Study Report on
Trade Protection Measures in Nepal

Ministry of Industry, Commerce and Supplies
Singha Durbar, Kathmandu, Nepal

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List of Abbreviation

AD	Anti-Dumping
BIS	Bureau of Indian Standards
DFTQC	Department of Food Technology and Quality Control
DGTR	Directorate General of Trade Remedies
EU	European Union
FAO	Food and Agricultural Organization
FMD	Foot-and-Mouth Disease
FMAN	Footwear Manufacturer's Association Nepal
FY	Fiscal Year
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GSP	Generalised System of Preferences
GRP	Good Regulatory Practices
HS	Harmonized System
LDC	Least Developed Country
MAST	Multi-Agency Support Team
MFN	Most Favoured Nation
NPC	National Planning Commission
NTM	Non-Tariff Measures
RD	Regulatory Duty
RoO	Rules of Origin
RSA	Rest of South Asia
RTA	Regional Trade Agreement
MIP	Minimum Import Price
SACA	Safeguards, Anti-Dumping and Countervailing Act
SAFTA	South Asian Free Trade Agreement
SPS	Sanitary and Phytosanitary
TBT	Technical Barriers to Trade
TDI	Trade Defence Instruments
TEPC	Trade and Export Promotion Center
TRQ	Tariff Rate Quota
VAT	Value Added Tax
UNCTAD	United Nations Conference on Trade and Development
WTO	World Trade Organization

Executive Summary

This study has been conducted to recommend suggestions regarding the strategies that Nepal should adopt based on the trade protection measures used by Nepal's major trading partners and the experts' opinions on trade protection. In this study, the World Trade Organization (WTO), South Asian Free Trade Area (SAFTA) and Nepal's trade agreements with India, China and Bangladesh have been reviewed and analysed to determine the strategy Nepal should pursue in relation to trade protection within this scope. The trade protection measures currently being taken by Nepal's major trade partners serves as a significant basis for this analysis. This report has been prepared based on the analysis of studies published by the relevant ministries, departments and subordinate bodies of the Government of Nepal and views expressed by businesspeople involved in business and subject matter experts. Due to the bilateral and multilateral trade agreements made by Nepal in the past, there is no situation where the customs duty rate can be increased directly. However, there is a significant possibility to control imports through non-tariff measures. Nepal's major trading partners, such as India, China, Bangladesh, and the USA, are controlling imports through anti-dumping, countervailing and safeguards measures. The trade agreements have also opened provisions to protect the domestic industry through such measures.

It is observed that many countries of the world protect trade through tools such as subsidies on domestic production, quotas on the import of sensitive goods, health protection of humans, animals and plants (sanitary and phytosanitary) standards, and standardization, etc. In India, Subsidies have been given in agricultural production for fertilizers, seeds, irrigation, crop insurance, electricity, exports, infrastructure construction, bank credit and agricultural implements. As a result, the cost of production is reduced by 21 percent. In Japan, credit facilities are given to farmers to make the cost of agriculture production cheaper, while significant subsidies were also provided in China. Subsidies to farmers in countries within the European Union and restrictions on imports from other countries have been imposed. Countries like India and China control the import of agricultural and livestock products by maintaining quality standards (sanitary and phytosanitary standards). The import of Nepali tea has been obstructed in various countries due to insufficient quality, and in Europe, Nepali Churpi is now subject to control based on sanitary standards. The same standards are also hindering the export of pork meat to China. Every country maintains its own quality standards and requires quality certification as a non-tariff barrier."

At present, the most popular trade protection strategy employed by countries worldwide is the implementation of non-tariff measures. These measures include anti-dumping, countervailing, safeguard, and sanitary and phytosanitary measures. Anti-dumping duties are imposed when foreign goods are imported at prices lower than the market price, causing harm to the domestic industry. Anti-dumping duties are extensively applied in countries such as India, China, the USA, and the UK. For instance, India has imposed anti-dumping duties on imported jute from Nepal and Bangladesh. Following allegations by the Indian Jute Mill Association that Nepalese and

Bangladeshi jute had caused damage to the domestic jute industry, anti-dumping duties ranging from \$6.30 to \$351.72 per ton have been levied since January 2017. Recently, this tax has been extended for 5 years. Similarly, anti-dumping duties were imposed on yarn imported from Nepal, Indonesia, China, and Vietnam in May 2020. The duties imposed on Nepal's polyester yarn were lifted in August 2021. Bangladesh also created transportation issues by imposing a non-tariff barrier on Nepali yarn. China initiated an anti-dumping duty on wine imported from Australia starting from 2020. Additionally, the United States and Great Britain are safeguarding their domestic industries from collapse by imposing anti-dumping duties on steel imported from China, which is significantly cheaper than the market price.

In Nepal, in the year 2076, the Ministry of Industry, Commerce, and Supplies implemented a law to establish provisions regarding safeguards, anti-dumping, and countervailing measures. According to these provisions, a 9-member committee, led by the secretary of the ministry, will serve as the implementing body. However, the procedures have not yet been determined and implemented. In neighbouring India, anti-dumping investigations and related taxes are carried out through the Directorate General of Trade Remedies 2018, which operates under the Ministry's Department. It is also evident in Nepal that a body related to Trade Remedies should be established within the department to work towards trade protection. There is a need to compile a list of sensitive goods and promote industries that can achieve self-sufficiency within Nepal. Import control can be achieved by imposing non-tariff measures on the import of such goods. Government agencies should raise public awareness to encourage the use of domestically produced goods that can meet the country's demand. By implementing sanitary and phytosanitary measures, Nepal can achieve self-sufficiency in products such as vegetables, fruits, wood, furniture, milk, fish, and meat. Additionally, increasing the production of items such as shoes, slippers, tea, zinc plates, paints, garments, textiles, and medicines can contribute to self-sufficiency. Nepal should apply anti-dumping and safeguard protection measures; just as other countries have imposed safeguards on the imports of Nepalese goods.

Nepal should prioritize the efficient augmentation of its capability to utilize trade protection measures. To bolster production capacity, it is imperative for the government to allocate subsidies to industries, bolster infrastructure development, and fortify its regulatory framework.

In light of Nepal's existing state of domestic production, trade reliance on India, open borders, and its involvement in international trade agreements such as the WTO, SAFTA, and bilateral trade agreements, informed by global practices and direct engagements with experts, the ensuing recommendations are put forth pertaining to the strategy and prospective course of action that Nepal should pursue:

- Due to the presence of the World Trade Organization, SAFTA, and bilateral trade agreements, Nepal has limited scope to exercise control over imports through direct customs taxes, except for certain limited and sensitive goods. As a result, several countries, including India, China, and the United States, currently employ non-tariff measures such as sanitary and phytosanitary regulations, anti-dumping measures, countervailing duties, safeguards, and quality standards. Nepal should consider adopting these trade protection measures as well.

