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Nepal a brief introduction

Real GDP
695.2 Billion

Population:
About 28.5 Million

Surface Area:
147,181 Sq. KM

Nominal GDP
1701.2 Billion

Per Capita Income:
Rs. 62,510 (USD 625)

Gross National Income:
1709.0 Billion

Foreign Investment



The forms of **Investments** that can be made:

- ▶ Investment in shares (Equity)
- ▶ Reinvestment of the earnings derived from the Equity
- ▶ Investment made in the form of loan or loan facilities
- ▶ Investment in kinds, e.g – machineries and equipment

Foreign investment below US\$ 50,000 (NPR 5,00,00,000) per investor is not considered for approval

100 percent equity share in industries except the following:

1. Cottage Industries (except industries using electricity more than 5 kW)	8. Security Printing	15. Fisheries
2. Personal Service Business	9. Bank notes and Coins	16. Bee Keeping
3. Arms and Ammunition Industries	10. Retail Business	17. Consultancy Services
4. Gunpowder and Explosives	11. Bidi (excluding more than 90% exportable)	18. Beauty Parlour
5. Industries related to Radio – Active Materials	12. Internal Courier Service	19. Processing of Food Grains on Rent
6. Real Estate Business	13. Atomic Energy	20. Local Catering Services
7. Film Industries	14. Poultry	21. Rural Tourism

Technology Transfer



"Technology Transfer" means any transfer of technology to be made under an agreement between an industry and a foreign investor on the following matters:

- ▶ Use of any technological right, specialization, formula, process, patent or technical know how of foreign origin.
- ▶ Use of any trademark of foreign ownership.
- ▶ Acquiring any foreign technical consultancy, management and marketing service.

Technology transfer is possible even in areas where foreign investment is not allowed.

Repatriation



Following amounts are entitled to be repatriated

- ▶ Sale of the share of foreign investment as a whole or any part thereof
- ▶ Amount received as profit or dividend from foreign investment
- ▶ Amount received as the payment of principal and interest on any foreign loan
- ▶ Amount received under the agreement for the technology transfer in such currency as set forth in the concerned agreement as approved by the DOI
- ▶ Foreign Nationals can repatriate their salaries, benefits, allowed in convertible foreign currency in an amount not exceeding 75% of such salaries, allowances and emoluments

Policy Highlights

Technology transfer is possible even in areas where foreign investment is not allowed.

The government does not interfere in the fixation or control of prices of industrial products.

Simplification in import of machinery and raw materials through Letter of Credit in any commercial bank

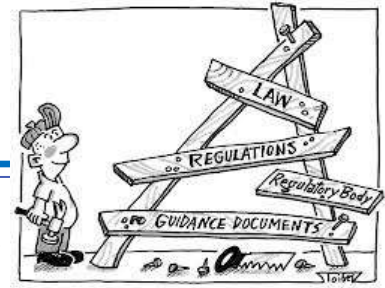
Minimum approval procedures to obtain any license or permission for establishment and operation.

Non-tourist visa

Repatriation of profits, dividend, technical and managerial fees

Time bound decision process: Decisions with regards to industrial license, registration and duty drawbacks are now to be made within 30, 21 and 60 days from the date of application, respectively

Institutional Arrangement



INVESTMENT BOARD

(For Huge Investments in Following Sectors)

- Hydropower exceeding 500 MW
- Fast Track, Tunnel, Railway, Ropeway, Trolley bus
- Airport Construction, Management and Modernization
- Waste Management & Refining Plant
- Large Bridges
- Bank & Financial Institutions with foreign investment more than 51%
- Medical Collage & Modern Hospital with greater than 300 Beds
- Export Promotion Zone
- Special Economic Zone & IT Park

DEPARTMENT OF INDUSTRIES

- **The Department of Industries (DOI)** carries out domestic administration and implementation of Industrial Enterprises Act for medium and large-scale industries.
- **DOI is the agency for administration and implementation of Trademark, Patent Design Act, Industrial Enterprises Act, and Foreign Investment & Technology Transfer Act**

Investment Through Investment Board



Following are the current major projects for Foreign Direct Investment which shall be done through Investment Board

