) requires Members to implement national IPR laws in a manner consistent with TRIPS. Moreover, besides patent, design, trademark and copyright, Nepal is also required to implement rules on other IPRs mentioned in TRIPS such as geographical indications and plant breeders' right.

CHAPTER 3

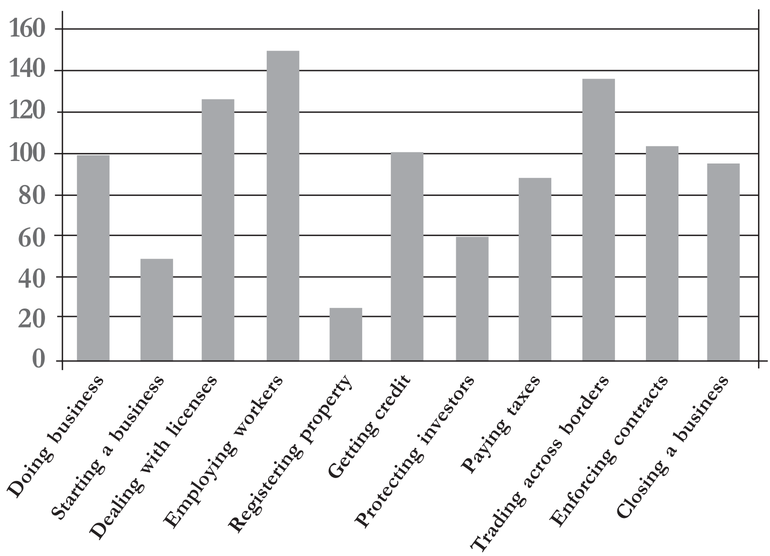
Trade and Industrial Environment

Many economic and political factors are used by investors, researchers and policymakers to explain the condition of business environment across the world. Economic factors generally used in this regard include records of overall wealth, production, consumption, wages, trade and investment. There are many other important determinants that give a clearer picture of the business environment, such as business laws and regulations.

In this regard, various indicators of business and investment climate have been developed by different organisations. These organisations are engaged in producing and periodically updating indicators on business and investment environment. The World Bank with other partner organisations has produced a series of 'Doing Business Report' that explains the role of laws and regulations in the business environment, and compiles and presents various laws and regulations related indicators of the business environment.

The report provides a global ranking on the ease of doing business in 175 countries and in this regard, Nepal's overall ranking is 100. Since doing business indicators assess government rules and regulations on all aspects of business from starting a business to closing one, the 'ease' of doing business varies between different indicators.

Figure 3.1: Indicators of doing business in Nepal



Source: World Bank, 2007.

Among all indicators, Nepal scores best in the ease of registering property (25th) and starting a business (49th). Registering property measures the ease with which businesses can secure rights to property and starting a business includes the number of steps entrepreneurs can expect to go through to launch a business, the time it takes on average, and the cost and minimum capital required. Nepal is ranked as 60th country in terms of protecting investors, which measure transparency of transactions, liability for self-dealing and shareholders' ability to sue officers and directors for misconduct.

Nepal is ranked 88 for the ease with which entrepreneurs can deal with the tax system in the country. The rank applies to a medium-sized company, which must pay or withhold tax in a given year and includes the administrative burden in paying taxes. These measures include the number of payments an entrepreneur must make; the number of hours spent on preparing, filing, and paying; and the percentage of their profits they must pay in taxes.

Table 3.1 Ease of the tax system

Indicator	Nepal	Region	OECD
Payments (number)	35	30.1	15.3
Time (hours)	408	304.6	202.9
Total tax rate (% profit)	32.8	45.1	47.8

Source: World Bank, 2007.

Table 3.1 shows areas that need improvement in the tax system. While the total tax rate as a percentage of profits is low for Nepalese entrepreneurs, the time required and the number of payments are high.

Nepal is ranked 101st for the ease of getting credit. Availability of credit is essential for investment projects as is the availability of information regarding where and how to obtain credit. The Legal Rights Index ranges from 0-10 with higher scores indicating that laws are better designed to expand access to credit. The Credit Information Index measures the scope, access and quality of credit information available. It ranges from 0-6 with higher values indicating more credit information available from a public registry or private bureau.

As can be seen in Table 3.2, Nepal does fairly well with a score of 4 for Legal Rights Index in comparison to the average score of 3.8 in the South Asia region. In terms of Credit Information Index, Nepal's score is below the regional average and much lower than the OECD average. The worst indicator of the business environment in Nepal is that of the labour market. Nepal is one of the most difficult countries in the world for employers to hire and fire workers. Table 3.3 compares each indicator of employment with the region as well as the OECD countries. Each index assigns values between 0 and 100 with higher values representing more rigid regulations. The Rigidity of Employment Index is an average of the three indices.

Table 3.2	Ease of getting credit		
Indicator	**Nepal**	**Region**	**OECD**
Legal rights index	4	3.8	6.3
Credit information index	2	1.8	5.0

Source: World Bank, 2007.

Nepal has a high score of 67 for difficulty of Hiring Index and a score of 70 for difficultly of Firing Index indicating rigid rules and regulations for hiring and firing workers. Similarly, other measures of labour rigidity such as hiring and firing costs are also higher than the regional average (Table 3.3). The overall score for Rigidity of Employment Index is 52, much higher than the average score of 34.8 for the region and 33.3 for OECD countries.

Table 3.3	Rigidity of employment index		
Indicator	**Nepal**	**Region**	**OECD**
Difficulty of hiring index	67	41.8	27.0
Rigidity of hours index	20	25.0	45.2
Difficulty of firing index	70	37.5	27.4
Rigidity of employment index	52	34.8	33.3
Hiring cost (% of salary)	10.0	6.8	21.4
Firing cost (weeks of wages)	90.0	71.5	31.3

Source: World Bank, 2007.