- It is imperative to establish a team comprising of proficient experts and technicians tasked with conducting comprehensive studies, collecting relevant data, conducting inspections, and implementing non-tariff taxes, such as anti-dumping, countervailing, and safeguards, on imported goods. Given the organizational structure in India, where the Director General of Trade Remedies oversees anti-dumping investigations, it is deemed essential to establish a Trade Remedies Branch within the department to assume responsibility for trade protection measures.
- It is necessary to create a comprehensive inventory of products that can be domestically manufactured to meet the country's domestic demand, as well as items that are causing harm to the domestic industry due to imports. These items should be categorized as sensitive goods and given protection through measures such as support for infrastructure development, transportation and transit facilitation, production subsidies, and other forms of assistance.
- Given the increasing prevalence of tax evasion and the consequent sale of imported goods at reduced prices through unrestricted borders, it is of paramount importance to augment market surveillance in order to address the prevailing challenge impeding the market penetration of domestically manufactured goods. To tackle this issue effectively, it becomes imperative to enforce obligatory labelling requirements for goods, encompassing details such as country and date of manufacture, producer's name and address, maximum retail price (MRP), and comprehensive information regarding ingredients utilized. Moreover, only goods that have duly settled customs duties should be permitted for circulation in the market.
- In order to foster the growth of the domestic industry, it is essential to enforce a policy mandating that government entities prioritize the consumption of domestic products exclusively. Furthermore, conducting awareness programs in educational institutions, such as schools and colleges, to promote the utilization of Nepali products is imperative. Additionally, incentivizing private companies and financial institutions through tax concessions when they procure domestic products for official attire and other consumables should be considered.
- To facilitate the marketing of domestic industries and products manufactured within the country, the government should provide subsidies for transportation. Additionally, the government should focus on developing supply chain mechanisms to enhance the efficiency and ease of distribution.
- To address the issue of imported goods being sold at excessively low prices, the government should uphold quality standards and adopt minimum import price rule. Government should manage the required human resources, machinery, and tools to implement anti-dumping measures and regulatory duties on such items.
- In order to facilitate cost reduction, it is advisable for the government to consider the adoption of a zero-customs duty policy on machinery employed in domestic production. Given the absence of tax disparity between raw materials and the final product, the emphasis has

primarily been placed on importing the final goods. Therefore, it is recommended to undertake a comprehensive review of the prevailing tax rates by augmenting taxes on final goods, while concurrently adjusting the tax rate on raw materials in a commensurate manner.

- The implementation of a regulation mandating the sale of at least 20 percent Nepali goods in supermarkets should be considered. Additionally, measures should be taken to control the import of goods without proper product trademarks and of substandard quality, in accordance with established quality standards.
- A comprehensive assessment should be conducted on the market demand and the domestic production level of agricultural products, particularly vegetables, fruits, tea, milk, meat, and juices. In cases where domestic production sufficiently meets the demand, strict adherence to quality standards and sanitary and phytosanitary regulations should be enforced for imported goods. However, if the market demand surpasses domestic production, the government should provide assistance such as production subsidies and other forms of support to augment production levels.
- The imports of domestically produced items such as shoes, slippers, zinc sheets, paints, garments, textiles, certain medicines, chips, kurkures, dalmoth, etc., should be regulated through the implementation of anti-dumping and safeguard measures.
- To support the growth of vulnerable domestic industries industries such as sugar, soap, furniture, electric wire, and others, it is recommended to provide subsidies in areas such as credit, insurance, transportation, and production incentives. Additionally, tailored import quotas for these goods can significantly fortify the protection and progress of domestic production within these sectors.
- There should be no custom duty on imported machinery used in exportable items such as shoes, garments, tea, cardamom, precious metals and ornaments. Additionally, the government should provide export subsidies and support in custom clearance, transportation, marketing and infrastructure construction of those exportable items.
- Implementation of non-tariff measures requires adequate investigation, skilled personnel and a separate agency; it seems necessary for government agencies to increase their means, resources and capacity.
- It is challenging to find skilled workers with a suitable work culture within the country to enhance the production capacity of domestic industries. As a result, many industries resort to importing workers from India at high costs. To address this issue, ministries and departments should facilitate industry-specific training programs. By doing so, it will not only contribute to increased employment opportunities but also foster industrial development.

Chapter 1
Introduction

1.1 Research Background

In recent years, Nepal is struggling with a persistently high trade deficit caused by soaring imports and low exports. In this context, reducing the substantial trade deficit has emerged as a prominent priority for the Nepalese government. As of the first 10 months of the fiscal year 2079/80, the total value of imports amounted to NPR 1,335 billion, significantly surpassing the value of exports at NPR 130 billion.[1] This translates to an export-to-import ratio of 10.2:1, thereby underscoring the gravity of the trade imbalance. Escalating imports not only triggers the external sector of the economy, but also deteriorates domestic production capacity. Enhancing domestic production and making improvements on import substitution have been one of the major concerns of the national economy.

To address the persistently worrisome trade deficit that has been impeding Nepal's economic growth, the fifteenth plan has highlighted the significance of establishing partnerships with India to gain access to supplementary ports and to enhance the export of agricultural and industrial products to emerging markets.[2]This strategic approach seeks to capitalize on the Indian market's potential and foster greater integration between the two economies, thereby potentially mitigating the trade imbalance. Additionally, the fifteenth plan has devised measures to regulate imports by introducing legal provisions to deter the importation of superfluous and substandard goods and services. Despite projecting a 15 percent contribution of exports and a 49 percent contribution of imports to the GDP, the plan's targets are far from being met. In the previous FY, the export of goods and services amounted to a mere 4.9 percent of the GDP, whereas imports accounted for 52 percent.

In a globalized economy, it has become customary to import certain agricultural commodities to meet domestic demand.[3] However, the situation can become critical when the export from a country remains static or experiences a decline, while the import surges at an alarming pace. Researchers contend that in situations where the domestic manufacturing sector is nascent and the country is reliant on external sources of development finance, the drawbacks of liberalization may surpass its advantages.[4] At present, evaluating the pros and cons of liberalization holds little utility, and instead, it is imperative to scrutinize viable strategies that can be implemented while staying

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[1]Department of Customs, Ministry of Finance, Government of Nepal.

[2] Government of Nepal, National Planning Commission. *The Fifteenth Plan* (Fiscal year 2019/20-2023/24). pg.119. Link accessible here

[3]Adhikari, J., Shrestha, M., &Paudel, D. (2021). Nepal's growing dependency on food imports: A threat to national sovereignty and ways forward. *Nepal Public Policy Review*, *1*, 68-86.

[4]Silwal, R. (2008). The causes of trade deficit of Nepal. The Hague, Netherlands, Institute of Social Sciences.

within the boundary of commitment that Nepal has made to the World Trade Organization and regional integrations such as South Asian Free Trade Agreement and bilateral treaties.

Trade protection measures are widely used by countries to regulate imports and facilitate exports. A report published by UNCTAD (2013) argues that reliable market access depends highly on compliance with trade regulatory measures that go beyond the realm of traditional trade practices. The report furthermore emphasizes how traditional trade policies such as tariffs and quotas are no longer significant in restricting market access.[5] As a result of liberalization initiatives under WTO and GATT, tariffs on international trade are generally low, however, Non-Tariff Measures (NTM) have evolved as major determinants in restricting market access.