1. Paschim Seti Hydropower
2. Arun III Hydropower
3. Mathillo Karnali Hydropower
4. Tamakoshi III Hydropower
5. Mathillo Marsandi Hydropower
6. Chemical Fertilizer Industries
7. 5 Star Hotels
8. Infrastructure Development Bank
9. Kathmandu Valley Metro Railway
10. Kathmandu Valley Waste Management
11. Kathmandu Tarai Fast Track
12. Nijgad International Airport
13. North South Corridor
14. Modernization of Tribhuvan International Airport

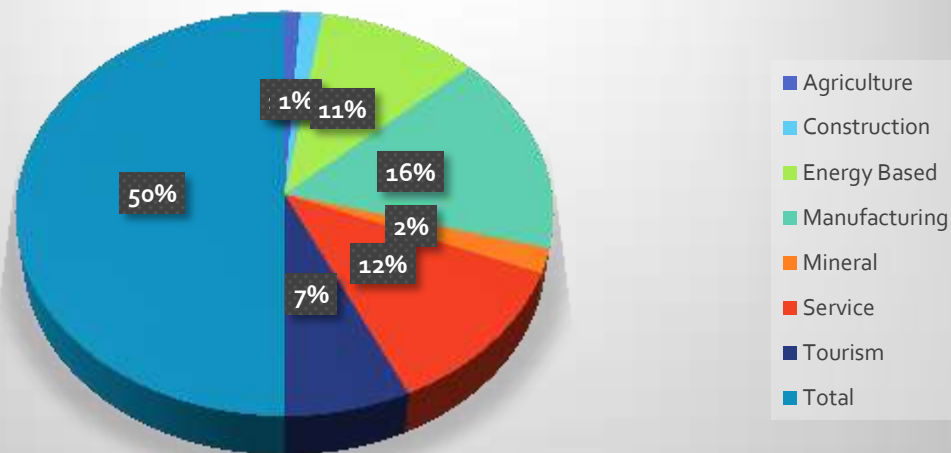
Foreign Investment In Nepal up to FY 2012/13



Number of Industries Approved For Foreign Investment (up to FY 2012/13)

Category	No of Projects	Total Capital	Fixed Capital	Working Capital	Rs. Million	
					Foreign Investment	
Agriculture	118	3,286.72	2,322.46	964.26		1,969.10
Construction	43	3,705.34	2,753.10	947.7		2,862.81
Energy Based	57	55,386.96	54,346.74	2,940.22		20,271.47
Manufacturing	827	81,520.07	64,686.03	15,972.07		30,597.75
Mineral	48	5,968.32	4,713.34	1,254.98		3,657.94
Service	845	40,509.92	28,041.51	12,322.73		22,516.58
Tourism	714	25,713.71	24,040.91	1,403.12		13,210.55
Total	2652	216,091.04	180,904.09	35,805.08		95,086.20

Foreign Investment



Incorporating a New Company in Nepal



Foreign Investment and Technology Transfer Act (FITTA) 1992 allows foreigners to organize either a private limited company or a public limited company.

The incorporation/registration of the company is done by Company Registrar's Office (CRO) located at Tripureshwor, Kathmandu, Nepal.

"Private Limited Company" means a company which by its articles,

- ❑ limits the number of its shareholders from 1 to 50 excluding persons who are in the employment of the company.
- ❑ prohibits any invitation to the public to subscribe for shares.

"Public Limited Company" means a company that,

- ❑ Has the minimum number of 7 shareholders (and there is no maximum limit).
- ❑ Offers shares and debentures to the public through a prospectus which complies with the requirements of the Companies Act and Securities Act.

