IMPROVING TRADE ENVIRONMENT

by addressing existing barriers to trade

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ACRONYMS

ADD	Anti-dumping duty
BG	Bank Guarantee
BIMSTEC	Bay of Bengal Initiative for Multi-Sectorial Technical and Economic Cooperation
CFL	Central Food Laboratory
CNI	Confederation of Nepalese Industries
COO	Certificate of Origin
CVD	Countervailing Duty
DDC	District Development Committee
DFTQC	Department of Food Technology and Quality Control
DGAD	Directorate General of Anti-Dumping and Allied Duties
DoC	Department of Customs
DFO	District Forest Office
EU	European Union
EXIM	Export Import
EIA	Environment Impact Assessment
FCI	Food Corporation of India
FGD	Focus Group Discussion
FNCCI	Federation of Nepalese Chamber of Commerce and Industries
FSSAI	Food Safety Standard Authority of India
FTA	Free Trade Agreement
FUG	Forest User's Group
GAP	Good Agricultural Practices
GDP	Gross Domestic Product
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GMP	Good Manufacturing Practices
GoI	Government of India
GoN	Government of Nepal
HS	Harmonized System
ICD	Inland Clearance Depot
IGC	Inter governmental committee
IGSC	Inter governmental sub-committee
IJMA	Indian Jute Mills Association
IEE	Initial Environment Examination
KII	Key Informant Interview
LDC	Least Developed Country
LSGA	Local Self Governance Act
MAPs	Medicinal and Aromatic Plants
MoAD	Ministry of Agricultural Development
MoC	Ministry of Commerce
MoF	Ministry of Finance

MoFA	Ministry of Foreign Affairs
MoFSC	Ministry of Forest and Soil Conservation
MoFALD	Ministry of Federal Affairs and Local Development
MoHA	Ministry of Home Affairs
MoI	Ministry of Industry
MoPIT	Ministry of Physical Infrastructure and Transport
MRL	Maximum Residue Level
MT	Metric Ton
NBF	Nepal Business Forum
NCC	Nepal Chamber of Commerce
NBSM	National Bureau of Standards and Metrology
NTB	Non- Tariff Barriers`
NLDC	Non-least Developed Country
NRB	Nepal Rastra Bank
NTCDB	Nepal Tea and Coffee Development Board
NTIS	Nepal Trade Integration Strategy
NTM	Non-Tariff Measures
OPMCM	Office of Prime Minister and the Council of Ministers
PPD	Public Private Dialogue
PRA	Pest Risk Analysis
PRM	Pest Risk Monitoring
ROO	Rules of Origin
SAARC	South Asian Association for Regional Cooperation
SAFTA	South Asia Free Trade Area
SME	Small and Medium Enterprises
SOP	Standard Operating Procedures
SPS	Sanitary and Phyto-sanitary
TBT	Technical Barriers to Trade
TEPC	Trade and Export Promotion Center
TP	Transit Permit
TIA	Tribhuwan International Airport
TPN	Trade Promotion Network
TLP	Trade Liberalization Programme
TRQ	Tariff Rate Quota
TPP	Trade Promotion Programme
USA	United States of America
USD	United States Dollar
VDC	Village Development Committee
WTO	World Trade Organization

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Date: 17th August, 2017

Message

It gives me pleasure in presenting the research study entitled "Developing Recommendations for Identified Trade Issues" which is being undertaken by Nepal Chamber of Commerce in collaboration with GiZ's Trade Promotion Programme.

Trade has been considered as powerful engine of economic growth across the country.The international market serves as an important place for the exchange of goods and services. There are gains from trade for both countries involved. Technological advances have made international production and trade easier to coordinate. Trade barriers between countries have fallen and are likely to continue to fall. Even in ancient times, people benefited from widespread international trade. The benefits from international trade have increased as costs decline and the international system becomes better integrated.

The growing and continued deficit between import and export has resulted in an alarming level of trade in Nepal. Over the years, export has almost been stagnated, and the import skyrocketed.Despite various measures being undertaken over the years to improve trade performance there remain a number of significant challenges and constraints to export development and improving trade competitiveness.

This present study report tries to focus on non-tariff barriers hindering the export of products from Nepal. I am confident that this research study will be helpdul to policy makers in identifying concrete trade related issues impeding favorable export climate in Nepal and define recommendations for areas of interventions, strategies and actions plan for the reduction of the barriers.

Thank You

Dr.Rajesh Kazi Shrestha
President

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1

INTRODUCTION

Nepal's recent history poses a strange developmental paradox. Many countries in the world have experienced rapid growth but modest poverty reduction with income concentrated in the hands of the wealthy. Nepal, however, has the opposite problem with modest growth but brisk poverty reduction.

1.1. Background

Nepal's recent history poses a strange developmental paradox. Many countries in the world have experienced rapid growth but modest poverty reduction with income concentrated in the hands of the wealthy. Nepal, however, has the opposite problem with modest growth but brisk poverty reduction. The country has halved the poverty rate in just seven years and witnessed an equally significant decline in income inequality. Yet, Nepal remains one of the poorest and slowest-growing economies in South Asia (World Bank Group, 2017).

TABLE 1: Growth rate of Nepal compared with its neighboring countries

COUNTRY	2013	2014	2015
Afghanistan	1.96%	1.31%	1.52%
Bangladesh	6.01%	6.06%	6.55%
Bhutan	2.14%	5.46%	3.25%
India	6.64%	7.24%	7.57%
Maldives	4.7%	6.48%	1.51%
Nepal	4.13%	5.38%	3.36%
Pakistan	4.37%	4.74%	5.54%
Sri Lanka	3.4%	4.88%	4.79%

Source: World Bank, http://www.worldbank.org

"Trade and integration are critical to achieving the Government of Nepal's ambitious objective of reaching middle-income status by 2030 and reducing absolute poverty to single digits" (Government of Nepal, 2015). But the country data suggests otherwise with a continued growth of trade deficit over the past several years; particularly during the last ten years where the EXIM ratio has risen from 1:5 in 2005-06 to 1:11 in 2015-16 (TEPC). The following table shows the trend of growing trade deficit over the last 40 years.

TABLE 2: Direction of Trade (NRs. in million)

PARTICULARS	1975-76	1985-86	1995-96	2005-06	2015-16
Export	1185.8	1707.8	19,881.1	60,234.1	71,140.0
Import	1981.7	9341.	74,454.5	173,780.3	781,150.0
Total	3,167.5	12,419.0	94,335.6	234,014.4	852,290.0
Export growth (%)	-	4.4	106.4	20.3	1.8
Import growth (%)	-	37.1	69.7	13.32	26.5
Trade growth	-	30%	66%	15%	26%

Source: Trade and Export Promotion Center

Nepal's export basket is dominated by low value items like agricultural goods and primary products. Based on 2015-16 figure, major export items consist of woolen carpets (8.1 billion Rs), readymade garments (5.8 billion Rs), yarns (5.3 billion Rs) iron and steel products (4.6 billion Rs), cardamom (4.6 billion Rs), textile (3.9 billion Rs), juices (3.1 billion Rs.), woolen and pashmina shawls (2.8 billion Rs), tea (2.4 billion Rs.), jute bags (1.9 billion Rs) and rosin and resin acid (1.7 billion Rs.).

Imports on the other hand constitute primarily of final consumer products with little to no value addition occurring within the country. As of 2015-16, iron and steel products (78 billion Rs.), petroleum products (69 billion Rs.), vehicles (66 billion Rs.), machinery and parts (57 billion Rs.), electronic good and electrical equipments (34.5 billion Rs.), pharmaceutical products (26.5 billion Rs.) were the highest imported goods.

The Government of Nepal (GoN) has embarked on the initiatives to promote trade and investment opportunities in the country. Since the early 1990s, reforms have taken place in the form of border infrastructures development through Inland Clearances Depots (ICDs), systemic changes in the bilateral trade treaty with India, membership of SAFTA, BIMSTEC FTA and the World Trade Organization. Similarly, with the newest revisions to the Trade Policy 2015 and the Nepal Trade Integration Strategy (NTIS) 2016, the country is aiming at promoting export led growth while strengthening inclusiveness and choosing a pro-poor approach.

1.2. NTIS 2016 and barriers to trade

The NTIS 2016 has been developed to integrate and mainstream trade in national development goals. NTIS also aims at addressing the rising trade deficit, and trade competiveness challenges confronted by the country's export sector. These objectives are embedded in actions and measures in nineteen strategic areas targeted to be achieved by 2020.