The time taken to settle a dispute over a commercial contract is determined by following the evolution of a payment dispute and tracking the time, cost and number of procedures involved from the moment a plaintiff files the lawsuit to actual payment. On an average, it takes almost two years to settle a dispute over a commercial contract in Nepal (Table 3.4), which is much lower than the regional average. However, the number of procedures and cost to settle disputes in Nepal are lower than the regional average.

Table 3.4	Time to settle a dispute over a commercial contract		
Indicator	**Nepal**	**Region**	**OECD**
Procedures (number)	28	38.7	22.2
Time (days)	590	968.9	351.2
Cost (% of debt)	24.4	26.4	11.2

Source: World Bank, 2007.

As the number of businesses rise, there are bound to be successes and failures. For a healthy entrepreneurial environment, it is essential that closing of businesses is timely and fair. Table 3.5 illustrates the time and cost required to resolve bankruptcies. The data identify weaknesses in existing bankruptcy law and procedural and administrative bottlenecks in the bankruptcy process. Closing a business in Nepal, on an average, takes much longer compared to the time taken in OECD countries and other countries in the South Asian region. In terms of cost, closing a business in Nepal is more expensive. The recovery rate is also low for Nepal compared to OECD countries.

For a country seeking to spur growth with exports, the ease of conducting cross border trade is perhaps one of the most important factors in promoting businesses. Unfortunately, Nepal ranks 136th for trade across the border and Nepal is considered one of the most expensive countries in the world for exports and imports. Table 3.6 shows the cost and procedures broken down by the criteria used to determine the score to indicate trade across the border.

Table 3.5	Time and cost of resolving bankruptcies		
Indicator	**Nepal**	**Region**	**OECD**
Time (years)	5.0	3.6	1.4
Cost (% of estate)	9.0	6.3	7.1
Recovery rate (cents on the dollar)	24.5	19.5	74.0

Source: World Bank, 2007.

Table 3.6 Costs and procedures involved in importing and exporting goods

Indicator	Nepal	Region	OECD
Documents for export (number)	7	8.1	4.8
Time for export (days)	44	34.4	10.5
Cost to export (US$ per container)	1,599	1,236	811
Documents for import (number)	10	12.5	5.9
Time for import (days)	37	41.5	12.2
Cost to import (US$ per container)	1,800	1,495	883

Source: World Bank, 2007.

Table 3.7 Duration and cost of exporting goods from Nepal

Nature of export procedures (2006)	Duration (days)	US$
Documents preparation	17	363
Inland transportation and handling	21	613
Customs clearance and technical control	3	252
Ports and terminal handling	3	371
Total	44	1,599

Source: World Bank, 2007.

In terms of the number of days required for a typical Nepalese exporter to export his/her products, Nepal falls behind the regional average by more than 10 days. Such gaps are likely to play an increasingly important role in international trade as buyers can easily switch to a quicker supplier. According to an estimate by a World Bank Study, each additional day that a product is delayed prior to being shipped reduces trade by more than 1 percent (Djankov 2006). Table 3.7 shows the duration and cost of exporting goods from Nepal.

CHAPTER 4

Sector Specific Policies

This chapter deals with policies and regulations relating to five sectors identified in the previous study of SAWTEE and AAN. The sectors are tea, herbs, leather, tourism and ICT and are considered to have export potential in the international market.

Tea

Despite an early start, commercial production of tea in Nepal did not begin until the 1950s. It was only after the overthrow of the Rana regime and the introduction of a relatively more liberal government since 1950 that the government undertook concrete steps to establish more plantations. The first private tea plantation was established in 1959 and was registered as Bhudhakaran Tea Estate. Seven years later, Nepal Tea Development Corporation (NTDC) was established in 1966 to manage the Illam and Soktim tea estates as well as five new tea plantations occupying 951 hectares of land. At the same time, tea production was extended beyond Illam to Jhapa, a flat district to the south of Ilam.

In 1982, with the objective of expanding the industry, the government declared five districts in eastern Nepal – Illam, Jhapa, Taplejung, Panchthar and Dhankuta – 'Tea Zones.' New plantations sites were established in these districts and the region saw the first major push to expand the industry. Until now, numerous tea processing factories have been established, reducing the need for Nepalese farmers to sell their leaves across the border to factories in Darjeeling.

Tea in Development Plans

Various development plans of Nepal have realised the potential of the tea sector and have formulated various strategies to encourage the sector.

The Eighth Five Year Plan sought participation of the private sector, cooperatives and small farmers in the expansion of tea plantation. To encourage the sector, the plan pledged to exempt the land ceiling in the Eastern hill region. In addition, necessary provisions for training and technical services, excise duty and income tax exemption were also planned. Nepal Tea Development Board was activated as a consultative agency to offer recommendations to the government in adopting necessary policy measures for the promotion of tea farming.

The Ninth Five Year Plan focused on providing basic infrastructure such as roads and electricity. The plan also sought to privatise NTDC and recognised the need to encourage entrepreneurs by providing tax incentives in the import of machinery, raw material and other production inputs.

One of the most important achievements of this plan is that it recognised orthodox tea as a major export potential product. The plan sought to establish a processing unit to cover at least 3000 ropanies of land, where orthodox tea had been successfully produced.

National Tea Policy, 2000

The government has introduced National Tea Policy, 2000 with the following objectives:

- Increasing the production of tea qualitatively and quantitatively with increased participation of the private sector in tea cultivation and encouraging tea cultivators;

- Helping in poverty alleviation with increased opportunities of income generation and employment;
- Making the tea cultivation sustainable and attractive;
- Promoting institutional development for the improvement of the tea sector;
- Increasing the opportunities of foreign currency earnings with the increased export of tea having fulfilled the internal demand; and
- Giving emphasis for the development of human resources, technology, study and research necessary for tea businesses.