Despite the widespread use of NTMs, the impact it has on domestic and international trade is understudied in Nepal. Developing countries such as Nepal are vulnerable to the impact of NTM as there is limited capacity for meeting the requirements dictated by NTMs. Due to the limited capacity, there is a high risk exposed to the import of unnecessary goods as well. The fifteenth plan set out by the National Planning Commission (NPC) emphasizes instrumentalizing legal provisions to stop the flow of unnecessary imports, however, there are no measures on what the 'legal provisions' refer to. This concurs that there is inadequate knowledge on the impact of NTMs applied by Nepal's trading partners. The aim of this report is to bridge the knowledge deficit concerning Non-Tariff Measures (NTMs) employed by Nepal's principal trading allies that directly influence trade. Moreover, it seeks to propose recommendations on enhancing capacity while adhering to international trade accords such as the World Trade Organization (WTO) and regional alliances such as the South Asian Free Trade Area (SAFTA).

1.2 Research Objectives

The major objectives of this research are as follows:

1. To study the trade protection measure adopted by Nepal's major trading partners
2. To characterize/evaluate the trade protection measure being adopted by Nepal with respect to the trade protection measure of Nepal's major trading partners
3. To protect trade within the scope of international trade agreements and submit suggestions on the measures to be taken

[5] UNCTAD, G. (2013). Non-tariff measures to trade: economic and policy issues for developing countries. *Developing Countries in International Trade Studies.*

1.3 Significance of Research

Nepal aspires to graduate as an LDC by the end of 2026. It is estimated that Post- Graduation tariff increases could reduce Nepalese exports by 4 percent.[6] WTO member countries extend special treatment to least-developed countries (LDCs), offering them various advantages such as enhanced market access, flexibility in adhering to WTO rules, and assistance to strengthen their trading capacity. These benefits include duty-free and quota-free (DFQF) market access for LDC products, preferential rules of origin guidelines, and initiatives like the LDC Services Waiver. However, when an LDC member graduates from its LDC status, it loses these benefits. Nepal, for instance, will no longer have access to certain facilities once it graduates from LDC status:

1. Generalized System of Preferences (GSP) and other duty-free quota-free facilities: GSP provides preferential duty treatment or duty-free access to imported goods originating from beneficiary countries. Nepal, as an LDC, currently enjoys GSP facilities offered by various countries, including Armenia, Australia, Belarus, Canada, European Union, Iceland, Japan, Kazakhstan, New Zealand, Norway, Russia, Switzerland, Turkey, the United Kingdom, the United States, China, South Africa, Chile, Thailand, and South Korea. However, Nepal must meet specific criteria related to the Certificate of Origin to benefit from these facilities.

2. EU Generalized System of Preferences (GSP): Nepal currently benefits from full duty-free quota-free access, known as Everything but Arms, for all products except arms and ammunition, provided to all LDCs by the European Union. Nepal enjoys duty-free access for over 7,000 tariff lines under this program.

3. United States: The United States grants special treatment to Nepal through its GSP facility for LDCs and the Nepal Trade Preference Program. Approximately 5,000 different products from Nepal are eligible for duty-free entry into the United States under the GSP program.

These facilities contribute to Nepal's trade advantages, but they will no longer be available once Nepal graduates from LDC status. Given the present context, it is crucial for the government of Nepal to develop strategies that can protect and safeguard trade and ensure a smoother transition, allowing Nepal to maintain its economic sustainability even in the absence of the aforementioned trade preferences.

[6] (2022). International Trade Centre. Nepal after LDC graduation. *Avenues for exports*

1.4 Methodology and Approach

This research relies on descriptive analysis based on the secondary data obtained from desk review and experts' opinion obtained from Key Informant Interviews (KII).

1.4.1Desk Review:

In order to ensure that the literature review is comprehensive and up-to-date, it has included an analysis of a wide range of sources, including both published and unpublished materials. To gain a thorough understanding of the existing literature and research on the topics of interest, the review has primarily focused on sources such as the World Trade Organization (WTO), the regional trade agreement of SAFTA, as well as bilateral trade agreements with countries including India, China, and Bangladesh.

To supplement this research, the literature review has also been incorporated relevant publications by government bodies such as the Ministry of Finance (MoF) and the Ministry of Industry, Commerce, and Supplies (MoICS). Additionally, reports by non-governmental organizations such as the South Asian Watch on Trade, Economics, and Environment (SAWTEE) and the Food and Agricultural Organization (FAO) has also be considered.

In order to remain current with recent developments in the field of trade, the literature review has also analysed national newspapers, both online and offline. This would provide insight into any recent policy changes, shifts in trade relations, and other developments that may impact Nepal's trade industry. By analysing a diverse range of sources, the literature review would provide a comprehensive overview of the current state of trade in Nepal and establish an analytical framework for the research.

1.4.2 Key Informant Interviews (KII):

In addition to the literature review, key informant interviews have been conducted to obtain qualitative in-depth information from individuals who have extensive knowledge and understanding of Nepal's trade industry. These interviews have been conducted with policy experts, professionals, and government officials who possess first-hand knowledge of the country's trade policies and practices.

The primary aim of these key informant interviews was to gather information on the nature of the problems that Nepal is facing in its trade industry and to receive recommendations on potential solutions to these issues. These community experts possess specialized knowledge and understanding that have allowed them to offer valuable insights into the country's trade industry, which can help in the formulation of effective trade policies.

The key informant interviews have been conducted using a semi-structured interview guide that has allowed for flexibility in the discussion while still ensuring that key topics are addressed. The questions have covered a range of topics, including the current state of Nepal's trade industry, the impact of regional and international trade agreements on the industry, the challenges faced by exporters and importers, and potential solutions to these challenges.

The data obtained from the key informant interviews have been analysed using content analysis to identify key themes and patterns that emerge from the data. The insights obtained from these interviews has been used to supplement and enhance the findings from the literature review and KII has been used to develop a comprehensive analytical framework for the research study.

Overall, the key informant interviews have provided valuable information and perspectives on Nepal's trade industry that could not have been obtained through secondary sources alone. The insights obtained from these interviews has helped in the development of effective policies and strategies to address the challenges faced by the industry, and ultimately, to promote economic growth and development in Nepal. The list of organizations and key personnel with whom KII was taken is in Annex I.

1.5 Scope of the Research

The aim of this research was to study trade protection measures adopted by Nepal’s major trading partners, to study Nepal’s trade protection measures, and submit measures to protect trade. It is highly essential to understand the discourse of how trade is protected and what trade strategies are implemented by countries, therefore, this research paper centres on examining trade protection measures implemented by India, with a particular emphasis on Nepal's heavy reliance on India for both import and export activities. Additionally, the study explores the general trade protection measures employed by China and Bangladesh.

1.6 Limitations

The limitations of this study are listed below:
1.6.1 The research conducted for this study was subject to time limitations. As a result, not all possible trade protection measures could be thoroughly examined. The findings presented in this report should be considered as a preliminary overview rather than an exhaustive analysis of all potential measures.

1.6.2 The perspectives and recommendations provided by the key informant interviews represent a limited sample of experts from specific ministries and agencies. While efforts were made to gather diverse viewpoints, it is important to note that these viewpoints may not capture the full spectrum of opinions and strategies related to trade protection measures in Nepal.

1.6.3 The report acknowledges the need for a more comprehensive analysis of trade protection measures within each sector of Nepal's economy. The findings presented here provide a broad understanding of potential measures but may not delve into the specific nuances and challenges faced by individual sectors.