In the NTIS 2016 non-tariff measures (NTMs) have been identified as a serious bottleneck for Nepalese products to get access to international markets. Despite reduction in world tariff rates and various preferential schemes for LDCs, the country has not been able to take full advantage of benefits of these schemes mainly due to difficulties in meeting stringent NTM requirements of importing countries. This is further compounded by the lack of comprehensive architecture for mobilizing resources to fulfill Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) requirements.

Non-Tariff Barriers to trade are restrictions on import and export of goods and services through mechanisms other than custom tariff. They arise from different measures taken by the government and authorities in the form of trade restrictive laws, regulations, conditions, policies, etc. NTBs also include application of Non-Tariff Measures (NTMs) enforced primarily with motives to inhibit trade. The examples of such barriers are stringent technical standards and procedures, excessive documentations requirement and mandatory labeling requirements, among others.

Most of the export products, including the priority products identified by NTIS 2016, face NTMs-related problems, especially sanitary and phytosanitay (SPS) related barriers on agro and forest-based products, technical barriers to trade (TBT) on craft and manufacturing products, and legal and regulatory requirements on trade in services.

2

ISSUE IDENTIFICATION

The objectives of the study was two-fold 1) identify concrete trade related issues impeding favorable export climate in Nepal and 2) define recommendations for areas of interventions, strategies and action plans for the reduction/ elimination of the barriers.

2.1. Background on the study

The issues identified in the publication are an outcome of a study undertaken by the team of Dr. Ramesh Chitrakar and Mr. Purushottam Ojha for the Nepal Chamber of Commerce (NCC), which was supported by the German Development Cooperation. The objectives of the study was two-fold 1) identify concrete trade related issues impeding favorable export climate in Nepal and 2) define recommendations for areas of interventions, strategies and action plans for the reduction/ elimination of the barriers.

The study involved a systematic process of intensive desk research, literature review and interactions with stakeholders in context to trade exports from Nepal.

Stakeholder Interaction

Three Public Private Dialogue (PPDs) were carried out during the months of August 2016 to December 2016 to understand the practical implications and impacts of policies and processes on the trade regime in Nepal. 83 stakeholders were involved in these discussions, including specific key informant interviews with participants unable to attend the PPD. PPDs were organized in Biratnagar by Morang Merchants' Association, in Nepalgunj by Nepalgunj Chamber of Commerce and Industries and in Kathmandu by NCC itself. Through a process of focus group discussion, the issues were then deliberated and recommendations developed to be forwarded to the Nepal Business Forum (NBF).

Issue Submission

The issues submissions are channeled through the Nepal Business Forum (NBF). The forum was formed as per the Executive Order of the government of Nepal for coordination between the government and private sector. Decision making by the NBF means that the NBF decisions will be passed on to the relevant government agencies for implementation. The issues identified in the text below will be further worked upon with NBF and presented to the "Trade Working Group" co-chaired by the Secretary, Ministry of Commerce and President of NCC.

3

KEY ISSUES HINDERING NEPALESE TRADE

3.1. Issues related to agricultural products

ISSUE NO. 1: Regulatory barriers related to labeling for exports of jute products to India

PROPOSED TEXT(S): Amend mandatory labeling requirement for jute bags and sacks

Jute bags and sacks' have been a consistently strong export commodity of Nepal. Export values have averaged around 2 billion NPR over the past years (2.4 billion NPR in 2013-14, 2.34 billion NPR in 2014-15, NPR 1.9 billion 2015-16).

India is the primary export market for jute products from Nepal constituting almost 95% of all exports of jute bags from Nepal. However, jute exports from Nepal have remained at a comparative disadvantage owing to 1) higher cost of production with about 75% of raw materials being imported from India 2) low market competitiveness due to subsidy and incentives accorded to domestic jute producers in India. Domestically produced jute bags in India are directly purchased by Jute Commissioners with a 20 percent markup on calculated production costs. These bags and sacks are supplied to the Food Corporation of India (FCI) for packaging of food-grains, sugar, salt etc.

Nepalese jute exports have been severely impacted by the discriminatory policy of the Government of India (GOI). There is statutory order of the Jute Commissioner of India to FCI that it should procure jute bags that are made in India. Similarly, GOI regulation requires that, "jute imported bags have to bear the label of the originating country". This requirement to be labeled as "Made in Nepal" precludes the bags from being sold to the government agencies in India such as FCI. Private importers are also not interested in purchasing Nepalese jute bags with the label of "Made in Nepal" since it creates complication in further use of such bags.

What is the proposed solution?

Resolving the mandatory labeling requirement placed by the Government of India would require bilateral negotiations. The issue of jute bags are further compounded by anti-dumping allegations placed on exports of jute bags from Nepal and Bangladesh (refer to issue 2).

#	ACTION ITEM	RESPONSIBLE BODY
1	Prepare evidence based issue submission document for presenting to Government of India	Jute Association with Ministry of Commerce
2	Propose an effective bilateral consultation mechanism to deal with trade related issues	Ministry of Commerce (MoC) in association with private sector actors
2.a.	Alternatively, activate the existing Inter Governmental Sub-Committee (IGSC) mechanism with clear role and responsibilities to deal with the trade related issues and trade disputes	Ministry of Commerce
3	Negotiate with the government of India on removal of labeling related barriers with the inter-government committee (IGC)	IGSC and IGC mechanism
4	Use alternate forums such as the SAARC Committee of Experts meeting to raise NTM related agenda	Ministry of Commerce, SAARC Secretariat

ISSUE NO. 2: Anti-dumping duty on export of jute products

PROPOSED TEXT: Facilitate hassle free market access for jute products to India

The Government of India (GoI) has imposed anti-dumping duty (ADD) on jute products imported into the country from Bangladesh and Nepal. The lobby for imposition of ADD was done by Indian Jute Mills Association (IJMA). As per the order, issued on October 22, 2016, the Directorate of Anti-Dumping & Allied Duties had come to the conclusion that there was dumping of goods from Nepal and Bangladesh and the imports were "undercutting and suppressing the prices of the domestic industry".

The ADD was brought in force from January 06, 2017. According to the notification by the Finance Ministry, GoI, the anti-dumping duty will be in force for a period of five years unless superseded or revoked and is mandated to be paid in Indian currency. Categories of jute products to be covered under the ADD are jute yarn, sacking bags, twine and Hessian fabric classified under the HS sub-heading of 5301, 5307, 5310 and 6305. The ADD ranges from $6.30 to $351.72 per tonne on the import of jute and jute products from Nepal.

The ADD by the Indian authorities is unfounded as the export price of jute in prima facie cannot be less than its production price as around 75% of the raw material is sourced from India itself. There are additional logistics costs of both importing raw material and exporting finished jute bags.

What is the proposed solution?

The Government of Nepal along with the private sector should be prepared to discuss with Government of India on practices of anti-dumping investigation and application of safeguard rules.

The ADD by the Indian authorities is unfounded as the export price of jute in prima facie cannot be less than its production price as around 75% of the raw material is sourced from India itself.

#	ACTION ITEM	RESPONSIBLE BODY
1	Work-out on production cost of jute products of the industries right from the sourcing of raw materials, processing, marketing and export cost	FNCCI, CNI, NCC, Private sector actors
2	Forward request for revoking the notice of dumping duty to the Nepalese industries	MoC and the Ministry of Foreign Affairs (MoFA)
2	Negotiate with the Government of India to make IGC and IGSC mechanism effective and operational	MoC, MoFA
3	Discuss the issue in the trade facilitation sub-committee of National Transport and Trade Facilitation Committee (NTTFC) as the collective effort of the government and private sector is warranted to deal the trade issues. Develop strategy to cope with the situation.	MoC in association with FNCCI, CNI and NCC

CASE STORY #1:

India rescinds Countervailing Duty (CVD) on Nepali jute products

As on April 20, 2017, the Government of India abolished imposition of CVD on the Nepalese jute products through a notification issued to the Indian Customs. "This notification exempts levy of additional customs duty on jute products which means that henceforth, no CVD shall be imposed on Nepali jute products when imported into India." The Government of India favourably considered the request of the Government of Nepal and issued a notification to waive the duty.

Indian government had imposed an excise duty of 12.5 per cent on Nepali jute yarn, fabric and jute bags. The restriction had attracted a lot of criticism from the private sector and the Government of Nepal, who believed that the CVD violated the Nepal-India Trade Treaty that offers duty-free access to Nepali jute products to India.