In oder to achieve these objectives, the policy also fixed some quantitative targets:

- Expand tea growing area to 40,875 hectares in five years.
- Increase gross tea production to 46,111,000 Kg in 10 years.
- Avail employment opportunities for 79,310 additional people in five years.
- Increase orthodox tea production so that it consists of 65 percent of total tea produced.

In addition to these, the policy sought to ease access to credit for tea producers through minimum interest loans from banks. A grace period of seven years on income tax and interest on loan for orthodox and green tea in the hilly regions and five years for CTC tea in the Terai have been provided for tea cultivation. A Tea Development Fund was also to be established under the policy for technical advice and assistance such as on issues relating to concessions on registration fees, land ceiling, land revenue, custom facilities in the import of machinery, irrigation equipments, packing materials, steel structures and letter of credit facilities, etc.

Recommendations

- The availability of cultivable land is a major issue for tea production. The land issue is pertinent especially to large tea estates. The land ceiling is too low to derive economies of scale and the process to obtain extra land is difficult and requires approval from the Cabinet. Under the Eighth Plan, exemption of land ceiling in the Eastern hill region for tea production was planned but never materialised. Such bureaucratic processes need to be simplified and policies implemented.

- Though different plans and policies have conceptualised the idea of developing infrastructure and extending research facilities to the tea industry, there has not been any significant progress in realising such objectives. Nepal's tea industry still suffers from lack of infrastructure and research facilities. To make sure the Nepalese tea industry reaches its potential and Nepalese entrepreneurs and workers derive the maximum possible benefits from the industry, the government needs to focus on developing infrastructure and research facilities.

Herbs

National Polices and Regulations

Nepal's forest related policies and regulations seek to create economic incentives for the local people to conserve the forest while safeguarding their traditional livelihood options. Proper utilisation of forest resources can generate employment and alleviate poverty by raising income opportunities to support and sustain their livelihood. Listed below are some of the important polices and regulations for the conservation and development of forest resources, including non-timber forest products (NTFPs).

The Master Plan for the Forestry Sector (MPFS), 1989

The long term objectives of this 25 year plan include:

- Meeting people's basic needs for forest products on a sustainable basis;
- Conserving ecosystems and genetic resources;
- Protecting land against degradation and other effects of ecological imbalance; and
- Contributing to local and national economic growth.

MPFS seeks to manage forest for income and employment opportunities through people's participation in the development, management and conservation of forest resources. Community forestry is the main focus of the plan, receiving 45 percent of the total funding. The plan also encourages foreign investment in this sector.

MPFS consists of six primary development programmes out of which 'Medicinal and Aromatic Plant and other Minor Forest Product Development Programme' is one of them. The plan seeks to increase the supply of medicinal and aromatic plants and other NTFPs. It also emphasises employment creation and cultivation of many of the wild medicinal plants. The plan further stresses the need to facilitate processing of NTFPs into value added commodities through the establishment of processing facilities and their distribution in domestic and international markets.

Forest Act 1993, Forest Regulation 1995 and their Amendments

The Forest Act, the Forest Regulation and their amendments encourage community forestry further by recognising Community Forest User Groups (CFUGs). The Forest Act entrusts CFUGs with the management, control, utilisation and sale of community forest resources in an organised manner.

The Act contains a set of complex regulations to obtain permits to utilise forest products. For this purpose, an application should be submitted to the District Forest Office (DFO) or the CFUGs for a license, explicitly mentioning the type of herb, the area of collection, the quantity and the purpose of collection. License is only provided for the collection of NTFPs that are not prohibited for export/local commercial trade in their raw or unprocessed form.

Plant Protection Act 1972 and Plant Protection Rules, 1975

The Plant Protection Act and the Plant Protection Rules have been introduced to control and prevent plant diseases. The government can impose or lift any condition regarding the import or export of plants for this purpose.

Under the Act, documents containing details of the goods to be exported/imported need to be submitted to the Plant Quarantine Check Post.

Herbs in Development Plans

Under the Ninth Plan, a Botanical Garden and Herbal Plants Development Programme has been implemented. The programme seeks the participation of non-governmental organisations (NGOs) to utilise NTFPs. For the proper utilisation of NTFPs, research and development, technical assistance, market management assistance, training and publicity and extension programme were planned.

In order to transfer the benefits of NTFPs among the poor, development and processing of herbs were sought to be conducted at the grassroots level by establishing herbs centres. In addition, for the sustainable development of herbs and other NTFPs, a fund by the name of Non-timber Forest Products Conservation and Indigenous Knowledge Fund was planned to be established.

Privatisation of state owned industries and the development of forest industry associations were given high priority to encourage industries based on NTFPs. The government also sought to provide training and extension activities to develop skills for forest-based industries, cultivation of herbs, etc. Some of the achievements of the Ninth Plan include:

- CFUGs increased from 5,316 to 12,000, leasehold forest was initiated and 1,086 groups were formed by the end of the plan period.
- Feasibility study for the establishment of five herbs centres was completed.
- Awareness raising programme regarding herbs at 25 remote districts was conducted and establishment of herbs nurseries at 10 places was also completed.

The Tenth Plan encourages herb production, processing and market management by the private sector. The plan envisions to enhance the national herbs programme with the involvement of the government, NGOs and the private sector. In addition, the seeks to encourage sought for research for identifying suitable technology for the conservation of valuable but endangered herbs. The plan also targets to introduce NTFP management policy to encourage forest related enterprises based on herb cultivation.