- *The private and public companies are prohibited to organize proprietorship or partnership firms.*
- *The par value of share should be NRs. 50 and in excess of Rs. 50 in multiple of Rs.10 per share for both the private and public companies.*

Setting up New Entity



Brief Procedure

- i • Obtain approval of DOI for foreign Investment
- ii • Incorporate the company at the Company Registrar's Office
- iii • Register the Industry at DOI
- iv • Registration at Inland Revenue Office to get Permanent Account Number (PAN)
- v • Others, if applicable (such as Trademarks/design/patents reg. in DOI)

Deposits & Fees



Deposits and Fees – Foreign Investment approval (refundable)

Range of Fixed Asset	Deposit (Amount in Rs.)
Fixed assets = 2,500,000	4,000
2,500,000 < FA ≤ 5,000,000	7,000
5,000,000 < FA ≤ 10,000,000	10,000
10,000,000 < FA	20,000

To be deposited at Nepal Rastra Bank

Deposits and Fees – Company Registration (non-refundable)

Range of Authorized Capital	Private. Company Fee (NRs.)	Range of Authorized Capital	Public Company Fee (NRs.)
500,000 < Authorized Capital ≤ 2,500,000	9,500	Up to 10,000,000	15,000
2,500,000 < A.C ≤ 10,000,000	16,000	Above 10,000,000 Up to 100,000,000	40,000
10,000,000 < A.C ≤ 20,000,000	19,000	Above 100,000,000 up to 200,000,000	70,000

Similarly the additional fee will be calculated at the rate of Rs. 30 per Rs. 100,000 of Authorized Capital for private company

Above 500,000,000 at the rate Rs. 3,000 per million

Foreign Equity Investment in a New Industry



For wholly foreign owned enterprises or in a joint venture with Nepalese/foreign promoters are required to apply to the DOI on a prescribed application form, along with the following documents:

Documents	No of copies
Project Report	2 copies
Joint Venture Agreement (JVA), in case of more than one investor	2 copies
Citizenship certificate of local party or Certificate of Incorporation including Memorandum of Association and Articles of Association, if local party is a company	1 copy
Copy of passport of foreign party/or Certificate of incorporation, including Memorandum of Association and Articles of Association, if participant is a company	1 copy
Bio-data / Company profile of the foreign party	1 copy
Financial Credibility Certificate (FCC) of the Foreign Investor provided by a home country bank or domiciled country bank	1 copy
Authority letter from the concerned companies or individuals to carry out any necessary work on their behalf, if applicable	1 copy

Technology Transfer in an Existing Nepalese Industry



Technology Transfer Agreement (TTA)

Citizenship certificate of local party or Certificate of Incorporation including Memorandum of Association and Articles of Association, if local party is a company

Copy of passport of foreign party/or Certificate of Incorporation, including Memorandum of Association and Articles of Association, if participant is a company

Bio-data / Company profile of the foreign party

Industry Registration Certificate

Copy of the minute of the Board of the recipient company

Authority letter from the concerned companies or individuals to carry out any necessary work on their behalf, if applicable

Foreign Investment in an Existing Industry by Share Transfer



i. Share transfer from an existing shareholder to a foreign investor

ii. Share transfer from reserved share or by increasing the issued capital of the company

Apply to the DOI with

- A) Request from the share transferor
- B) Request from the share transferee
- C) Share Transfer Agreement
- D) Copy of minute of the Board meeting of Nepalese company regarding inclusion of foreign investor into the company 1 copy
- E) Copy of minute of Board meeting, Certificate of incorporation and company profile of the foreign party if the participant is a company 1 copy
- F) Copy of passport and Bio-data of foreign party, if participant is an individual 1 copy
- G) Financial Credibility Certificate of the Foreign Investor provided by a bank 1 copy
- H) Current Share Holders' List as certified by the Company Registrar's Office 1 copy
- I) Auditor's Report 1 copy
- J) Tax clearance certificate 1 copy
- K) Authority letter(s) from the companies concerned to sign on behalf of the companies.

Documents in i. except A & B instead of A & B following documents should be furnished

A) Request letter from the share transferor

It is an application letter from the existing shareholder (duly authorized by the Board meeting) of the existing company stating that the company agrees to transfer all/some of the shares from the stock of the company.

B) Request letter from the share transferee

It is an application letter from the prospective foreign investor stating that he/she wants to invest in the existing Nepalese industry and agrees to buy the shares of the Nepalese company of the stated amount. Suggested contents of the Share Purchase Agreement (SPA) including a model SPA

Loan Investment in an Existing Nepalese Industry



Apply to the DOI along with the following documents.