Source: http://kathmandupost.ekantipur.com/news/2017-04-26/countervailing-duty-on-nepali-jute-scrapped.html

ISSUE NO. 3: Impractical and prohibitive policies for the collection and export of Medicinal and Aromatic Plants (MAPs)

PROPOSED TEXT(S): Improvement in regulatory procedures, particularly review of the EIA and IEE provisions, licensing provisions, production and domestication of plant resources and delegation of permit and licensing requirements

Non-Timber Forest Products (NTFP) mainly MAPs contribute to income of thousands of Nepalese households across the country. Studies have shown that overall loss that occurs from forest resources is US$583 million and the opportunity loss from NTFP and MAPs is estimated to be around US$67.6 million (AEC/ NEHHPA 2012). The export competitiveness of MAPs has been adversely affected by the regulatory frameworks related to cultivation, collection, sustainable harvesting and exporting.

As per the Environment Protection Act 1997, Environment Protection Rules 1998 and Non-Timber Forest Products Development Policy 2004, it is mandatory to conduct Initial Environment Examination (IEE) for collection of 5-50 MT of the forest products from a particular forest in a particular year. Any quantity beyond this would require the Environmental Impact Assessment (EIA). The threshold of 5 metric ton is considered to be very limiting for smaller traders requiring them to embark on a cumbersome IEE not justifying the costs for limited collections due to the very low threshold.

In cases of certain MAPs such as Chiuri (Nepali Butternut) collection is done primarily from fallen fruits of the trees, which if not collected would have just rotten on the ground; such collection from the ground has very marginal environmental impact, yet due to blanket regulations are subject to IEE. With regards to check on cutting of chiuri trees, this is already regulated by Forest Act 1993 and

The opportunity loss from NTFP and MAPs is estimated to be around US$67.6 M (AEC/ NEHHPA 2012).

Forest Regulation 1995, Ministry of Forest and Soil Conservation (MoFSC). As such for chuiri and other similar MAPs products like Rittha and Timur the application of IEE regulations are very restrictive and not very relevant.

Further clarity is also needed on which public body shall be responsible for conducting the IEE/ EIA whether it is the Ministry of Forest and Soil Conservation (MoFSC) or Ministry of Science, Technology and Environment (MoSTE) and whether IEE/EIA would be mandatorily applicable in case of cultivated items and fruits.

MAPs (forest based and cultivated) has royalty fixed with its collection, which is to be paid at various levels of government bodies and community; starting from Community Forest Users Group (CFUG), District Forest Office and DDC. The royalty charges do not reflect the rarity of plants or the market prices of items. The arbitrary system of royalty fees setting and collection also poses a great challenge in increasing the competitiveness of the forest based products.

For essential oils, the export permit of the essential oils is given only from the Department of Forest under the Ministry of Forest and Soil Conservation (MOFSC) in Kathmandu while production and collection are primarily not Kathmandu based.

What is the proposed solution?

Government of Nepal should devise a mechanism to simplify the export processing within the country in order to facilitate the overall process by maintaining a delicate balance between the sustainable harvest and export of the product on

one side while also eliminating the unnecessary procedural hassles at the other.

The problems in production and export are intertwined. It is necessary to resolve the matters related with production, transportation and export of the products. It is also equally important to ensure the sustainable supply of plant products (leaf, fruits, flower or stem whatever may be the case) to the processing unit in a regular basis without incurring losses to the bio-diversity and ecology of the particular forest areas.

#	ACTION ITEM	RESPONSIBLE BODY
1	Review the current mechanism of EIA and IEE for the forest products ■ Introduce product specific requirements rather than taking a blanket approach ■ Review 5 MT threshold set for the IEE ■ Resolve ambiguity of IEE/ EIA conducting body ■ Clarify application of measures on cultivated items	MoFSC and MoSTE
2	Review and revise royalty fees as per Herbs and NTFP Development Policy ■ One window mechanism for royalty collection	MOFSC
3	Review days in Transport Permit for collection of MAPs	MOFSC
4	Develop a Standard Operating Procedures for export of MAPs and herbal products.	MoC in association with MOFSC
5	Bring out policy that encourages commercial farming of the medicinal and aromatic plants.	MoFSC and Department of Plant Resources (DOPR)
6	Delegate authority of providing export permit of the essential oil to the Regional Forest Offices	-do-

CASE STORY #2:

The combined effect of domestic problems and market entry barriers impeding the export of rosin and turpentine

Ganga Rosin and Turpentine Industry of Nepalgunj exported around 2,900,000 kg rosin and 678,000 liter of turpentine in 2015-16. The imposition of various taxes by the Indian authorities works as non-tariff and para-tariff barriers in export. The application of 12.5 percent CVD, 2 percent education fee (cess) and 1 percent higher education cess has added to the cost of export.

During early year of the establishment of the industry, the supply of raw materials was made under the license of the GoN. Now, with the handover of the forest to the community under the Community Forestry Development Project has created competition among industries to avail the raw materials from the forest user's group (FUG). Now the industries enter into agreement with the FUG to avail the raw materials from the forest within their jurisdiction. This requires prior approval of the EIA by the regional forest conservator. Besides the royalty to the FUG, industries are asked to invest on social activities like construction of trail and small bridges, school, health posts and schools. A 13 percent value added tax is paid to the government of the contract amount agreed with the user's groups.

ISSUE NO. 4: Regulatory obstacles in domestic transportation of medicinal plants and herbs

PROPOSED TEXT: Define SOPs for transportation of MAPs under sealed cover

Mid-western and far western hills and mountains of Nepal are rich in production of MAPs. The products are collected in Surkhet and/or Kohalpur in Banke district. Consultation with MAPs exporters revealed the excessive control and hassles in domestic transportation of the MAPs. To cite an example, transporting from Banke to Kakarbhitta requires passing through 9 check posts: Kohalpur (Banke), Chandrauta (Kapilvastu), Barghat (Nawalparasi), Pathalaiya (Bara), Bardibas (Mahottari), Koshi Barrage (Saptari), Itahari (Sunsari) and Damak (Jhapa) before just reaching to Kakarbhitta.

The vehicles carrying the goods are subject to thorough checking of the consignment at each check post and mostly leading to rent seeking by the checking officials. This, on the one side has created delay and hassles in transportation and on the other side increased the cost of transaction.

Besides, transportation of the forest product domestic transportation also requires authorization/approval from the District Forest Offices and the duration for completing the transportation is 21 days. This can be quite a challenge for MAPs products that are collected from remote locations. For instance, Jatamasi taken from Jumla district, the permission letter is issued in 7 days, the product takes near about 20 days to be transported to the nearest border point hence crossing the stipulated 21 days.

To cite an example, transporting from Banke to Kakarbhitta requires passing through