International Polices and Regulations

Nepal is a signatory of various international agreements on wild life, endangered species and plant protection. Therefore, Nepal has to formulate national policies compatible with these agreements. Some important international policies and regulations are discussed below:

Convention on International Trade in Endangered Species of Wild Life and Fauna (CITES), 1973

CITES is an international agreement between governments that aims to ensure international trade in specimens of wild animals and plants that do not threaten their survival. CITES was drafted as a result of a resolution adopted in 1963 at a meeting of members of The World Conservation Union (IUCN). The text of the Convention was finally agreed at a meeting of representatives from 80 countries on 3 March 1973. On 1 July 1975, CITES entered into force. CITES currently has a large membership of 169 countries.

CITES has established a list of endangered species for which international trade is either prohibited or strictly regulated. Currently, the CITES accords varying degrees of protection to more than 30,000 species of animals and plants, whether they are traded as live specimens, fur coats or dried herbs.

As Nepal is a signatory of the convention, an export permit issued by the management authority of the state is required to export a CITES-listed specimen.

International Plant Protection Convention (IPPC), 1997

IPPC is an international treaty to prevent the spread and introduction of pests of plants and plant products, and to promote appropriate measures for their control. It is governed by the Commission on Phytosanitary Measures, which adopts International Standards for Phytosanitary Measures. Currently, 159 countries are members of IPPC. Under the Convention, they have agreed to make arrangements for Phytosanitary Certification (PC) with the objective of ensuring that exported plants, plant products and other regulated articles and consignments are in conformity with the international standard.

As Nepal is a signatory to the convention, Phytosanitary Certificate, issued by the Plant Quarantine Section (PQS) of the Department of Agriculture, is required to export NTFPs.

Convention on Biological Diversity (CBD)

This convention was negotiated under the United Nations Environment Programme (UNEP). It entered into force on 29 December 1993 and as of now, 190 countries are members of the Convention. The three goals of CBD are to: promote the conservation of biodiversity; sustainable use of its components; and equitable sharing of benefits arising out of the utilisation of genetic resources.

As Nepal is a signatory to the convention, it has to incorporate the principles of CBD in its national law on Access and Benefit Sharing.

Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)

Ideas and knowledge are an increasingly important part of trade. Most of the value of new medicines, seeds and other high technology products lies in the amount of invention, innovation, research, design and testing involved. TRIPS is considered the most controversial agreement of the WTO. It attempts to protect IPRs in a way that threatens the 'traditional rights' of the local, indigenous and farming communities of biodiversity-rich developing countries such as Nepal.

Mainly Article 27.3 (b) of TRIPS remains the most contentious provision as it allows for patents on life forms[2] raising several religious, ethical and developmental concerns. In additon, since biological resources are more abundant in developing countries, such provisions may allow the commercial breeders and multinational seed and pharmaceutical companies to benefit from the use of patents without any obligation to transfer such benefit to the holders of the biological resources and associated traditional knowledge.

Hence, while introducing IPR laws to comply with TRIPS, Nepal should utilise the flexibilities available in the Agreement and make every effort at the national and international level to protect the rights of local, indigenous and farming communities.

Rules and Regulations

Nepal has formulated various rules and regulations for the NTFPs sector in accordance to its international obligations. Listed below are the different steps that need to be taken to harvest, collect and export herbs.

Collection

- Any individual or organisation can apply for the collection of NTFPs, stating the type, area, quantity and purpose of collection. But in practise, the DFO issues collection licenses to traders, who can produce income tax certificate, and not to harvesters.
- Traders holding these licenses are able to influence the price if they can collude, as harvesters can only sell to one of them.
- The FUGs can also provide collection license from its community forest, if it is mentioned in the operational plan.

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[2] Article 27.3 (b), which mentions exceptions to patentability, reads: "Members may also exclude from patentability: plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, Members shall provide for the protection of plant varieties either by patents or by an effective *sui generis* system or by any combination thereof. The provisions of this subparagraph shall be reviewed four years after the date of entry into force of the WTO Agreement".

Transportation

- The DFO issues the transport permit known as the "release order" to traders who show a collection license and a royalty payment receipt.
- The release order is valid for 15 days and can be extended for seven more days. The traders frequently pay local taxes to the local development bodies while transporting and trading the products.

Certificate of Origin

- To export products a certificate of origin, issued by the Federation of Nepalese Chamber of Commerce and Industry (FNCCI), is required.
- To export processed products, a recommendation letter from the technical committee of Department of Industry is required.
- FNCCI charges a tax of 0.06 percent of the value of the product.

CITES Certificate

- CITES certificate has to be obtained from the Department of Plant Resources (DPR).

Phytosanitary Measures

- To get a PC, the exporter has to submit an application to PQS of the Department of Agriculture along with supporting documents such as the enterprise registration certificate, a release letter of DFO etc.
- If required, PQS makes arrangements to send its staff to the production site to conduct an examination of the NTFP and its products. PC can be obtained from different plant quarantine offices located at the customs posts of Kakarvita, Biratnagar, Jaleshwar, Birgunj, Bhairahwa, Nepalgunj and Tribhuvan International Airport.

- DFO recommends the concerned customs office for granting permission to export.
- The customs office takes the export duty equivalent to 0.5 percent of the product value and issues export permission.
- To export processed NTFPs that are prohibited from export in crude form, a PC and Export Permission are issued by DPR.

In addition, different forms of informal taxes are levied by various organisations such as the police, Village Development Committees (VDCs), District Development Committees (DDCs), etc.