1.6.4 This report does not study the potential impact of trade measures on domestic producers and consumers. While the findings provide insights into the utilization of trade protection measures and the challenges faced by Nepal, a more in-depth analysis of the effects on different stakeholders is necessary. This limitation highlights the need for a holistic approach in policymaking, considering the implications for both domestic producers and consumers. Future research should focus on conducting rigorous assessments to determine the potential benefits.

1.6.5 This report primarily relies on qualitative data derived from expert interviews. The absence of quantitative analysis limits the ability to assess the potential economic impacts and trade-offs associated with specific trade protection measures. Further research incorporating quantitative data would be necessary to provide a more robust assessment of the effectiveness of these measures.

Chapter 2
Approaches to Trade Protection Measures

2.1 Introduction

Trade protection measures refers to a deliberate and strategic approach adopted by a nation with the aim of regulating the inflow of imports while concurrently encouraging the outflow of exports, all for the overarching objective of fostering the growth and prosperity of its own economy in comparison to other economies. This policy is carefully crafted and implemented to exercise control over international trade dynamics by imposing various barriers, restrictions, and regulations that limit the entry of foreign goods into the domestic market, while simultaneously incentivizing and supporting domestic industries to enhance their competitiveness in the global marketplace. By leveraging protective measures, such as tariffs, quotas, subsidies, and non-tariff barriers, governments seek to shield domestic industries from foreign competition, thereby nurturing their growth, safeguarding employment opportunities, preserving national security interests, and ensuring the overall well-being of the country's economy.

2.2 Types of Trade Protection Instruments

Tariff and non-tariff measures are two broad categories of trade protection policy. Tariff, also called customs duties, are taxes imposed on goods and services when they are imported or exported. They are charges applied at the border when goods move between different customs territories. Non-Tariffs contain other forms than tariff, such as quotas, subsidies, and standardization.

2.2.1 Import Tariffs

Generally, import tariffs may be specific, a fixed monetary tax per physical unit of the good imported or Ad valorem Tariff- This tariff is levied as a constant percentage of the monetary value of one unit of the imported good. Many countries use the following duties as a means of trade protection measures.

1. Anti-Dumping Duty- Duty Levied against goods being sold at an unfairly low price
2. Countervailing Duty- Duty levied to offset subsidies by the exporting country
3. Safeguard Measures- Emergency measures to limit imports temporarily

Other forms of tariffs are as follows:

1. Mixed Tariff
2. Compound Tariff or a Compound Duty
3. Technical/other Tariff
4. Tariff Rate Quotas

5. Most Favoured Nations Tariffs
6. Variable Tariff
7. Preferential Tariff
8. Bound Tariff
9. Applied Tariff
10. Prohibitive Tariff

2.2.2 Non-tariff Measures in Trade

The impact of traditional trade policies, namely tariffs, and quotas, in limiting market access has significantly diminished. Tariffs imposed on international trade have experienced a gradual reduction due to progressive liberalization efforts led by the General Agreement on Tariffs and Trade (GATT)/World Trade Organization (WTO) and subsequent regional and bilateral preferential trade agreements. The declining significance of tariffs in facilitating market access can also be attributed to the implementation of special and differential treatment frameworks such as the UNCTAD generalized tariff preferences, along with various preferential schemes designed for countries with the greatest need. The limited success of tariff liberalization alone in enabling genuine market access has drawn increased attention to non-tariff measures (NTMs) as key factors that impede market entry.

UNCTAD, in partnership with the Multi-Agency Support Team, played a leading role in identifying and categorizing Non-Tariff Measures (NTMs) by developing a common language for shared understanding and data collection.[7] In 2012, the Team developed a taxonomy of NTMs, which has since been revised to reflect changes in international trade and data collection requirements. The most recent revision was carried out by the Team from 2016 to 2019, resulting in the latest edition of the International Classification of Non-Tariff Measures, which has been approved by the United Nations Statistical Commission.[8] Since the 1990s, UNCTAD has been leading international efforts to collect data on NTMs. The intention of this report is not to concur that NTMs impede trade, but to emphasize that NTMs have direct and indirect linkage to sustainable development. The direct linkage has an immediate effect on sustainability as they are aimed at primarily addressing issues related to the goals, such as food, nutrition, and health. The indirect linkage means that trade costs increase and as a consequence, this may impair economic development and indirectly hamper sustainable development. Therefore, good policymaking requires finding a balance between reducing trade costs related to NTMs (Indirect effects) and achieving public policy goals through NTMs (direct effects).[9]

Globally, MAST's international classification of NTMs is the standard classification for NTMs in goods used by the international trade community, including regional and international

[7] UNCTAD. MAST Group. Link accessible here.

[8] UNCTAD. (2019). *International classification of non-tariff measures*. UN.

[9] Trade, U. E. (2019). Asia- Pacific Trade and Investment Report. 2019, Navigating Non-tariff measures towards Sustainable Development.

organizations. The MAST team comprises eight international organizations: Food and Agriculture Organization of the United Nations, International Monetary Fund, International Trade Centre, Organization for Economic Cooperation and Development, United Nations Conference on Trade and Development, United Nations Industrial Development Organization, World Bank, and World Trade Organization.[10]

The definition used by UNCTAD for NTM is:
"Non- Tariff measures (NTMs) are policy measures other than tariffs that can potentially have an economic effect on international trade in goods. They are increasingly shaping trade, influencing who trades what and how much. For exporters, importers, and policymakers, NTMs represent a major challenge. Though many NTMs aim primarily at protecting public health or the environment, they also substantially affect trade through information compliance and procedural costs."[11]

A research by the Asian Development Bank (ABD) and the South Asian Sub regional Economic Cooperation (SASEC)[12], suggests that despite commendable work by the SASEC program, trade has concentrated with only India and stagnated at less than 1%, if India is excluded. Non-tariff measures (NTMs) are considered to be one of the primary reasons. Furthermore, the report points out that the institutional gaps, deviation from International Practices, infrastructure gaps, and overall poor national quality infrastructure have overshadowed Nepal's performance in the international market. Additionally, the report also identifies that for every potential Nepal has for export to India, there is an equal presence of SPS and TBT incidence.

The NTMs can be classified as followed to reflect the requirement of importing countries, with the exception of measures imposed on exports by the exporting country:[13] The following table shows the various forms of import-related non-tariff measures for trade protection over the countries.

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[10]Ibid 7

[11] UNCTAD. Non-tariff measures. Link accessible here.

[12]Zhongming, Z., Linong, L., Xiaona, Y., Zhang Wangqiang, and Liu Wei. Potential Exports and Nontariff Barriers to Trade: Nepal National Study.