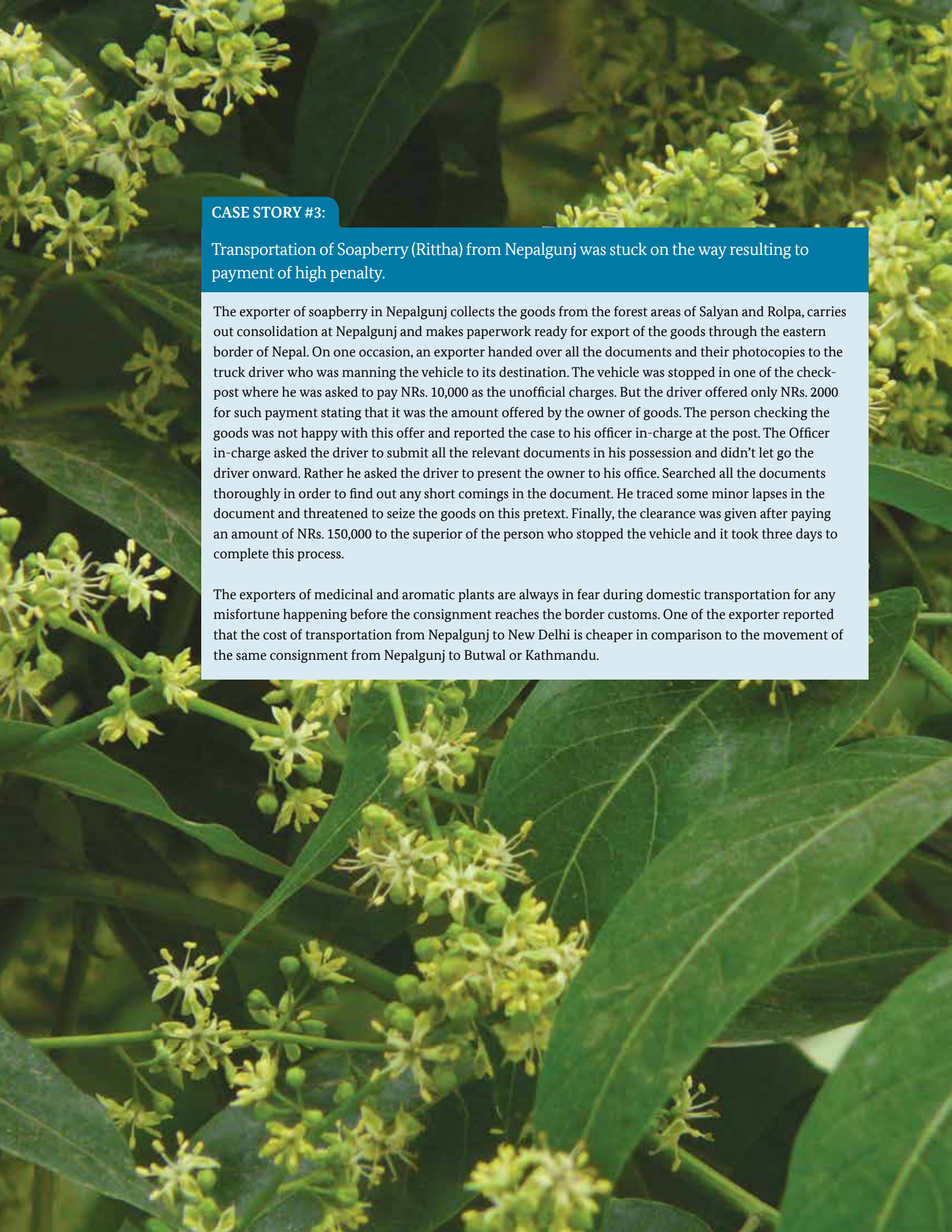
9 check posts

What is the proposed solution?

One approach to resolving the problem is defining a consensually agreed SOP for transport of MAPs items. This would entail process definition for:

1. Checking of the consignment at the place of cargo consolidation and getting certification by the competent authority.
2. Defining specifications of container boxes for high value products (Using metallic or the ISO containers depending upon the volume of cargo suggested).
3. Arranging seal for container box or bag or the total load of cargo in the vehicle in presence of designated competent authority
4. Issuing transport document mentioning the type of goods, volume/weight and destination, purpose of transport and other relevant information of the sealed goods and hand-over the document to the Driver or person manning the vehicle.
5. Instructing the security and forest check-post for checking the seal of the goods and not obstructing the vehicle till the seal remains intact. Valid terms for stopping and searching of vehicles need to be defined.

#	ACTION ITEM	RESPONSIBLE BODY
1	Draft and develop standard operating procedures (SOP) for facilitating the domestic movement of high value commodities.	MoFSC and MoC
2	Create an inter-agency coordination body for facilitating the export of medicinal and aromatic plants and herbal products.	MoFSC
3	Carryout inter-agency and inter-ministerial consultation on the content of the SOP to get the buy in of all stakeholders.	MoFSC in association with the Office of Prime Minister and the Council of Ministers (OPMCM)
4	21 day transport permit for collection of MAPs should be revised through a systematic assessment of travel times based on districts of MAPs production and possible transport times	MoFSC



CASE STORY #3:

Transportation of Soapberry (Rittha) from Nepalgunj was stuck on the way resulting to payment of high penalty.

The exporter of soapberry in Nepalgunj collects the goods from the forest areas of Salyan and Rolpa, carries out consolidation at Nepalgunj and makes paperwork ready for export of the goods through the eastern border of Nepal. On one occasion, an exporter handed over all the documents and their photocopies to the truck driver who was manning the vehicle to its destination. The vehicle was stopped in one of the check-post where he was asked to pay NRs. 10,000 as the unofficial charges. But the driver offered only NRs. 2000 for such payment stating that it was the amount offered by the owner of goods. The person checking the goods was not happy with this offer and reported the case to his officer in-charge at the post. The Officer in-charge asked the driver to submit all the relevant documents in his possession and didn't let go the driver onward. Rather he asked the driver to present the owner to his office. Searched all the documents thoroughly in order to find out any short comings in the document. He traced some minor lapses in the document and threatened to seize the goods on this pretext. Finally, the clearance was given after paying an amount of NRs. 150,000 to the superior of the person who stopped the vehicle and it took three days to complete this process.

The exporters of medicinal and aromatic plants are always in fear during domestic transportation for any misfortune happening before the consignment reaches the border customs. One of the exporter reported that the cost of transportation from Nepalgunj to New Delhi is cheaper in comparison to the movement of the same consignment from Nepalgunj to Butwal or Kathmandu.

ISSUE NO. 5: Nonexistence of HS Code classification at 8 digit level for MAPs products

PROPOSED TEXT(S): Develop proper 8 digit HS code classification for MAPs products

MAPs products under the Harmonized System Codes (HS Codes) commodity classification are placed under chapter 12 (oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder). One of the barriers faced by exporters is lack of development of HS Codes at 8 digit level by the custom authorities. The classification of exported items under wrong HS Code headings often leads to problems at customs of importing countries. At present there is only one product under MAPS, Yarchagumba (HS 12119010) which has classification at 8 digit level. An example is of Yacon Syrup (Bhuin Syaoo), which lacks proper classification in Nepalese customs. There is further confusion pertaining to whether it is classified under agricultural product or forest product.

At present there is only one product under MAPs, Yarchagumba (HS 12119010) which has classification at 8 digit level.

What is the proposed solution?

Government of Nepal needs to systematically address the HS Code classification and define the 8 digit classification for exported MAPs products. This will require a coordinated effort between the relevant line agencies and private sector partners together. Involvement of private sector, primarily traders will need to be incorporated in the discussion to accurately classify their goods as depending on the severity of the infraction, incorrect classification can result in the imposition of non-compliance penalties, border delays or seizures, or denial of import privileges.

#	ACTION ITEM	RESPONSIBLE BODY
1	Submission of products requiring HS code and HS code classification in regards to primary export destinations	Private sector association in MAPs sector
2	Develop national HS code and 8 digit level codes	MoC and MoF
3	Validate HS code classification with private sector associations	MoC
5	Publish HS code and revise customs tariffs accordingly	MoC, MoF and Department of Customs

CASE STORY #4:

Incorrect classification of *Chuiri Ghee* (Butter nut fat)

A Nepali exporter had to export *Chuiri Ghee* as vegetable fat under HS Code 15 (Animal or vegetable fats and oil and their cleavage products; prepared edible fats) even though the item was being exported for cosmetic purposes. However in the absence of separate classification of *Chiuri Ghee* as a non-edible vegetable oil, the exporter had to oblige to existing regulation. This resulted in consignment being detained for a long period of time at the port of entry in the importing country.

ISSUE NO. 6: Application of additional regulatory requirements in the form of Transit Permits when exporting from Uttar Pradesh, India for MAPs

PROPOSED TEXT: Negotiate for removal of transit permits with India

India remains the primary market for the MAPs from Nepal. The requirement of acquiring Transit Permit (TP) from the Uttar Pradesh (UP) Government of India remains a major challenge for exporters from Mid-Western and Far Western region whose primary point of access to India is through the Nepalgunj-Rupaidia custom border. Annually each trade passing through the UP border has to obtain a TP from the Ministry of Forest of the UP State Government, registering the quantity of products to be traded for the entire year. The process of registration requires INR 17,000 per year. But there are significant additional indirect costs, which raise the cost of acquiring transit permit to as much as INR 50,000.

Process for obtaining TP includes;

1. Product and firm registration; with recommendations from Nepal District Forest Office (DFO)
2. Application to Indian border range post for export permit
3. Border range post certifies to the district forest office of Baharaich.
4. Baharaich forest office forwards the application with its recommendation to the regional forest office at Faizabad, Gonda;
5. Conservator at Faizabad approves the permit and the information on issuance of permit is given to the border range office.
6. Border range office informs the exporters.
7. Plant quarantine certificate will be received from the Indian quarantine offices.
8. Goods crosses border

What is the proposed solution?

Government of Nepal should develop a strategic plan for negotiating the terms and conditions of export of this product, mainly on account of SPS and procedural related barriers, within the framework of the bilateral treaty of trade. The bilateral treaty has made a provision of facilitating greater exchange of goods between the two countries and also provided for duty free market access to all primary and agricultural goods on a reciprocal basis. The key issue remains getting the enforcement done through the State level government as this remains primarily an issue through the UP border.