Constraints

- The present trade channel is not providing a fair share of profits to the collectors. Lack of knowledge about legal provisions, market information, institutional support, production management and post harvest operation forbid collectors and user groups from equitable benefit sharing of resources.
- Gaps, inconsistencies and contradictions under the set of policies and laws often cause user groups to confuse over property rights and sometimes private companies and organisations are given exclusive collection rights for certain products even in community forests.
- The complex set or procedures (imposing a licensing system for harvesting, sale, transport and export, an arbitrary royalty system, controlling authority at the district and travel routes) restrict efficient use of resources.

Recommendations

- There is a need to expand the local community's rights over forest resources to raise the benefits to local harvesters and to minimise illegal and over collection of resources. Contradictory laws and polices that undermine the rights of CFUGs should also be terminated.

- The government should make long term and short term goals to achieve Nepal's export potential in the herbs industry, and establish rules and regulations accordingly. A mechanism should be established that formally involves all legitimate stakeholders such as collectors, traders, CFUGs in the policy development and revision process.
- There is a severe lack of public awareness about the existing rights of CFUGs and harvesters. This undermines their ability to benefit equitably from the resources. For example, the law provides that any individual can apply for the collection of NTFPs. However, DFO only issues licenses to traders who produce income tax certificate and not to harvesters. Therefore, there is a need to make CFUGs and harvesters aware about their rights over community and leased forests. In addition, trade procedures should be simplified to support small businesses to engage in regional and international commercial transactions.
- A clear process and criteria should be developed to fix and revise the royalty rate. To make the process of harvesting and exporting of NTFPs hassle free, transparency in the application of trade and transit fees and other charges is necessary.
- To ensure that traditional collectors and harvesters get an equitable share of the trade of NTFPs, a mechanism should be adopted to organise and coordinate the collection of herbs.

Leather

Historically, leather and leather products have occupied an important place in Nepal's manufacturing exports. Unlike most other manufacturing industries of the country that overwhelming import raw materials, the leather industry is indigenous resources based. The industry is also labour intensive and creates employment opportunities, especially for disadvantaged groups of the society. The Nepalese leather industry comprises of tanning/processing of leather and footwear factories. A majority of Nepal's leather exports is limited to semi-processed wet blue leather while finished leather and leather footwear are largely consumed domestically.

Despite Nepal's export potential and its contribution to employment, the government has not formulated any specific policy to promote the leather industry. The leather industry is hindered by various constraints that include sluggish growth of livestock and inability to export more value added finished leather and leather products.

In coordination with the private sector, the government should formulate targeted programmes to overcome these constraints. In addition, there is a need to create a policy link between the agricultural and livestock policy and the leather industry.

Tourism

The potential of tourism in Nepal was realised as early as the First Five Year Plan (1955-60). During the plan period, two national tourism organisations were established – Tourism Development Board and Tourism Department. Royal Nepal Airlines Corporation was also created as the national carrier.

A 10 year master plan was prepared during the Fourth Five Year Plan. The plan realised the importance of air transportation for the development of tourism and a number of airports and airstrips were constructed, and air services were extended to various destinations in Nepal. The government also extended credit to the private sector to encourage hotel construction. Additionally, the government has become more aware of wild life conservation and preservation of national parks for the purposes of tourism. In 1977, Ministry of Tourism was formed and tourism information centres were also set up in different parts of the country. Realising the importance of tourism for rural and mountain development and poverty alleviation, the Eighth Plan formed a high-level Tourism Council under the chairmanship of the Prime Minister.

Tourism Policy, 1995

In 1995, Tourism Policy was formulated with the following major objectives:

- Developing tourism as an important sector of the economy by developing linkages between tourism and other sectors;
- Diversifying tourism to rural areas to improve employment opportunities, foreign currency earnings and address regional imbalances;
- Improving natural, cultural and human environments of the nation in order to develop and expand the tourism industry;
- Maintaining a good image of the nation in the international community by providing quality service and a sense of security; and
- Developing and promoting Nepal as an attractive tourist destination.

The policy stresses the role of the private sector for the development and diversification of tourism products. The policy also seeks to establish linkages between the tourism industry and agro-based and cottage industries, ensure the benefits of tourism filters to different sectors of the society and minimise leakages of foreign earnings. Foreign investment, including joint ventures, is promoted in areas where there is scope for transfer of skills and technology and in capital intensive industries like hotels and resorts.

Realising the importance of aviation in tourism development, National Civil Aviation Policy has also been implemented as an integral part of Tourism Policy. Some of the facilities and incentives provided in the tourism industry are:

- Hotels and resorts are placed in the category of industries that receive national priority and enjoy the facilities provided to the same.
- Apart from hotels and resorts other tourism services receive facilities based on value addition and employment generation.
- Rebate is given for import of specified products to specified tourism sector.
- Specified facilities and incentives are provided to hotels, restaurants and resorts and other tourism services opened in the rural areas specified by the government.

Tourism in Development Plans

The Ninth Five Year Plan stressed the pivotal role of the private sector in tourism development and also recognised tourism as an important industry for employment generation and foreign currency earnings. During the plan period, a promotion campaign – Visit Nepal Year 1998 – was organised. Domestic airlines were given permission to start international services. Tourism department was dissolved and Nepal Tourism Board was established with close cooperation between the public and private sectors. The board is responsible for tourism product and resource development and it seeks to promote tourism while conserving the environment. Cultural issues have also been brought under the tourism sector.

Table 4.1 Targets of the Tenth Plan

Sn.	Particulars	2001	Target in 2006
1	Tourist arrival (in thousands)	365	516
2	Tourist stay period (days)	11.93	13
3	Foreign currency earning (in million US$)	140	205
4	Earnings per tourist per day (US$)	39.6	60
5	Contribution to GDP (%)	3.0	3.0
6	Employment: Direct (thousands) Indirect (thousands)	80 N/A	100 125
7	Regular international flights (numbers)	13	17
8	Availability of one way air seat in international sector (thousands)	1,000	1,200

Source: Tenth Plan, 2002.