[13] UNCTAD. (2013). Non-tariff measures to trade: economic and policy issues for developing countries. *Developing countries in International Trade Studies.*

Table:1 Non-Tariff Measures

Technical Measures	SPS measures
	TBT
	Pre-shipment infection and other formalities
Non-technical Measures	Contingent trade-protective measures
	Non-automatic import licensing, quotas, prohibitions, quantity-control measures and other restrictions not including SPS measures or measures relating to TBT
	Price-control measures, including additional taxes and charges
	Finance measures
	Measures affecting competition
	Trade-related investment measures
	Distribution restrictions
	Restrictions on post-sales services
	Subsidies and other forms of support
	Government procurement restrictions
	Intellectual property
	Rules of origin

Source: UNCTAD document, 2022

The non-tariff measures program by UNCTAD aims to enhance transparency and facilitate the development of effective regulations.[14]

2.3 Understanding of Non-Tariff Barriers and Measures

Non-tariff measures (NTMs) are often perceived negatively, even in informed policy circles. It is not uncommon to hear the term "barrier" used when referring to policy instruments that are intended to protect the health of human, animal, or plant populations in a country. However, using such terminology may be inappropriate if the purpose of the regulation is to certify the health quality of a product rather than to influence trade. This seemingly innocuous misnomer can undermine the significance of quality in shaping trade relationships, potentially resulting in deep political misunderstandings and eventual mistrust among trade partners.

There is a need for a more precise and systematic understanding of non-tariff measures (NTMs) that impact trade flows. This requires a better grasp of the effects of these measures on prices and quantities of traded goods. Quotas are expected to impede the exchange of affected goods by increasing import prices and reducing imported quantities. In contrast, sanitary and phytosanitary

[14] UNCTAD. (2022). *Non- Tariff Measures from A to Z.* UN.

measures (SPS) are primarily intended to protect the health of human, animal, and plant populations, rather than to influence imports or exports. The implementation of SPS measures may have some trade effects, but these are not necessarily negative. For example, consumers may respond favourably to measures that ensure product quality by increasing their demand for the affected products, which could have a positive impact on imports that comply with the new regulations. As a result, both import prices and quantities may increase, and the perceived "barrier effect" may no longer be present.

An effective understanding of the relationship between non-tariff measures and sustainable development necessitates distinguishing between indirect and direct linkages. Indirect linkages suggest that non-tariff measures affect trade, which can contribute to economic development and subsequently have a beneficial impact on sustainable development. Direct linkages, on the other hand, refer to policies that directly influence sustainability. While many policies primarily aim to protect the health or the environment, they also impact trade and are thus considered non-tariff measures.

Chapter 3
Review of International and Regional Trade Agreement

3.1 WTO and Nepal

3.1.1 Background

Nepal pursued membership in the World Trade Organization (WTO) for several years, with its initial aspiration dating back to May 1989. In September 2003, the fifth Ministerial Conference of the WTO in Cancun approved Nepal's accession to the WTO and offered membership. The World Trade Organization (WTO) is founded on the general principle of promoting freer and more predictable trade while eliminating discrimination and ensuring that it benefits less developed countries. The foundation of the multilateral trading system is based on several essential principles. These include the notion of trade without discrimination, which involves treating all trading partners equally. This is embodied in the Most-Favoured Nation (MFN) principle, which stipulates that any tariff reduction granted to one country must also be extended to all countries in the General Agreement on Tariffs and Trade (GATT).

Another important principle is national treatment, which requires countries to treat foreign and domestic products equally once they have crossed the border and entered the market. The WTO also seeks to promote freer trade through gradual negotiations aimed at reducing trade barriers and ensuring predictability by establishing binding commitments that provide stability and widen business opportunities. In addition, the WTO is committed to promoting fair competition by establishing a system of rules dedicated to open, fair, and undistorted competition.

Finally, the WTO aims to encourage development and economic reform and provides special assistance and trade concessions for developing countries. The organization recognizes the need for flexibility in its agreements, in order to take into account, the different levels of development among its members and to promote balanced economic growth. Between 1948 and 1994, the General Agreement on Tariffs and Trade (GATT) presided over eight multilateral liberalization rounds. Initially, the focus of several of these rounds was on reducing tariffs, with non-tariff barriers and other issues not being introduced until the Tokyo Round. The results of negotiations on these issues were incorporated into several binding "codes," which applied only to the contracting parties who signed a particular code. Nine codes were developed, covering areas such as subsidies and countervailing measures, technical barriers to trade, government procurement, customs valuation, anti-dumping, and trade in civil aircraft.

The longest round to date was the Uruguay Round, which took place from 1986 to 1994. This round introduced negotiations on 15 subjects, including three new areas: agriculture, services, and intellectual property. Through these negotiations, the Uruguay Round aimed to achieve a more comprehensive and integrated approach to trade liberalization, and to address issues related to trade in the modern global economy.

3.1.2 Challenges

3.1.2.1 Overview of Sanitary and Phytosanitary Measures and Technical Barriers to Trade

a. Sanitary and Phytosanitary Measures

The WTO's SPS Agreement permits member countries to establish their own food safety, animal health, and plant health standards. However, these standards must be grounded in scientific evidence and employed solely to the degree necessary to safeguard human, animal, or plant life or health. Additionally, they should not discriminate arbitrarily or unjustifiably between countries with identical or similar circumstances.

While member countries are encouraged to adhere to international standards, guidelines, and recommendations, they may implement more stringent levels of protection if such measures are scientifically justified or based on appropriate risk assessments. The SPS Agreement also authorizes countries to employ distinct methods of control, inspection, and approval procedures to verify conformity with adopted standards. Ensuring the transparency of SPS regulations is an essential provision for preventing needless trade barriers.

One of the definitions of SPS is: to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins, or disease-causing organisms in foods, beverages, or feedstuffs. However, understanding that this provision might be unfair for countries with limited capacity, Article 11 makes provision for “Special and Differential Treatment” taking into account, in particular, the least developed country members. This provision includes longer timeframes for compliance in the wake of appropriate levels of sanitary and phytosanitary protection and the new emergence of its kind. Exporters have raised concerns regarding the challenges encountered in adhering to the protective measures, to the extent that they have opted to discontinue exporting to the designated destinations.

The Agreement on the Application of Sanitary and Phytosanitary Measures outlines fundamental guidelines governing food safety and the preservation of animal and plant health, which governments must abide by to maintain safety standards while avoiding excessive protectionism for domestic producers. This ensures that health and safety regulations are not used as a pretext to safeguard domestic interests while compromising the safety of food. Understanding the limitations of developing countries, Article 10 states that the members need to take into account the special needs of developing country Members, particularly of the least developed countries.

b. Technical Barriers to Trade

The Technical Barriers to Trade (TBT) Agreement was established to promote a fair trading system by ensuring that technical regulations, standards, and procedures for conformity assessment do not discriminate against any member and do not create unnecessary obstacles to trade.[15] Nonetheless, it acknowledges the right of WTO members to implement measures to achieve lawful policy objectives, such as protecting human health and safety and preserving the environment. To facilitate trade, the TBT Agreement strongly encourages members to rely on international standards. Moreover, it endeavours to establish a consistent trading environment through its transparency provisions. Understanding that Developing countries may face institutional and infrastructural challenges in implementing technical regulations, standards, and conformity assessment procedures. The Committee on Technical Barriers to Trade can grant, upon request, time-limited exceptions in whole or in part from obligations under this Agreement to ensure compliance by developing countries. When considering such requests, the Committee takes into account the developing country's special needs, technological development stage, and least-developed country Members' particular issues. However, assistance as such is rarely sought, and countries prefer to trade with those members where the restriction is slightly liberal.