Annually each trade passing through the UP border has to obtain a TP from the Ministry of Forest of the UP State Government, registering the quantity of products to be traded.

#	ACTION ITEM	RESPONSIBLE BODY
1	Carry out comparative assessment and evaluation of the current process of export and the provisions laid in the bilateral treaty of trade and also make an objective evaluation of losses on export, employment and revenue to the Nepalese economy due to the procedural hassles.	MoC in association with FNCCI
2	Present the case of Transit permit to the Government of India	MoC
3	Carry follow-up for taking the case with the UP State Government as the case applies specifically for the Nepalgunj-Rupaidiha border point	MoC and MoFA
3	Negotiate with the Indian Government officials, to simplify and rationalize the process of acquiring TP	MoC and MoFA

CASE STORY #5:

Ganga rosin won the case of transit fee.

Transit fee is imposed on export of herbal and plant products while passing such goods through the Rupaidiha customs in UP (India). The exporter M/S Ganga Rosin and Turpentine Industries denied paying such fee on the ground that their product is manufactured/processed and do not fall under the category of products as defined by the law of India. However, this plea was rejected by the Indian customs officials and held the consignment of full truckload and asked for the payment of the transit fee. The exporter then made representation of the case and appealed to the High Court in Lucknow. The court made hearings with the complainant and defendant and finally passed the judgment in favor of the exporter. The consignment in the truck was held at the border post for more than a month until the court verdict was received. Finally, the industry got relief from paying the transit fee but incurred almost losses of around NRs. 1.6 million on account of demurrage and detention charges and court proceeding, particularly hiring the lawyers.

ISSUE NO. 7: Discretion on acceptance of Certificate of Origin issued for ginger and betel nuts

PRETEXT: Create proper monitoring mechanisms for imports and strengthen procedures for issuance of Certificate of Origin

Nepal is the fourth largest producer of ginger in the world. According to the Nepal Ginger Profile -2016, Nepal has 23,826 hectares of land cultivated with the ginger for domestic and export use, with the capacity of 242,547 tones. Nepalese betel nuts at the moment are in infancy stage and producers have formed co-operatives for farming and export of nuts to Indian market.

Indian officials often do not recognize and honor the certificate of origin issued by the Nepalese authorities suspecting that third countries betel nuts and ginger are rerouted flouting the provisions of trade

treaty. As the Indian authorities have to deal with both products at the adjoining Indian market at the micro-level, this has resulted discretionary decision of Indian authorities often blocking the export of these products. The issues for ginger exports to India are further compounded by SPS restrictions on ground of high pesticide levels.

What is the proposed solution?

#	ACTION ITEM	RESPONSIBLE BODY
1	Carry out regular consultation and review the import and export situation of betel nuts and ginger to and from Nepal ■ Monitor import and usage of ginger and betel nuts in local market	Ministry of Commerce, Department of Customs
2	Monitor issuance of Certificate of Origin especially for sensitive items	Ministry of Commerce, FNCCI, CNI, NCC
3	Regulate the Good Agriculture Practices (GAP) for both products	Ministry of Agriculture Development
4	Provide necessary support to the farmers for enhancing the acreage of betel-nuts.	Ministry of Agriculture Development
5	Take up the issue with the Government of India on removal of co-related barriers	IGSC and IGC mechanism

CASE STORY #6:

Nepali ginger exports exempted under GST

October 30, 2017: Ministry of Commerce Undersecretary Tarkaraj Bhatta clarified that India will permit the entry of fresh Nepali ginger into its territory, without being subjected to any tax under the new Goods and Services Tax (GST) scheme. A statement by the Commerce Ministry recently highlighted that India has agreed to prohibit the 5 percent tax previously levied as per the GST on import of fresh ginger from Nepal, thereby permitting local farmers and traders to export tax-free produce to India, reports The Kathmandu Post. To this regard, Nepali officials called for a meeting with the Customs Commissioner and other officials in Siliguri recently, where they argued citing the Nepal-India Trade Treaty, which had ensured free access for Nepali agricultural products to Indian markets. On a related note, Nepal is the third largest ginger producer globally, preceeded by China and India. Furthermore, India is a major importer of Nepali ginger, both fresh and processed (94 percent).

Source: https://www.siasat.com/news/nepali-ginger-exports-exempted-gst-1249102/

ISSUE NO. 8: Market restrictions on tea exports to India

PROPOSED TEXT(S): Create auction market, establish Tea Houses and promotion of Nepalese tea with strong and collective trademark

Export of tea to markets of India well has been obstructed by Indian customs seeking quality certification from the Central Food Laboratories (CFL), India from individual traders. This has both cost and time implications with delayed delivery to the foreign markets putting the Nepalese at the risk of losing the assured markets. The cost of obtaining quality test certification from an Indian lab for each and every time for shipment to India have resulted in high recurring cost which accounts to NRs.70,000/per test.

Indian customs at Panitanki (Mechi Border) ask for bank guarantee despite tea not being a sensitive product for India. Also, the Nepalese tea traders are not allowed to participate in tea auction market in Kolkatta, India.

The cost of obtaining quality test certification from an Indian lab for each and every time for shipment to India is

NRs.70,000 per test.

Besides the above mentioned problem, tea sector is also facing following hurdles in export trade:

1. Challenges to keep up with the agreements due to internal problems, such as limited knowledge about the TBT agreements, pesticides and quarantine issues, inadequate research and development and strict pesticide regime adopted by developed countries.
2. The TBT agreements of WTO require to adopt Good Agriculture Practices(GAP) and Good Manufacturing Practices(GMP), which is not being followed
3. Non-compliance with pesticides residual level
4. Accredited labs only test up to 500 different pesticides in dry tea leaves, whereas the legislation lists more than 1000 maximum residue levels (MRL)
5. No brand identity

What is the proposed solution?

#	ACTION ITEM	RESPONSIBLE BODY
1.	Create Auction market	Nepal Tea and Coffee Development Board (NTCDB)
2.	Tea Houses (Promotion Centers)	NTCDB and CFTC
3.	Strong collective trade mark registration.	MoAD, MoC, NTCDB, Himalayan Orthodox Tea Producers Association, TEPC
4.	Strengthen monitoring system	Ministry of Agriculture Development
5.	Establish accredited lab	Department of Food Technology and Quality Control (DFTQC) & MOAD
6.	Adopt export standards	DFTQC, MOAD, Nepal Bureau of Standards and Metrology, NARC
7.	Establishment of Tea Development and Research Centre	MOAD, NTCDB and NARC
8.	Strengthening institutional capacity and develop human resources	MOAD, NTCDB and Private sector

3.2. Issues related to manufacturing products

ISSUE NO. 9: Anomalies about the export of automobile tubes to Bangladesh

PROPOSED TEXT(S): Take the issue of automobile tubes to the SAFTA COE and IGC for inclusion of the product in the listing

Rubber tube as an engineering product has high value addition done within Nepal. The product undergoes complex manufacturing process from crude and raw materials sourced from outside the country. The ratio of domestic value addition is more than 50 percent of the total value of the final product.

The demand for motorbike tube is steadily picking up in Bangladesh and is also seen as a potential product for exports in SAARC. Government of Bangladesh has not included this product under the sensitive list of SAFTA but at the same time does not provide any tariff concessions to Nepalese export.

Such anomalies between the policy and implementation have restrained motorbike tube from taking advantage of the Trade Liberalization Programme (TLP) under the SAFTA. The issue rose because of the case as elaborated below:

CASE STORY #7:

As per the Bangladesh Customs Tariff, normal duty on motorcycle tube classified under HS code 4013.90.20 is 25%. In SAFTA Sensitive List of Bangladesh on imports from LDC and NLDC, HS code 4013.90 (six digit) is not mentioned, indicating HS code 4013.90 including 4013.90.20 (8 digit) attracts the concessional SAFTA duty benefit when imported from LDC. The Bangladesh SAFTA TLP Notification for 2012, however, mentions concessional duty only for HS code 4013.90.10 (inner tube of tractor and aircraft) and 4013.90.90 (other tubes not elsewhere specified).

Nevertheless, Sarda Group of Industries which manufactures tubes for motorbikes in Nepal, argues that when 4013.90 is not in sensitive list, then the 4013.90.20 should also get duty benefit. It is a common understanding that if a six digit HS code is covered under SAFTA, then all 8 digit HS codes under it should automatically be covered.