The Tenth Five Year Plan emphasises rural and eco-tourism through various conservation and product development policies. The plan outlines development of Kanchanjanga, Makalu, Barun, Dolpa and Humla

Table 4.2 Achievements of the Tenth Plan

Particulars	2001/02	2002/03	2003/04	2004/05
No. of tourist arrivals	275,468	338,132	385,297	-
No. of promotional activities outside Nepal	19	23	30	33
No. of seat available on international flights (per week)	42,000	46,000	50,000	50,214
Length of stay (days)	12	7.9	9.5	13.5
No. of flights outside Kathmandu (per week)	-	70	118	113
No. of beds available outside Kathmandu	13,666	14,795	15,192	39,384*
No. of star hotels	104	108	108	110
Foreign exchange earning from tourism (in million NRs.)	7,799	10,369	-	13,140
Share of tourism in GDP	2.1	2.6	1.5	-

Source: NPC, 2006.
** including non-star*

regions for tourism purposes. In addition, development of tourism model villages in Shree Antu, Dhanushadham, Tanahu, Khaptad and Jumla has been proposed. The plan also intends to take measures for environment protection through pollution monitoring, garbage management, and alternative energy programs. Most importantly, the Tenth Plan recognises the importance of intra-regional tourism and seeks to develop a sub-regional plan in cooperation with the South Asian countries.

Though most of the statistics show an upward trend during the plan period, the achievements are still far from the target. International events such as the terrorist attacks in the United States and SARS outbreak in Asia, coupled with the lack of security and stability inside Nepal, are important reasons for the poor performance of the tourism industry during the Tenth Plan period.

Recommendations

- Tourism is a rapidly changing sector, with developments in both the international and domestic market affecting it. However, Tourism Policy in Nepal was last formulated more than a decade ago in 1995. To promote tourism and extract maximum benefits from the industry, it is mandatory to keep abreast with the changing domestic and international market and formulate and update policies with continuous interaction with the private sector.
- Though Nepal has been formulating sound policies for the development of the tourism sector, implementation of the policies has remained a weakness. Therefore, it is necessary to formulate feasible policies and see that the policies are timely implemented. Nepal Tourism Board, which operates on a private public partnership mode can be utilised for this purpose.
- Though international tourism is a priority for Nepalese policymakers, there seems to be lack of enthusiasm in promoting domestic tourism. Domestic tourism cannot only supplement the international tourism industry during off-seasons but can also grow as an industry on its own and open new avenues for employment generation.

ICT

Realising the importance of ICT for growth and welfare of the society, the Nepalese government formulated and implemented various ICT related policies and plans in the 1990s.

Tenth Five Year Plan

The Tenth Five Year Plan recognises that ICT can play a vital role in the socio-economic development of the country. The plan envisions that in the long run, the ICT sector can be used to promote knowledge-based economy and contribute to poverty alleviation through the construction of national information highway, establishment of information network with other parts of the world and expansion of accessibility of IT to rural areas. Some of the major programmes incorporated under the plan are:

- Establishment of Community Information Centre (Internet access to 1500 VDCs, internet nodes at district headquarters etc.).
- "Computer Education for All by 2010" and assistance to educational institutes.
- Encouraging domestic and foreign investments for development of ICT related infrastructure and establishment of IT Park in different parts of the country with the participation of private sector.
- Establishment of IT Development Fund to create IT awareness among people, assist rural networking, produce skilled manpower and provide social services that are extendable through IT.
- Make necessary arrangements in foreign-based Nepalese Embassies for the development, promotion and expansion of IT trade.

Information Technology Policy, 2004

The first IT Policy was introduced in 2000 and revised in 2004. Its major objective is to transform Nepal into a knowledge-based society by becoming fully capable of harnessing ICTs.

As per the strategies of the IT policy, the government seeks to: adopt one window system; waive customs duty on imports up to 80 percent of exports; accord domestic preferential treatment for computers, spare parts, and software; encourage domestic and foreign investment in the development of physical and virtual infrastructure in the country; develop rural internet facilities and facilitation of e-commerce, e-education, e-health and technology transfers; provide IT education and incorporate it into the school curricula; develop IT park at various places in the country, etc.

The policy also emphasises the need to encourage the private sector for the development of the sector through the following strategies: provide tax holiday to registered IT companies for up to 5 years, remove duty on export of software products and services until 2015, introduce incentive schemes etc.

The policy also defines institutional arrangements relating to ICTs in Nepal. A High Level Commission for Information Technology was formed in 2003 chaired by the Prime Minister. The commission is an apex institution that supports the government in the formulation, implementation, monitoring and evaluation of the policy. Similarly, the National Information Technology Coordination Committee (NITCC) under the Minister of Science and Technology (MoST) was constituted to carry out research and develop human resources. MoST is the lead agency for the development of ICT in Nepal. Its role includes promoting the use of ICT, creating an enabling framework and infrastructure and attracting investment.

The Electronic Transaction and Digital Signature Act, 2004

The Electronic Transaction and Digital Signature Act (the Cyber Law) gives legal status to various banking transactions and digital signature sent through the electronic media. In addition, the Act gives legal status to information posted on the websites of government offices, government run corporations and local bodies. The law has made provisions for an Appellate Judicial body for handling cyber related complaints and cases. The Act also enables the government to punish cyber criminals with up to five years of imprisonment and a fine of up to NRs. 50000.