- Loan Agreement
- Certificate of Incorporation, including Memorandum of Association and Articles of Association of the lending agency
- Company profile of the lending agency
- Industry Registration Certificate
- Copy of the minute of the Board of the recipient company regarding the loan to be acquired

Procedure for Company Incorporation



After the approval of foreign investment for equity participation from the DOI, , the investors shall submit following documents to the Company Registrar's Office (CRO) with prescribed fees

i. Copy of the permission for foreign investment issued by DOI



ii. Copy of citizenship certificate of Nepalese promoters



iii. Copy of passport of the foreign promoter(s)



iv. If the foreign party is a company, copy of minute of the Board of Directors



v. Two copies of company's proposed Articles and Memorandum of Association in Nepalese language

Procedure for Industry Registration



After obtaining approval for foreign investment, the industry is required to be registered with the DOI within 35 days. If the registration cannot be done within the stipulated time, the investor will have to apply for the extension of the validity period. Therefore, once the company is incorporated, the investor has to apply for registration of industry at DOI, filling a prescribed form,, along with following documents.

- i. A copy of the foreign investment approval letter issued by the Foreign Investment Section, DOI.
- ii. A copy each of the Certificate of Incorporation, Memorandum of Associations, and Article of Association of the company.
- iii. Environmental Impact Assessment (EIA) Report or Initial Environmental Examination (IEE) Report.

Note:-

- A screening list indicating the categories of industries requiring IEE or EIA and the brief procedures to be followed in conducting these studies are given in Appendix-11 and Appendix-12 respectively. In case of IEE Reports, DOI gives final approval while EIA reports should be approved by the Ministry of Environment, Science and Technology prior to industry registration.
- NG has enacted Environmental Protection Act (EIA) 1997 and Environmental Protection Regulation(EPR) 1997. Any industry (including capacity expansion or diversification scheme of existing industry) may have to get approval on the environmental assessment reports such as Initial Environmental Examination (IEE) or Environmental Impact Assessment (EIA) prior to industry registration.

Permanent Account Number (PAN) Registration

Any business entity, including industry that has to pay Direct and Indirect Tax (corporate Tax, VAT, excise Duty, Customs etc) should obtain the PAN. The industry has to be registered with the District office of the Inland Revenue Department or Inland Revenue Office (IRO) before its operation.

PAN registration is essential for buying land, building and clearance of goods at custom office. Therefore, it is recommended that the companies are registered with IRO immediately after incorporation.

- 1. Copy of the certificate of incorporation**
- 2. Copy of the memorandum and articles of incorporation**
- 3. Copy of the citizenship certificate (or passport in case of foreign national) who signs the application**
- 4. Two passport size photo of the individual who signs the application**
- 5. Hand drawn sketch of the business location of the applicant**
- 6. Power of attorney, if applicable.**

The company has to submit the balance sheet and profit and loss statement at the end of each fiscal year for assessment of income.

PAN number has perpetual existence until suspended by tax payer if he discontinues his business. Tax payer has to surrender his PAN registration certificate to Inland Revenue office from where he got the PAN number. PAN once allotted can never be changed nor cancelled but be suspended if so desire by tax payer and can be restored if desires so irrespective of no of years of suspension.

Provisions under Income Tax Act



Entity If incorporated in Nepal the entity is Resident Entity

Foreign Permanent Establishment the place from where services are being performed by installing machinery, equipment or providing consultancy for more than 90 days either continuously or intermittently in Nepal. The term also includes agency business except independent agent.

Double Tax Avoidance Treaty is done with various countries which helps for avoidance of double taxation on global income.