In spite of all the above facts, the Bangladesh Custom was not willing to allow motorbike tubes under SAFTA concessions. They said that this facility cannot be given as it is not mentioned in their gazette (customs tariff book).

What steps would be required for this solution to happen?

Ensuring proper facilitation for export of motorcycle tubes would require taking up the following steps:

1 Take up the issue at the regional trade forum (SAFTA Committee of Experts)

2 Develop product code and NSI standard certification

a. Indian parties are willing to grant ISI trade mark. This process however has huge financial implications costing US$10000.00 for trade mark alone not including travel allowances and related other expenses

3 No tariff preferences available to Nepalese goods in the next door market of Bangladesh

PROPOSED SOLUTION:

#	ACTION ITEM	RESPONSIBLE BODY
1	Put this agenda in SAFTA Committee of Experts meeting for inclusion in product listings	Ministry of Commerce, SAARC Secretariat
2	Change present practice of waiting till the Inter Government Committee (IGC) meets in order to discuss and deliberate on the pertinent trade related issues	Ministry of Commerce
3	Define agenda for Bi-lateral meetings for changes in modus operandi in IGC meetings	Ministry of External Affairs, Respective IGCs
4	Take-up industry related issues for NSI standard certification and product code definitions	MoI, MoC, and MoAD, MoFSC

ISSUE NO. 10: Lack of supply of pure silver to the jewelry makers

PROPOSED TEXT: Creating testing and certification facility for silver; Ensuring supply of silver in the domestic market

Export of Nepalese silver jewelry, particularly in the European market, has been on the decline. As per TEPC data of 2015-16, the export of silver jewelry (under HS code 7106) has declined to USD 1.3 million from USD 2.2 million in 2011-12.

The problem for the silver jewelery industry is two pronged: 1) meeting the ever increasing purity standards of importing countries and 2) ensuring sufficient supply of pure silver in the domestic market.

In Nepal's case, silver ingot the major input required for silver jewelry production, is primarily imported. The purity of imported silver has been compromised by the presence of impurities such as cadmium, nickel and lead which above acceptable level are considered harmful from a human health perspective. As per EU regulations, for cadmium "shall not be used or placed on the market if the concentration is equal to or greater than 0,01 % by weight of the metal in: (i) metal beads and other metal components for jewellery making; (ii) metal parts of jewellery and imitation jewellery articles and hair accessories, including: — bracelets, necklaces and rings, — piercing jewellery, — wrist-watches and wrist-wear, — brooches and cufflinks." Lead, "shall not be placed on the market or used in any individual part of jewellery articles if the concentration of lead (expressed as metal) in such a part is equal to or greater than 0,05 % by weight". Nickel shall not be used, "if the rate of nickel release from the parts of these articles coming into direct and prolonged contact with the skin is greater than 0,5 µg/cm2/week."

Ensuring quality standards for silver jewelery exports is therefore very difficult due to the lack of supply of pure silver ingot in the market. Since December 2010, import of silver is regulated by the Nepal Rastra Bank (NRB) setting new rules on their import. NRB owns a large volume of silver but their sales and distribution pattern is not well managed. NRB sells the product in bulk which makes it inaccessible to industries that require silver in limited quantity. Silver imported from informal channels are available in the market, albeit at higher prices and not subject to meeting the required standards for export. Hence, the challenge is to ensure a supply of pure silver to the industry and also create testing and certification facility within the country.

What is the proposed solution?

Supplying the standard silver jewelry in the export market would require a two pronged approach; first, there should be provision for supplying the uncontaminated raw materials to the industry on a regular basis without interrupting the production. Second, there should be regular monitoring of the quality and testing of the product using the non-destructive method before such consignment are shipped to the destination. This will require devising a mechanism of operation on a public-private partnership basis.

#	ACTION ITEM	RESPONSIBLE BODY
1.	Form a special committee comprising of the representative of MOC, MOI, NRB, FNCCI, NCC and Gold and Silver Jewelry Association for devising a mechanism of silver import and supply to the industries	MOC
2	Devise mechanism of selling the stock silver with NRB in a way that reaches out to the small producers	NRB in association with the Gold and Silver Jewelry Association of Nepal.
3	Engage the commercial banks in import and sales of raw silver and silver ingot.	NRB
4	Create lab facilities in TIA and Birgunj customs to test the purity of imported silver	MoI
5	Check for quality certification from importing country till lab facilities are set up	MoC
6	Create laboratory facilities in Kathmandu to test the purity of the silver jewelry through non-destructive methods.	MoI

ISSUE NO. 11: Lack of fumigation certification for wooden products

PROPOSED TEXT(S): Make provision for establishment of fumigation center and quality certification facility

The handicraft business in Nepal is worth Rs20 billion annually, out of which exports account for Rs10 billion. Wooden handicraft exports in 2014-15 accounted for Rs. 111 million, contributing to around 2% of all exports during the year.

Nepali woodcraft is mainly exported to European countries, United States and Australia. The SPS requirements, primarily request for fumigation certification, when exporting to US, EU and Australia have severely dented the prospect of increasing exports of wooden handicraft items from Nepal. For instance, as moisture level of Nepali wood is higher than the accepted limits of Australia, wooden items are not allowed within Australia. Similar case when exporting coffee in wooden cases to Australia has also been reported. Higher moisture level has been attributed as one of the main factors causing infestation of cargo.

Therefore, fumigation treatment of the wooden items becomes essential for such exports.

There are two processes of fumigation – heating process and chemical process. The chemical used for fumigation is methyl bromide. Fumigation is a method of pest control that completely fills an area with gaseous pesticides or fumigants to suffocate or poison pests within. It is utilized in structural fumigation, soil, grain, and produce, and also used during processing of goods to be imported or exported to prevent transfer of exotic organisms. Fumigation of raw wood products and solid wood packing material is to eliminate pests. Methyl bromide is the most widely used fumigant for the treatment of logs and solid wood packing material.

Due to the lack of proper infrastructure and heat treatment and fumigation certification in Nepal, the handicraft sector has been hit hard. Establishment of fumigation treatment center to facilitate wooden exports had been outlined as one of the planned activity in the commodity development programme of the Trade Policy 2009. However, this has still yet to materialize. At present, one fumigation chamber in Patan Industrial Estate exists but is not operational.

What is the proposed solution?

The goal of facilitating exports of wooden handicraft items exports from Nepal will be two folds. The primary step would be the establishment of fumigation treatment center in Nepal. This would need to be based on collaborative efforts of all relevant Ministries and agencies. In this regards, the role of Nepal Bureau of Metrology and Standards (NBSM) would be integral. Work would need to be taken in close coordination with MoC, MoI, MoAD and MoFSC along with private sector associations.

Simultaneously, the aspect of accreditation for the fumigation certification would need to addressed. As has been reported in a previous cases, dating back to 2009, certificate of fumigation issued by the National Plant Quarantine Offices were not accepted in US market since it has not been registered at international level for approval (https://thehimalayantimes.com/business/little-export-margin-on-logo-less-carvings/). Thus, to ensure competitiveness and smooth facilitation of wooden handicraft exports accreditation would also need to be given due consideration.

The handicraft business in Nepal is worth Rs.20 billion annually, out of which exports account for Rs.10 billion.

#	ACTION ITEM	RESPONSIBLE BODY
1	Create sound understanding of fumigation center requirements and international standards	NBSM, MoC, MoI, MoAD, MoFSC, Private sector associations
2	Establish fumigation treatment center	NBSM, MoI, MoC
3	Define process of fumigation certification	NBSM, MoC
4	Identify process for international accreditation of the fumigation certificate	NBSM, MoC

ISSUE NO. 12: Lack of Halal Certification in Nepal

PROPOSED TEXT(S): Make provision to facilitate trade by issuing Halal Certificates by Nepalese agencies

The Halal market presents a huge opportunity for exports from Nepal to Islamic countries. As per The Economist, global Islamic market was worth over $3.3 trillion in 2013 and the market is projected to be worth over $ 5 trillion by 2020. The halal food market alone is projected to be worth $1.6 trillion by 2018, covering over 17% of the world food market.

Islamic country authorities require Halal certificate for any product which is permissible to use or engage in accordance to Islamic law. The term covers and designates food and drink as well as matters of daily life. Nepalese exporters are required to present Halal Certificate for their exports to the Middle-East countries. This has been the case for noodles and biscuits exported by Asian Thai Foods (Rum-Pum noodles to Qatar). Halal certification is required for vegetable products, like cabbage, ginger and tomato as well. There is no provision for halal certification by any of the Nepalese agencies. Therefore, this has to be done through Indian agencies and is subject to high cost and time implication.