The Ninth Triennial Review Process started on October 2020. Some of the major thematic discussions were on:

- Good Regulatory Practice (GRP) where members discussed the topic of domestic committees, and other administrative mechanisms, to facilitate internal coordination on TBT
- Regulatory Cooperation Between Members where members discussed encouraging regulatory compatibility and cooperation
- Technical Regulations
- Conformity Assessment Procedures
- Standards
- Transparency
- Technical Assistance

According to a discussion paper by SAWTEE and CUTS-CITEE,[16] the implementation of Sanitary and Phytosanitary (SPS), and technical Barriers to trade (TBT) measures in developing countries require a significant amount of resources to meet the strict criteria established by developed countries. The Codex Alimentarius Commission, the Office of International Epizootics, and the

[15] Technical Barriers to Trade agreement. WTO. (1995)

[16] Karki, T. B. (2002). *Sanitary and phytosanitary (SPS) measures in SAARC countries*. South Asia Watch on Trade, Economics, and Environment & CUTS Centre for International Trade, Economics & Environment [Jaipur].

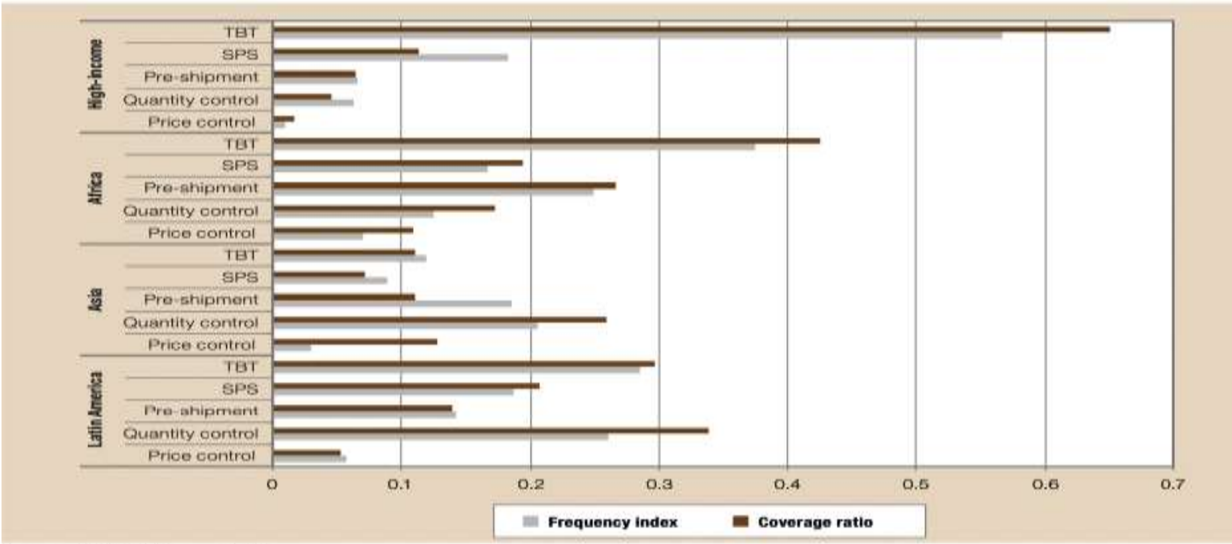
International Plant Protection Convention are international organizations that actively participate in the development of global standards, guidelines, and recommendations. In this context, developing countries are relegated to the role of standard takers, while developed countries act as standard-setters. Ultimately, this dynamic leaves developing countries at a disadvantage due to the stringent SPS measures established by developed countries. A UN report shows that for almost every potential export in India, there is an equal incidence of SPS- TBT incidence.

For instance, a report published by FAO stated that Nepal is confronted with the challenge of having to send its tea to Kolkata for food testing in order to meet the required standards, resulting in significant costs in terms of time, finances, and management[17]. A proposal for the establishment of a joint quarantine laboratory or a mutual recognition agreement between Indian and Nepalese food laboratories has been pending for some time, and urgent action is necessary. The report published by the FAO dates back to 2010, however, the situation has remained unchanged. A tea expert has reported that containers carrying tea are halted at the Kakarbhitta checkpoint on Nepal's eastern border due to the lack of quality certification.[18] The absence of a laboratory in Nepal capable of issuing such certification is the reason for this problem. Consequently, the tea-laden trucks remain stranded at the border for several weeks while samples are transported to Kolkata, India for laboratory testing.

The inadequate availability of appropriate testing facilities has increased the risk of the importation of unnecessary and potentially harmful goods, including consumables that may pose a threat to human health. Reports have emerged recently indicating that fresh vegetables and other consumables being imported are being inspected to ensure they meet quality standards. However, due to the limitations and inefficiencies of the testing laboratories, no measures have been taken to prevent their importation.

[17]Thapa, Y. B. (2004). Commodity case study-tea. *FAO, the implications of the WTO memberhsip on the Nepalese Agriculture*, 222-240.
[18]Rajbansi, A. (2023). Nepal's tea industry going through tough times. *The Kathmandu Post.* Link accessible here.

Fig 1: Frequency Index and Coverage Ratio for High-income countries, Africa, Asia and Latin America



Source: UNCTAD secretariat.

The above figure shows that despite all the provisions made by the aforementioned agreements, high-income countries still have stringent non-tariff measures that are making export difficult for non-high-income countries. Therefore, this research will bring together different stakeholders in order to identify the products that face such barriers in the international market while exploring potential means of protection for the domestic market in order to reduce the inflow of unnecessary imports.

c. Commitment

As an active member of the World Trade Organization (WTO), Nepal has become a party to all agreements under the WTO framework, enabling it to engage in trade with the organization's 164 other member nations based on established WTO rules. These rules serve as a comprehensive framework for governing international trade, fostering fairness, transparency, and predictability in commercial exchanges. In addition to adhering to the general principles and regulations of the WTO, Nepal is also obligated to accept and abide by the specific rules outlined in various agreements, including the Sanitary and Phytosanitary (SPS) Agreement and the Technical Barriers to Trade (TBT) Agreement. These agreements play a critical role in setting standards for ensuring food safety and product safety, respectively. By maintaining WTO membership, Nepal demonstrates its commitment to upholding these internationally recognized standards, thereby ensuring the safety of its products and compliance with global requirements.
The overview of agreements is as follows:

- General Agreement on Tariffs and Trade (GATT)
- General Agreement on Trade in Services (GATS)
- General Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- Agreement on Agriculture

- Agreement on Sanitary and Phytosanitary (SPS)Measures
- Agreement on Textile and Clothing
- Agreement on Technical Barriers to Trade (TBT)
- Agreement on Trade-Related Investment Measures (TRIMS)
- Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement)
- Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (Customs Valuation Agreement)
- Agreement on Pre-Shipment Inspection (PSI)
- Agreement on Rules of Origin
- Agreement on Import Licensing Procedures
- Agreement on Subsidies and Countervailing Measures
- Agreement on Safeguards

The WTO commitments made by Nepal for customs tax rates on agricultural and non-agricultural goods indicate an average rate of 26.1 percent[19], while the current usage of these rates stands at 12.2 percent. This indicates a potential for Nepal to increase its revenue mobilization by 13.9 percent. Furthermore, Nepal's commitment rate for customs tax on agricultural goods stands at 41.1 percent. Therefore, Nepal has the potential to utilize an additional 26.2 percent of the level playing field in its world trade system, however, this is a missed opportunity.