Recommendations

- Software exports require clearance from many departments and ministries for payments. A one window system for document processing is essential to facilitate IT exports. Although adopting a one window system for e-transaction was on the government agenda under the Tenth Five Year Plan, it has not been implemented.
- The software industry is not treated as a regular industry but as a service-oriented consultancy business. Thus, it does not enjoy the benefits that are applicable to other export oriented industries. For example, software exports through electronic media are not eligible for tax exemption; export earnings are taxed as personal

income; and export/import permits are necessary to open letters of credit required from multiple authorities. The government should recognise and promote the ICT sector as an export industry through tax incentives and subsidies that are applicable to other export oriented industries.

- The IT sector lacks well-defined institutions. Unlike the telecommunication sector, with a well-defined operator, a government ministry and various institutions are involved in the IT sector: Ministry of Information and Communication, Nepal Academy of Science and Technology (NAST) and National Planning Commission (NPC). An institutional framework with the highest authority responsible for the IT policy, strategy, project implementation and international relations is required.

Recommendation Action Matrix

Objective	Action/Recommendation/ Instrument	Timeframe	Stakeholders
To promote productive growth and overall development through an active Industrial Policy	- The Industrial Policy, formulated in 1992, needs to be revised in consultation with stakeholders.	Immediate	Government
To boost domestic and foreign investment through a conducive Investment Policy	- Develop infrastructure and ensure economic stability	Long term	Government
To increase Nepal's price competitiveness	- Conduct a study to determine Nepal's optimal exchange rate regime. - Develop a mechanism to periodically review Nepal's exchange rate with India.	Immediate Medium term	Government/ NGOs Government
To promote growth and development through the Fiscal Policy	- Make the tax system transparent and hassle free - Increase spending on economic services, i.e., agriculture, land reform, electricity, transportation and other infrastructure	Medium term Long term	Government
To prevent anti-competitive practices	- Implement anti-competition laws and policies effectively	Medium term	Government/ NGOs/ Private Sector
To promote the agricultural sector	- Increase spending on agriculture infrastructure development. - Promote the industry as an export potential industry.	Long term	Government
To promote exports and minimise the trade deficit	- Revise Trade Policy, 1992. - Effectively implement the so formulated policies	Immediate Long term	Government
To promote friendly labour relations and increase	- Organise tripartite negotiations among the government, trade unions and the employers'	Mid term	Government/ trade unions/ private sector

Objective	Action/Recommendation/ Instrument	Timeframe	Stakeholders
efficiency of the economy	associations		
To minimise transportation and logistics costs	- Develop road networks throughout the country. - Promote proper maintenance of roads.	Long term	Government
To minimise time and costs for custom clearance	- Conduct an in depth study to understand and alleviate problems related to dry ports.	Immediate	Government/ NGOs
	- Provide modern custom equipment and laboratory facilities.	Medium term	Government
	- Establish Export Processing Zones	Long-term	
	- Minimise custom paperwork and develop an efficient valuation system.	Mid-term	
	- Promote transparency at customs points.	Long-term	

Sector Specific Recommendation Matrix

Objective	Action/Recommendation/ Instrument	Timeframe	Stakeholders
Tea - To make land easily available for tea cultivation - To encourage the industry and to make sure Nepalese entrepreneurs and workers derive the maximum possible benefits	- Simplify bureaucratic processes i.e. currently approval from the cabinet is required to get extra land for tea cultivation. - Develop infrastructure and research facilities.	Medium term Long term	Government Government/ NGOs
Herbs - To make harvesting and exporting of herbs hassle free. - To raise the benefits to local harvesters and to minimise illegal and over collection of resources.	- Promote transparency in the application of trade and transit fees and other charges. - Terminate contradictory laws and polices that undermine the rights of forest user groups - Establish a mechanism that formally involves all legitimate stakeholders such as: collectors, traders, forest user groups in the policy development and revision process.	Mid term Mid term Medium term	Government Government Government
Leather - To Overcome constraints in the sector related to livestock development and value addition	- Formulate targeted programmes for the promotion of the sector including provisions for a slaughter house, and up gradation of tanneries - Link agriculture policy concerning livestock population to the leather sector	Mid term Long term	Government / NGOs Government
Tourism - To promote the tourism industry.	- Update the Tourism Policy of 1995 and timely implemented the so formed policies - Promote domestic tourism as it can not only supplement	Mid term Long term	Government Government

Objective	Action/Recommendation/ Instrument	Timeframe	Stakeholders
	international tourism during off-seasons but can also grow as an industry on its own.		
ICT - To promote the software industry	- Adopt a one-window system for document processing to facilitate IT exports	Immediate	Government
	- Treat the software as a regular export industry and promote the industry through tax incentives and subsidies	Medium term	Government
	- Establish an institutional framework in the IT sector to formulate and implement IT policies, strategies and other projects.	Long term	Government

Immediate: Less than one year   Mid term: one to two years

Medium term: two to five years   Long term: more than five years

Bibliography

Bora, B. et al. 2000. 'Industrial Policy and the WTO', Policy Issues in International Trade and Commodities Study Series No. 6, Geneva: United Nations Conference on Trade and Development (UNCTAD).

Chang, H-J. 1999. 'Industrial Policy and East Asia – The Miracle, the Crisis, and the Future', paper presented at the workshop on Rethinking the East Asian Miracle organised by the World Bank, 16-17 February, San Francisco.

Dahal, N. 2006. Nepal and the WTO, Mimeo, Kathmandu: South Asia Watch on Trade, Economics & Environment (SAWTEE).

Djankov, S. et al. 2006.*Trading on Time*, 26 January, Washington D.C.: The World Bank.

Greenfield, G. 2001. *WTO Agreement on Trade-Related Investment Measures (TRIMS)*, Briefing Paper Series: Trade and Investment, Vol. 2 No 1, Ottawa: Canadian Centre for Policy Alternatives.