The halal food market alone is projected to be worth $1.6 trillion by 2018, covering over 17% of the world food market.

What is the proposed solution?

#	ACTION ITEM	RESPONSIBLE BODY
1	Identify potential markets and products of export for Islamic countries	MoC, Private sector associations
2	Prioritize the vegetable and products like noodles and biscuits as export products to Islamic countries	MoC
3	Identify requirements for Halal Certification	MoC
4	Define directives for issuance of Halal certification	MoC, NBSM
5	Initiate process for harmonization of standards and mutual recognition agreements with importing countries	MoC, MoI

3.3. Issues related to trade facilitation

ISSUE NO. 13: Collection of arbitrary taxes at multiple locations when transporting goods within the domestic border

PROPOSED TEXT(S): Create a single window system for tax collection; encourage seamless transportation system in the country

The domestic movement of tradable goods is often considered a nightmare in Nepal. From the point of origin to final destination, multiple taxes are enforced by a range of local government organizations, from Municipalities to Village Development Committees (VDCs) to District Development Committees (DDCs). Acting autonomously, these various forms of local government have the power to decide how much tax is imposed and how many times it is charged. The problem arises as the rate of fees at the VDC and DDC are arbitrary and not vetted by the respective Councils since there are no elected bodies in existence at the local level over the last 15 years.

Part of this situation stems from the Local Self Governance Act 2055 (1999), which allows local government bodies (as those mentioned above) to collect taxes such as vehicle tax, business tax and natural resources utilization tax among others. While the Act represents a promising and much needed step towards greater decentralization in Nepal, it has also created a complicated and confusing regime of tax laws which has not been accompanied by an effective monitoring mechanism.

In local government bodies, the tax collection responsibilities are passed onto third party contractors who have incentives to collect more taxes to increase their profits over and above the fixed amount paid to the local bodies. The provisions on collections are overshot by the local bodies in the name of generating more resources for local development activities.

Another vexing problem for businesses is raising of physical barriers by the local clubs and youth groups who normally inhibit movement of the transport vehicles carrying commercial goods asking for donations. Such collections are done in the pretext of some social and benevolent actions but the real purposes are different. Often transport cartels also create such barriers and raise illegal fees for serving their petty interests.

This is an issue has which has been presented to Nepal's Supreme Court. While the Court reached the decision to outlaw any imposed taxes except those collected at the commodity's origin, the implementation of this ruling has proven difficult to enforce. The lack of adequate monitoring mechanisms has not helped matters.

What is the proposed solution?

Dealing with the issues needs multiple approaches. First, the local governments should agree on and comply with the provisions of LSGA-1999 and its regulations in respect of collecting local taxes. Second, collection of all legal taxes should be made at a single location while transporting the commercial goods from its source to the destinations. Third, there should be complete ban on stopping the transport vehicles by the unauthorized person or group of people for the sake of raising donation or fees.

The first solution would require the commitment of the officer in-charge of the DDC and VDCs to fully comply with the provisions of LSGA-1999. It is advisable to carry out an annual review of the type of charges and method of collecting such charges by the local bodies. Adjustment should be made if any such provisions in any districts are more taxing. Second, government should devise means and mechanisms for collecting all relevant taxes at the point of origin of the transport journey. Similarly, barriers created along the national highways, district and local roads need to be removed and not allowed to raise fee and charges without proper authorization.

The problem arises as the rate of fees at the VDC and DDC are arbitrary and not vetted by the respective Councils since there are no elected bodies in existence at the local level over the last 15 years.

#	ACTION ITEM	RESPONSIBLE BODY
1.	Develop a monitoring plan for making periodic assessment and implications of local taxes in businesses and trade.	Ministry of Finance (MoF) and Ministry of Federal Affairs and Local Development (MoFALD)
2	Carry-out the feasibility study for collection of local taxes in a single location.	MOFALD
3	Define and public publish the applicable taxes to ensure transparency and monitor violations	MOFALD
4	Pass out instruction to all CDO offices and DDC offices to control the collection of illegal taxes through increasing surveillance and patrolling at the highways and major road corridors.	Ministry of Home Affairs (MoHA) and MOFALD
5	Develop an effective institutional mechanism to stop the collection of illegal taxes.	MoHA and MOFALD
6	Dismantle the unnecessary physical barriers on transport created by various agencies and rationalize the number of such check posts.	District Administration Offices with the instruction from the Ministry of Home.

CASE STORY #8:

Bara-Parsa VDCs collecting tolls flouting Supreme Court order

Village development committees (VDCs) located in the Bara-Parsa Industrial Corridor were collecting local transportation tax by putting up barricades along the highway in disregard of a Supreme Court verdict. On May 29, 2012 the court had ruled that it was illegal for VDCs to charge money from vehicles by erecting barriers on the road. Tax collectors were found with a receipt pad issued by the contractor assigned to collect road tax by Rampur Tokani and Lipanimal VDCs. The police informed that Chhatapipara, Bahuari, Simara, Jitpur, Chainpur, Rampurtokani, Lipanibirta and Lipanimal VDCs located in the industrial corridor had been collecting money from trucks illegally. The Local Self-Governance Act states that a VDC can collect Rs 20-25 from vehicles travelling on subordinate roads built by the VDC. The money is required to be spent on their maintenance and renovation. Tax collection receipts however showed tax collection ranging from Rs 150 to Rs 380 per truck. Around 600 Nepali and Indian trucks loaded with goods leave the corridor daily. The VDCs have been collecting taxes claiming to have been authorised to do so by an all-party meeting and the village councils. The cost of production of the factories here had gone up due to the illegal tax collection.

Source: http://kathmandupost.ekantipur.com/printedition/news/2012-08-15/bara-parsa-vdcs-collecting-tolls-flouting-supreme-court-order.html

ISSUE NO. 14: Barriers of market entry into China

PRETEXT: Revision of policies/ legislation to make it business friendly for future product diversification and new market development, including language barrier

Government of People's Republic of China provides duty free market access to around 8000 Nepalese products (under customs 6 digit classifications) under the unilateral tariff preferences schemes. Memorandum for availing this tariff preferences were signed in 2010 and 2014 but does not have significant impact in improving the balance of trade for Nepal. Nepal is incurring a heavy trade deficit with China as the figure of export to and import from China in 2015-16 were 2.2 billion and NRs. 117.2 billion respectively.

For practical purpose, Nepal has not been able to benefit from the zero tariff schemes of China due to various non-tariff measures imposed by the Chinese governments in import of goods. These includes, stringent provisions on quarantine and food safety regulations, rules of origin criteria and lack of transparency in rules and regulation and their enforcement.

Citrus fruit products have a very high export potential to China. The content/provision in the agreement signed between Nepal and China in 2012, has made it mandatory for the products to be from Pest Free Areas in Nepal for exports which is practically not possible, and requires for constant soil and seeds quality test prior to export, resulting in halt of citrus orange exports to China.

To cite another example, the Chinese customs authorities accept the consignment of carpet only if it is wholly produced in Nepal making export of carpets also improbable.

Further lack of proper communication and publication available only in Chinese has created additional hurdles. Not having officials conversant in English at Nepal-China borders and needing to rely on the word of the Chinese officials has bound exporters to follow the instructions given by the Chinese officials without prospective of counter arguments.

The main issues related to agro-products mentioned above are:

- Chinese authorities demand details of Pest Risk Monitoring Mechanism adopted by GON
- Lack of policy and system to implement Good Agriculture and Collection Practices
- Inadequate Pest Risk Analysis (PRA) for citrus and insufficient facilities for preservation and storage for agro-products
- Need to renegotiate Rules of Origin (ROO) in terms of requirement of value addition within country to qualify for preferential treatment

What is the proposed solution?

As a general proposition, it is important for the government of Nepal to identify the major bottlenecks in the export of goods to Chinese markets and take up appropriate measures for addressing them. The current problem is mainly related with the stringent rules of origin criteria, harmonization of quarantine and food safety regulations and the communication barriers.