Upon comparison of Nepal's average customs tax rates with those of its South Asian neighbours, it is observed that the tax rate on agricultural products is higher in Bhutan, India, and Sri Lanka, while Bangladesh imposes a lower rate, and Pakistan and Maldives levy slightly lower rates than Nepal. Conversely, for non-agricultural goods, India, Bangladesh, Pakistan, Bhutan, and Maldives have higher average tax rates than Nepal, with Sri Lanka being the only country to impose a lower average customs duty rate. Specifically, the average tax rates for non-agricultural goods are 11.9%, 13.4%, 11.9%, 18.9%, and 13.3% for India, Bangladesh, Pakistan, Bhutan, and Maldives, respectively. On the other hand, Sri Lanka imposes an average customs duty rate of 6.4%, which is lower than Nepal.

3.2 Nepal and SAFTA

The South Asia Free Trade Agreement (SAFTA) was established using a variety of tools, including the Trade Liberalization Programme, Rules of Origin, Institutional Arrangements, Consultations and Dispute Settlement Procedures, Safeguard Measures, and other mutually agreed upon instruments. According to the SAFTA Agreement, the Non-Least Developed Contracting States must reduce their existing tariff rates to 20% within two years from the Agreement's coming into force. They are encouraged to implement reductions in equal annual instalments. If the actual tariff

[19]WTO. (n.d.). Tariff profiles: Nepal. Retrieved fromhere.

rates are already below 20%, an annual reduction of 10% on actual tariff rates will be implemented for each of the two years.[20]

The Least Developed Contracting States must reduce their existing tariff rates to 30% within two years from the Agreement's coming into force. If the actual tariff rates are already below 30%, an annual reduction of 5% on actual tariff rates will be implemented for each of the two years.

After the initial reduction, the Non-Least Developed Contracting States must further reduce their tariff rates from 20% or below to 0-5% within a second time frame of 5 years, except for Sri Lanka, which has 6 years. They are encouraged to adopt reductions in equal annual instalments, not less than 15% annually.

Similarly, the Least Developed Contracting States must further reduce their tariff rates from 30% or below to 0-5% within a second time frame of 8 years. They are encouraged to adopt reductions in equal annual instalments, not less than 10% annually.

It is important to note that Contracting States are not restricted by the above schedules of tariff reductions and may immediately reduce their tariffs to 0-5% or follow an accelerated schedule of tariff reduction.

3.2.1 Challenges

Nepal's membership in the South Asian Free Trade Area (SAFTA) was motivated by a significant objective of enhancing its export potential to the Rest of South Asia (RSA) and, consequently, augmenting the scope of geographic export diversification. However, the data imported from the Ministry of Industry, Commerce, and Supplies depicts that, except for India, the RSA has not even made it to the top ten destinations for export or import.

Table 2: Major Trading Partners of Nepal (Exports) in billion Rs

S.N	Countries/Region	F.Y. 2078/79 (Shrwan-Baishakh)	F.Y. 2079/80 (Shrwan-Baishakh)	% Change
		(2021/22)	(2022/23)	in value
1	India	137.18	91.15	-33.6
2	United States	14.29	15.59	9.1
3	Germany	3.39	3.42	0.8
4	United Kingdom	2.6	2.67	2.6
5	Turkey	3.04	1.63	-46.3
6	Canada	0.93	1.56	67.6
7	France	1.4	1.48	6.1

[20] Agreement on South Asian Free Trade Area (SAFTA), 2006.

8	China	0.67	1.35	100.6
9	Australia	0.94	1.28	35.9
10	Japan	0.87	1.14	30.8

Table 3: Major Trading Partners of Nepal (Exports) in billion Rs.

S.N	Countries/Region	F.Y. 2078/79 (Shrawan-Baishakh)	F.Y. 2079/80 (Shrawan-Baishakh)	% Change
		(2021/22)	(2022/23)	in value
1	India	995.23	844.53	-15.1
2	China	226.87	179.22	-21
3	Indonesia	43.74	35.65	-18.5
4	United Arab Emirates	40	28.33	-29.2
5	Argentina	34.41	21.54	-37.4
6	Malaysia	15.04	20.82	38.4
7	Australia	21.38	16.85	-21.2
8	United States	42.47	16.31	-61.6
9	Ukraine	20.41	16.02	-21.5
10	Qatar	2.71	12.54	362.6

Source: Trade and Export Promotion Centre, Kathmandu

SAFTA critics claim that the agreement's effectiveness is limited due to minimal intra-member trade, while the majority of significant trade partners are located in Western regions. Although the Treaty grants greater flexibility to Least Developed Countries (LDCs) in determining the number of products in their sensitive lists, a significant flaw of the Treaty is its lack of explicit commitment to phasing out the negative list or eliminating non-tariff barriers (NTBs), and it does not set specific time limits for these actions. The Treaty only stipulates that the negative list should be periodically reviewed every four years with the aim of reducing the number of items. Furthermore, concerns arise regarding the extensive length of the negative lists, which contradicts the provision stated in Article XXIV of the General Agreement on Tariffs and Trade (GATT), emphasizing the need for a free trade area to encompass a substantial portion of trade.[21]

Moreover, a recently published report by the Ministry of Finance has highlighted that Nepal has suffered a significant loss in revenue due to its participation in SAFTA. In addition to this, other countries in the agreement also get the same facilities as Nepal in the Indian market which has led to a "preferential erosion" of the special facilities enjoyed by Nepal in the past[22]. The loss accumulated for Nepal in terms of tax revenue has been increasing. This depicts that the SAFTA

[21] Raihan, S. (2008). SAFTA and the Bangladesh economy: Assessments of potential implications. *Dhaka, Bangladesh: South Asian Network on Economic Modeling (SANEM), SANEM Discussion Paper*, (3).

[22] Government of Nepal. Ministry of Finance. Revenue Advisory Committee (2021). *Trade agreement and its impact on revenue.*

has not been leveraged to improve the condition of trade in Nepal, on the contrary, Nepal is also facing significant revenue losses due to this agreement. Furthermore, Nepal is facing pressure from its trade partners to reduce the extensive list of sensitive goods within the framework of SAFTA. The insistence on reduction is particularly prominent among countries like Bangladesh, India, and Pakistan. Furthermore, it was observed that India has listed 3,783 six-digit items in its sensitive list, accounting for 65% of Nepal's overall international trade. Given this scenario, it is crucial for Nepal to conduct a comprehensive analysis before making any decisions regarding modifications to the sensitive list. However, there has been a lack of concrete studies conducted in this regard thus far.