Nature	Tax Rate
Corporate Income	25%
Manufacturing Industries	20%
Payment of Interest (Tax deduction at Source)	15%
Payment of Dividend (Tax Deducted at Source)	5%
Payment of Technology Transfer Fee (Royalty or Consultancy Fees)	15%
Refund of Principal amount of Loan	Nil

Repatriation



Repatriation of Sales of Shares

For the repatriation of the sale of shares of the foreign investor, he/she or the concerned company must apply to the Department of Industry for recommendation to the central bank with the following documents:

- a) Proof of investment made and number of shares owned, (the proof of investment could be a certificate from the commercial bank through which the investment was brought into Nepal.)
- b) Letter from the company stating the completion of the transfer of the related shares duly certified by the Company Registrar's Office or such competent body.
- c) Prior approval of DOI, if the share was transferred to any foreign national.
- d) Tax clearance certificate
- e) Custom declaration form and the approval letter if the investment was made in the form of plant, machinery and equipment.
- f) Copy of the Board of Director's resolution.

Repatriation of Dividend

Any foreign investor, wishing to repatriate his dividend from his investment as per the FITTA 1992 has to obtain a recommendation from the DOI. The foreign investor or the company has to apply to the DOI with the following documents:

- a) Documentary proof of investment made which is issued by the commercial bank. This document is needed only for the first time and again only when further investment is made by the investor,
- b) Custom declaration certificate of the import of plant machinery and equipment if the investment by the foreign investor has been made in the form of capital equipment,
- c) Auditor's report including balance sheet and profit and loss account,
- d) Tax clearance certificate
- e) Proof of dividend declaration.

Repatriation



Repatriation of Loan & Interest

The industrial unit with foreign loan has to apply to the DOI for sending out the principal and interest on foreign loan obtained with the approval of DOI along with the following documents:

- a) Certificate from the commercial bank regarding the transfer of the loan amount into Nepal,
- b) Custom declaration certificate and invoice of the plant machinery if the loan was obtained in the form of machinery,
- c) Letter of approval of the loan agreement,
- d) Tax clearance certificate.

Repatriation of Technology Transfer Fees

The industrial unit with approved technology transfer agreement, trademark license agreement, management agreement, technical assistance agreement can apply to the DOI for the transfer of fees as per the agreement. **The company has to submit the calculation of the amount due to the foreign technology supplier certified by the auditor along with the certificate of payment of income tax on royalty as per the prevailing tax rate**

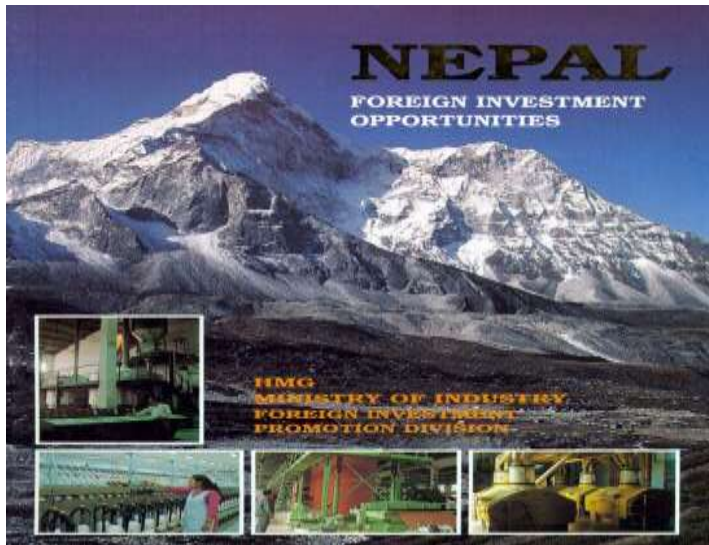
VISA Arrangements



There is a provision of seven categories of visa in the Immigration Act 2049 and Immigration Regulation 2051. These are:

- (a) Diplomatic Visa
- (b) Official Visa
- (c) Study Visa
- (d) Tourist Visa
- (e) Non-tourist Visa
- (f) Business Visa
- (g) Residential Visa

- **Non-tourist Visa for Carrying out the Feasibility Study:** for a maximum period of 6 months on recommendation of the DOI
- **Business Visa:** For up to a period of five years at a time on recommendation of DOI.
- **Residential Visa :** Foreign investor making an investment equivalent to more than US \$ **One Hundred Thousand**, at one time and in convertible foreign currency, will be granted a residential visa on recommendation of DOI.



Thank You.....

For Further Inquires

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