#	ACTION ITEM	RESPONSIBLE BODY
1	Carry out an assessment study to identify the gap between the provisions of simplified rules of origin criteria in WTO and the existing MOU signed between the government of Nepal and the government of PR China.	Ministry of Commerce
2	Develop strategy paper to re-negotiate the provisions of MOU signed with the government of PR China in April 2010, for simplification of the rules of origin criteria.	MoAD, MoFA, Ministry of Law and Parliamentary Affairs
3	Provide pest management, international, Norms and Standardization, Food Nutrients' requirement, Good Agriculture Practices following basic pest management norms	Horticulture Farms, DOA
4	Develop a cooperation framework for addressing the SPS and TBT related barriers in export to China	MoC in association with Finance (MoF) and Industry(MOI)
5	Develop a plan and program for creating a pool of people conversant in Chinese Language.	MoC in association with the Ministry of Education (MoE).
6	Carry out language training program with the help of government of China.	MoC in association with MoFA.

ISSUE NO. 15: High cost related to movement of transit goods between Kolkata/Haldia port and the Birgunj ICD

PROPOSED TEXT: Make provisions to operate shipping lines from Birgunj ICD

Nepal has developed the rail connected Inland Clearance Depot (ICD) or dry port in Birgunj which has been in operation since July 2004. This facility is connected with the Indian Railway network and receiving containerized break-bulk and bulk traffic from various stations in India and vice versa. The development of the ICD has also facilitated the third country traffic to and from the port of Kolkata and Haldia. The facility is now well placed to connect with the market in Bangladesh through the corridor of Singhabad-Rohanpur rail corridor with the signing of MOU between the Government of Nepal and the Government of India in February 2016. Similarly, another MOU signed on the same date also allows the movement of rail traffic between the port of Visakhapatnam and Birgunj ICD.

However, all the shipping lines are currently operating from Kolkata and Haldia. The shipping lines take liability of imported goods up to the port of Kolkata and take up liabilities of export for journey onwards from Kolkata. The free time for the container to return to the yard of shipping lines is counted from the port of entry, in Nepal's case Kolkata. This has resulted in the high cost in import of goods, since all containers returned to Kolkata after de-stuffing of goods in Nepal are virtually bound to pay the demurrage and detention charges due to short turnaround time allowed for such movement.

There are two fold implications of the current arrangement. On one side Nepalese importers are normally required to pay the demurrage and detention charges for each container in import while at the other hand hiring of container by any exporters requires making a deal with the shipping line in Kolkata who raises charges of sending empty container from their yard in Kolkata to other destinations like Nepalgunj and Biratnagar. As reported by one of the exporters in Nepalgunj, he pays NRs 150,000 for hiring the empty containers from Kolkata. This debacle can be resolved if the container can be placed from Birgunj rather than from Kolkata. This requires suitable changes and amendment in the provisions of bilateral rail services agreement that would facilitate the operation of shipping lines to and from the Birgunj ICD as the port of call. The following arrangements are proposed to make it possible.

What is the proposed solution?

#	ACTION ITEM	RESPONSIBLE BODY
1.	Carry-out a study on cost implication of the current procedures and administrative arrangement in movement of containerized traffic between the port of Kolkata and tha Birgunj ICD	MoC
2	Develop a framework for simplification of procedures on movement of containerized traffic	MoC, Department of Customs (DoC)
3	Develop negotiation strategies for incorporation of the provisions in the bilateral Rail Services Agreement	MoC and MoFA
4	Negotiate with GOI to make revision in the bilateral agreement in order to enable the shipping lines to operate from Birgunj ICD.	MoC

ISSUE NO. 16: Market access barriers to India

PROPOSED TEXT(S): Ensure that the bilateral trade agreement between Nepal and India are upheld and negotiate for better access of goods

Several products currently being exported to India are hindered by the FSSAI certification for food safety mandatorily required by the Government of India. FSSAI certification is not provided at the adjoining Indian borders and requires samples to be sent to Central Food Laboratories based in central areas such as Kolkata, Pune, Delhi. Vehicles are to be kept standby at the border till the test result is received which normally takes a 7 days period thus subject also to warehousing and demurrage charges. While official charges for FSSAI certification are reasonable, unofficial charges requested for timely processing raises the cost of exporting exuberantly for exporters.

To cite the case for Desi Ghee; FSSAI charges for one sample of Desi Ghee is INRs. 500.00. It takes 40 days to complete the process with payment of normal fee while charging INRs. 5725.00, if requesting for report earlier. Refer also to issue 10 and 11.

Further there are para-tariffs that are applied which also substantially raise trading costs for traders. In case of Kattha, import charges applied by the Indian government are quite high. Import into India attracts CVD (6%), + Education cess (2% of CVD) +Higher education cess (1% of CVD). Similarly the charges on Kutch includes: CVD (12.5%). + Education cess (2% of CVD) + higher education cess (1% of CVD)

There are tariff rate quotas applied by the Government of India on import of acrylic yarn, vegetable ghee, copper products and zinc oxide

To cite the case for Desi Ghee; FSSAI charges for one sample of Desi Ghee is

INRs. 500.00 and

40 days to complete the process.

from Nepal. 100,000 tons of vegetable ghee would be permitted to enter India each year free of basic customs duty, 10,000 tons of acrylic yarn, 7,500 tons of copper products, and 2,500 tons of zinc oxide would also be allowed. As these products are under duty free quota free regime under the SAFTA provisions, it should not be subject to such quota restrictions.

What is the proposed solution?

There are many areas for improvement in the bilateral treaty of trade in view of containing the growing trade imbalances between Nepal and India. The issues of non-tariff barriers particularly the SPS related issues, tariff rate quota rules of origin criteria and provisions on export of SME products are some of the pertinent issues to be considered in the revision of the trade treaty. The treaty needs to be revisited from the perspectives of enhancing bilateral trade that encompasses issues of enhancing connectivity, creating border infrastructures, customs harmonization and trade facilitation measures. The issue of non-tariff barriers would certainly be high on this agenda.

Role of agencies within the Government of Nepal such as Department of Customs for border facilitation, NTWC company for transit issues, and NBSM and DFTQC would be crucial to work out mechanism to deal with meeting FSSAI requirements and possible means of accreditation and trade facilitation.

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CATEGORIZATION OF ISSUES BEHIND THE BORDERS, AT THE BORDER AND BEYOND THE BORDERS

The study results showed that the problems within the country were cited as bigger hindrances for exporters, indicating the need to resolve the domestic problems first in order to provide respite to the potential exporters

The issues elaborated above can be categorically divided into issues arising due to domestic problems, issues faced at the border point and issues faced beyond the border. Surprisingly, the study results showed that the problems within the country were cited as bigger hindrances for exporters, indicating the need to resolve the domestic problems first in order to provide respite to the potential exporters. At the same time, friendly negotiations with the neighboring countries are necessary for removing across the border issues. A comprehensive list of issues raised by various stakeholders during consultation is presented as follows:

a. In country/ domestic issues

1. Absence of Pest Risk Analysis (PRA) mechanism
2. Multiple local taxation from raw materials production till exporting
3. Lack of accredited laboratory and inadequate infrastructure
4. Standard codification and HS classification of product still incomplete
5. Misuse of discretionary power by the officials in defining and interpreting legal provisions
6. Lack of effective co-ordination and co-operation among concerned governmental agencies to facilitate export trade, starting from beginning to end process
7. Inadequate capacity to negotiate trade deals at the bilateral and regional levels
8. Discriminatory cash incentive schemes with exports to India not accorded such incentives General Concerns (domestic)
9. Power shortage as major detrimental factor in enhancing the competitiveness
10. Lack of trade intelligence and market information based on systematic study
11. Inadequate subsidies, incentives and facilities for export promotion, export diversification and expansion (as compared with that is available in India)
12. High production cost due to the lack of horizontal and vertical integration/ linkages of industrial production, inadequate and poor infrastructures, poor industrial relations and lack of energy for production

b. Issues at the border

1. Lack of inter-agencies coordination between Nepal and neighboring countries (particularly India)
2. Anomalies in interpretation of legislation, rules and regulation by Border officials
3. Inefficiency of port operation including port congestions at
4. Hassles in Indian customs, specially pre-shipment at Kolkata port
5. Problems due to quarantine and food safety related regulations
6. Theft and pilferage of the raw materials
7. Discriminatory interpretation of legal provisions by the officials
8. Officials misuse of discretionary power
9. High unofficial payments

c. Issues across the border

1. Burdensome administrative procedures and hassles, particularly in export of MAPS
2. Anomalies between the policy and implementation
3. Kolkata having adverse impact to Nepalese export and import
4. Nepalese labs not accredited often leading to the need of Indian certificates for export to overseas countries
5. Lack of Halal certification required for export to Islamic countries
6. Poor transport and transit connectivity between gateway port and Nepal borders

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