

# WORLD TRADE ORGANIZATION

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**Working Party on the  
Accession of Nepal**

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## ACCESSION OF THE KINGDOM OF NEPAL

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

In a communication, dated 26 February 1990 (WT/ACC/NPL/1), the Government of the Kingdom of Nepal applied for accession under Article XII of the Marrakesh Agreement Establishing the World Trade Organization (WTO). Having regard to the Decision adopted by the General Council on 31 January 1995, the existing Working Party on the Accession of the Kingdom of Nepal to the GATT 1947 continued as a WTO Working Party with the following terms of reference: "To examine the application of the Government of the Kingdom of Nepal to accede to the WTO Agreement under Article XII, and to submit to the General Council recommendations which may include a draft Protocol of Accession." The membership is open to all WTO Members indicating their wish to serve on the Working Party.

In document WT/ACC/NPL/2, Members had been invited to submit questions in writing concerning the foreign trade régime of Nepal. The questions submitted by Members and the replies thereto provided by the authorities of Nepal are reproduced hereunder. The attachments mentioned in this document submitted to the Working Party are listed in documents WT/ACC/NPL/3/Add.1 and Add.2 and are available in the Secretariat (Accessions Division, Room 1126) for consultation.

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



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**WORKING PARTY ON THE ACCESSION OF NEPAL**  
**CONSOLIDATED LIST OF QUESTIONS**

**II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE**

**1. Economy**

**(b) Current economic situation**

**Question 1.**

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

Answer:

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

**2. Economic Policies**

**(a) Main directions of ongoing economic policies**

**Question 2.**

**Could you provide details of the privatization plan?**

Answer:

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

**Question 3.**

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

Answer:

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

**Question 4.**

**The strategy for achieving the objectives of the Nepal Agricultural Perspective Plan (APP) includes "concentration of efforts to facilitate intensification of agriculture: livestock, cereals (paddy, wheat), citrus, apple, off-season vegetables, vegetable and flower seed, bee keeping products, silk and forest products". Please describe the policy measures that are available under the APP to concentrate efforts to facilitate intensification of agriculture.**

Answer:

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

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

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

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

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

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

**Question 5.**

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

Answer:

Yes, through private sector participation

**Question 6.**

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

Answer:

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

**Question 7.**

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

Answer:

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

**(b) Monetary and fiscal policy**

**Question 8.**

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

Answer:

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

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

**Question 9.**

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

Answer:

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

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

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

**Question 10.**

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

Answer:

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

**Question 11.**

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

Answer:

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

**Question 12.**

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

Answer:

See Answer 11.

**(d) Foreign and domestic investment policy**

**Question 13.**

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

Answer:

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

**Question 14.**

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

Answer:

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

**Question 15.**

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

Answer:

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

**Question 16.**

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

Answer:

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

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

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

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

**Question 17.**

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

Answer:

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

**Question 18.**

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

Answer:

No.

(e) **Competition policy**

**Question 19.**

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

Answer:

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

**Question 20.**

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

Answer:

See Answer to Question 19.

**(f) Privatization policy**

**Question 21.**

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

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

Answer:

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

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

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

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

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

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

**Question 22.**

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

Answer:

See Answer to Question 3.

**Question 23.**

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

Answer:

See Answer to Question 3.

**Question 24.**

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

Answer:

See Answer to Question 3.

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

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

**Question 25.**

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

Answer:

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

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

**Question 26.**

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

Answer:

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

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

**Question 27.**

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

Answer:

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

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

**Question 28.**

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

Answer:

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

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

**Question 29.**

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

Answer:

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

**Question 30.**

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

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

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

Answer:

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

**Question 31.**

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

Answer:

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

**IV. POLICIES AFFECTING TRADE IN GOODS**

**1. Import Regulation**

**(a) Registration requirements for engaging in importing**

**Question 32.**

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

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

Answer:

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

**Question 33.**

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

Answer:

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

**Question 34.**

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

Answer:

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

**(b) Characteristics of national tariff**

**Question 35.**

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

Answer:

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

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

**Question 36.**

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

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

Answer:

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

**Question 37.**

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

Answer:

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

**Question 38.**

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

Answer:

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

**Question 39.**

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

Answer:

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

(c) **Tariff quotas, tariff exemptions**

**Question 40.**

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

Answer:

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

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

**Question 41.**

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

Answer:

There are no seasonal taxes in effect in Nepal.