Khanal, D.R. et al. 2005. *Understanding Reform in Nepal – Political Economy and Institutional Perspective,* Kathmandu: Institute for Policy Research and Development (IPRAD).

Khatiwada, Y.R. 2005. *Linkages between Trade, Development and Poverty Reduction – A Study of Short Term Impact of Trade Liberalisation on Poverty in Nepal,* Report submitted to South Asia Watch on Trade, Economics & Environment (SAWTEE), Kathmandu, Nepal.

Khatiwada, Y.R. et al. 2003. *Structural Adjustment Policies and Poverty Eradication,* Kathmandu: Institute for Integrated Development Studies (IIDS).

Maskey, B.K. (eds). 1999. *Small and Medium Enterprises Promotion – Through Local Capacity Building.* Kathmandu: Centre for Development and Governance.

MoF. 2005. *Economic Survey – Fiscal Year 2004/2005*, Kathmandu: Ministry of Finance.

MoICS. 2004. *Nepal Trade and Competitiveness Study,* Kathmandu: Ministry of Industry, Commerce and Supplies.

Pandey, P.R. 2004. 'Reflection on the July Package: A Nepalese Perspective', paper presented in the monthly forum organised by South Asia Watch on Trade, Economics & Environment (SAWTEE) and ActionAid Nepal (AAN), 9 November.

Pandey, P.R. 2005. 'Hong Kong Ministerial Conference: Nepal's Concern on Agricultural Issues', paper presented in the seminar on Road to Hong Kong organised by South Asia Watch on Trade, Economics & Environment (SAWTEE) and ActionAid Nepal (AAN), 16-18 June.

Pant, B. 2005. 'Nepal's Trade Sector: Review, Repercussions and Recommendations' in *Economic Review*, Kathmandu: Nepal Rastra Bank.

Rijal, M. 2005. 'GATS, LDCs and Nepal', paper presented in the seminar on Road to Hong Kong organised by South Asia Watch on Trade, Economics & Environment (SAWTEE) and ActionAid Nepal (AAN), 16-18 June.

Rodrik, D. 2004. 'Industrial Policy for the Twenty- First Century', a paper prepared for United Nations Industrial Development Organization (UNIDO), Vienna.

SAWTEE. 2004. *TRIPS and Public Health: South Asian Priorities,* Briefing Paper No 2. Kathmandu: South Asia Watch on Trade, Economics & Environment.

World Bank. 2001.'Intellectual property: balancing incentives with competitive access', in *Global Economic Prospects,* 129-150, Washington D.C.: The World Bank.

World Bank. 2005. *World Development Indicators 2005*. Washington. D.C.: The World Bank.

World Bank. 2005. *World Development Report 2005: A Better Investment Climate for Everyone*, Washington D.C.: The World Bank.

World Bank. 2007. *Doing Business Report*, Washington D.C.: The World Bank.

WTO. 2003. *Report of the Working Party on the Accession of the Kingdom of Nepal to the World Trade Organization*. WT/ACC/NPL/16. Geneva: World Trade Organization.

ANNEX 1

National Reference Group

Organisations

1. Mr. Chandi Raj Dhakal, President, Federation of Nepalese Chambers of Commerce and Industry (FNCCI)
2. Mr. Binod K. Chaudhari, President, Confederation of Nepalese Industry (CNI)
3. Mr. Surendra Bir Malakar, President, Nepal Chamber of Commerce
4. Mr. Kiran Prakash Sakha, President, Garment Association- Nepal (GAN)
5. Mr. Laxman Basnet, President, Nepal Trade Union Congress
6. Mr. Mukund Neupane, President, G-FONT
7. Mr. Tana Gautam, Director General, Department of Industry

Individuals

1. Mr. Naindra Prasad Upadhyay, Joint Secretary, Ministry Of Industry Commerce and Supplies
2. Mr. Prachanda Man Shrestha, Joint Secretary, Ministry Of Industry Commerce and Supplies
3. Mr. Sriram Pande, Assistant Resident Representative, UNDP
4. Dr. Shibesh Chandra Regmi, Country Director, Action Aid International Nepal
5. Dr. Dilli Khanal, Chairman, IPRAD
6. Mr. Badri Bahadur Karki, Executive Director, Export Promotion Council
7. Mr. Narayan Prasad Shrestha, Executive Director, Trade Promotion Centre
8. Mr. Bijay Ghimire, President, Society of Economic Journalists in Nepal
9. Prof. Dr Bishwambher Pyakuryal, President, Nepal Economic Association
10. Mr. Puspa Shakya, Under Secretary, National Planning Commission
11. Mr. Shyam Sundar Sharma, Joint Secretary, National Planning Commission
12. Mr. Hari Datta Pandey, Joint Secretary, National Planning Commission

SAWTEE

Launched in December 1994 at Nagarkot, Nepal by a consortium of South Asian non-governmental organisations, South Asia Watch on Trade, Economics & Environment (SAWTEE) is a regional network that operates through its secreatariat in Kathmandu and 11 member institutions from five South Asian countries, namely Bangladesh, India, Nepal, Pakistan and Sri Lanka. Registered in Kathmandu in 1999, the overall objective of SAWTEE is to build the capacity of concerned stakeholders in South Asia in the context of liberalisation and globalisation.

ActionAid Nepal

ActionAid is an international anti-poverty agency working in over 40 countries. It has been working in Nepal since 1982. Its mission here is to empower poor and excluded people to eradicate poverty and injustice through rights-based approach. AAN's rights holders are the poorest and the most excluded people particularly women, children, victims of conflict and disasters, poor landless and tenants, people living with HIV and AIDS, Dalits, indigenous peoples, former Kamaiya, people with disabilities, and urban poor. Women's Rights, Education, Food Security, HIV and AIDS and Peace Building are its priority themes.