**Question 42.**

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

Answer:

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

**Question 43.**

**When are seasonal duties applied?**

Answer:

Refer to answer to previous question.

**Question 44.**

**Is a distinction made between imported and domestic products?**

Answer:

Refer to answer to question 42.

**Question 45.**

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

Answer:

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

**Question 46.**

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

Answer:

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

**Question 47.**

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

Answer:

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

**Question 48.**

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

Answer:

Refer to answer to Question 46.

**Question 49.**

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

Answer:

Refer to answer to question 46

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

**Question 50.**

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

Answer:

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

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

**Question 51.**

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

Answer:

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

**Question 52.**

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

Answer:

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

**Question 53.**

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

Answer:

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

**(f) Licensing procedure**

**Question 54.**

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

Answer:

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

**Question 55.**

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

Answer:

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

**Question 56.**

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

Answer:

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

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

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

**Question 57.**

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

Answer:

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

**Question 58.**

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

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

Answer:

Refer to answer to Question 54.

**Question 59.**

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

Answer:

Yes, applications can be submitted on any working day.

**Question 60.**

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

Answer:

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

**Question 61.**

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

Answer:

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

**Question 62.**

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

Answer:

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

**Question 63.**

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

Answer:

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

**Question 64.**

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

Answer:

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

**(h) Customs valuation**

**Question 65.**

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

Answer:

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

**Question 66.**

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

Answer:

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

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

**Question 67.**

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

Answer:

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

**Question 68.**

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

Answer:

Refer to answer to question 66.

**Question 69.**

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

Answer:

Refer to answer to question 65.

**Question 70.**

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

Answer:

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

**Question 71.**

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

Answer:

Customs basically require documentation on third party evidence.

**Question 72.**

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

Answer:

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

**(j) Pre-shipment inspection**

**Question 73.**

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

Answer:

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

**(k) Application of internal taxes on imports**

**Question 74.**

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

Answer:

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

**Question 75.**

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

Answer:

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

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

**Question 76.**

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

Answer:

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

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

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

6. Education

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

7. Books, Newspapers etc.

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

8. Artistic and Cultural Goods and Services, Carving Services

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

9. Passenger Transportation Services

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

10. Personal or Professional Service

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

11. Other Goods or Services

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

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

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

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

**Question 77.**

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

Answer:

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

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

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

**Question 78.**

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

Answer:

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

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

**Question 79.**

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

Answer:

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

**Question 80.**

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

Answer:

See answer to Question 79.

**Question 81.**

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

Answer:

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

**Question 82.**

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

Answer:

Refer to answer 35.

**(I) Rules of origin**

**Question 83.**

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

Answer:

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

**Question 84.**

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

Answer:

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

**Question 85.**

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

Answer:

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

**Question 86.**

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

Answer:

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

**Question 87.**

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

Answer:

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

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

**Question 88.**

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

Answer:

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

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

**Question 89.**

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

Answer:

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

**Question 90.**

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

Answer:

Refer to answer to question 88.

**2. Export Regulation**

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

**Question 91.**

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

Answer:

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

Schedule II

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

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

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

**Question 92.**

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

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

Answer:

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

**Question 93.**

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

Answer:

Refer to answer to previous question.

**Question 94.**

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

Answer:

Refer to answer to question 91.

**Question 95.**

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

Answer:

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

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

**Question 96.**

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

Answer:

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

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

**Question 97.**

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

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

Answer:

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

**Question 98.**

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

Answer:

Refer to question to answer 96.

**Question 99.**

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

Answer:

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

**(d) Export licensing procedure**

**Question 100.**

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

Answer:

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

**Question 101.**

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

Answer:

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

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

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

**Question 102.**

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

Answer:

Please refer to answer to Question 96.

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

**Question 103.**

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

Answer:

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

**Question 104.**

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

Answer:

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

**Question 105.**

**What is the purpose of registering export contracts?**

Answer:

There is no system of registering export contracts.

**Question 106.**

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

Answer:

Please refer to Answer 105.

**Question 107.**

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

Answer:

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

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

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

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

Indicative Price for Readymade Garments

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

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

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

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

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

Indicative Price of Cotton for USA

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