Chapter 4
Review of Bilateral Trade Agreements and Trade Protection Measures in Neighbouring Countries

4.1 Nepal and India

It has been long argued that the Trade Treaty with India renewed in 2002 was less liberal than the one signed in 1996 (Nath, 2004).[23] There were 12 articles included in the 1996 treaty, along with various protocols that were associated with each of these articles. The 2002 agreement essentially meant the continuation of the 12 Articles and Protocols to Articles I, II, II, IV, and VI, with revisions made to Article V and a new protocol to Article IX. A report published by the South Asian Watch on Trade, Economics, and Environment (2011), summarizes the restrictive provisions that have “diluted the duty-free provisions for Nepali products. The report issues concern the requirement to fulfil the twin criteria of 30 percent value addition and change in tariff heading at the four-digit level of Harmonized Commodities Description and Coding System (HS) for the products to be eligible for preferential market access. There is a Tariff-rate quota for four major products of export interest to Nepal with zero duty treatment provided for in-quota items. Nepal is required to submit the criteria applied to RoO on an annual basis.

The 1996 version of the trade treaty was liberal because it took into account Nepal’s supply side constraint as the most crucial element was the duty and quota-free access to Nepali manufacturers, without respect to the origin of raw material inputs in the production process as far as some local value added in manufacturing was concerned. This means that between 1995/96 and 2001/02, the quantity of exports increased significantly by 7.6 times, whereas the growth rate of imports during the same period was much slower at 2.3 times. The nature of exports also underwent a noticeable change, as there was a shift in the types of goods being exported from primary goods to manufactured goods. In other words, the economy produced and exported more manufactured goods than before, which likely contributed to the increase in the quantity of exports.[24]

The revision also imposed quantitative restrictions on manufactured items which alongside the RoO has not only affected exports but also erected a barrier to potential exportable goods. This also raises a question of reciprocity as there is no provision that states that Indian goods have to also fulfil any RoO to gain preferential access to the Nepali market.

[23] Nath, V. (2004). Nepal-India trade treaty and WTO compatibility. *The Implications of the WTO Membership on the Nepalese Agriculture. Nepal: FAO: UNDP and Ministry of Agriculture and Cooperatives*.
[24] Ibid

4.2 Trade Protections Measures Adopted by India

4.2.1 Anti-Dumping Measures

In India, the Directorate General of Trade Remedies (DGTR) serves as a quasi-judicial entity entrusted with the task of conducting impartial investigations and providing recommendations to the Central Government in relation to trade remedial measures. These measures primarily encompass anti-dumping, countervailing duties, and safeguard measures. As the sole national authority responsible for administering these measures, the DGTR operates as an attached office of the Department of Commerce, which falls under the purview of the Ministry of Commerce and Industry.

The DGTR was originally established in 1997 and underwent restructuring in 2018 to enhance its effectiveness and efficiency. This restructuring aimed at creating a professionally integrated organization capable of addressing the complex trade issues prevalent in the Indian market. Consequently, the DGTR comprises officers hailing from diverse services and specializations, thus facilitating a multidisciplinary approach to its functioning.

The primary objective of the DGTR is to safeguard the interests of the domestic industry and protect it from unfair trade practices. By conducting thorough investigations, the DGTR assesses the impact of dumping (i.e., selling goods below their fair value), subsidies, and sudden import surges on the domestic market. Based on its findings, the DGTR formulates recommendations that inform the central Government's decision-making process on trade remedial measures.

Since its inception, the DGTR has conducted a significant number of investigations. Specifically, it has undertaken 486 anti-dumping investigations, 20 countervailing duty investigations, and 10 safeguard investigations in India. These investigations aim to ascertain the presence of unfair trade practices and provide remedies to mitigate their adverse effects on domestic industries[25].

Through its comprehensive investigations and recommendations, the DGTR plays a crucial role in promoting fair trade practices, ensuring a level playing field for domestic industries, and protecting the interests of the Indian economy.

4.2.2 Non-Tariff Measures (SPS measures)

India implements import prohibitions primarily based on health and safety considerations. These prohibitions persist for certain products, including wild animal meat and offal, tallow fat, animal rennet, and unprocessed ivory. In addition to these existing restrictions, India has also introduced import prohibitions on shark fins, reptile leather, and fur skin since the last review. While many of these restrictions are applicable regardless of the country of origin, some import prohibitions are

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[25] Government of India. Department of Commerce. Directorate of Trade General. *Anti-Dumping Cases*. Link accessible here.

specific to certain countries. Notably, imports of milk and milk products from China have been prohibited since 2015 due to health-related concerns[26].

4.2.3 Imports Subject to minimum import prices (MIP)

Certain goods, encompassing 48 tariff lines at the eight-digit level of the Harmonized System (HS), are subject to import prohibitions based on their import price. These imports are prohibited or restricted if their cost, insurance, and freight (c.i.f.) price falls below the minimum import price (MIP). The imposition of MIPs is justified by authorities as a measure to safeguard domestic growers/farmers and their livelihoods. The determination of which products should be subjected to MIPs is made by line ministries. India frequently employs MIPs for certain industries after investigation, like the steel industry[27], in order to safeguard the domestic steel sector from the adverse impacts of predatory pricing strategies employed by foreign steel importers. India has also employed MIP measure in the case of black pepper, wherein the government set a fixed CIF value of (IC)Rs. 500/- per kg as the minimum import price for black pepper through a notification issued by the Directorate General of Foreign Trade (DGFT) on 6th December 2017[28]. This measure aimed to curb the inflow of imported pepper and maintain stability in the domestic pepper market. Furthermore, a subsequent amendment was introduced through a DGFT notification on 21st March 2018, which allowed the import of pepper at or above Rs. 500/- per kg without restrictions, while prohibiting imports below the aforementioned price threshold.

Table 4: Pepper Imports in India

Year	Quantity
2015-16	19365
2016-17	20265
2017-18	29650
2018-19 (Estimate)	24950

Source: DGCI&S Kolkata/DLI from Customs

The implementation of the Minimum Import Price (MIP) for black pepper has proven effective in mitigating the significant decline in pepper prices and curbing the volume of imports. According to estimates, the import of pepper into India witnessed a notable decrease from 29,650 Metric Tons in the year 2017-18 to 24,950 Metric Tons in the year 2018-19, reflecting a decline of approximately 15.9%.

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[26] Notification No.1/2015-2020, 23 April 2019.

[27] Government of India. (2016). Ministry of Steel. Press Information Bureau. *MIP Scheme for Steel Industry*. Link accessible here.

[28] Government of India. (2019). Ministry of Commerce & Industry. Press Information Bureau. Import and production of Pepper. Link accessible here.

4.2.4 Tariff Rate Quota

India maintains both Most Favoured Nation (MFN) and preferential Tariff Rate Quotas (TRQs) in its trade policies. Presently, TRQs are upheld for various products, including Vegetable fats, Zinc Oxide, Acrylic Yarn, and Copper products from Nepal as per the bilateral trade agreement between Nepal and India[29].

4.2.5 Duty Exemption Schemes

Exporters benefit from duty exemption/remission schemes, which enable them to import inputs without paying customs duties or other related charges. These schemes, implemented by the DGFT during the period 2015-20, include the Advance Authorisation (AA) Scheme, the Duty-Free Import Authorisation (DFIA) Scheme, and the Duty Drawback (DBK) Scheme, which serves as a duty remission scheme[30].

Under the AA Scheme, inputs used in exports can be imported without incurring customs duties or other import charges. A Special Advance Authorisation Scheme exists specifically for apparel and clothing accessories (HS 61 – HS 62), allowing the duty-free import of fabric for export purposes, while other inputs are not eligible for duty exemption.

Similarly, the DFIA Scheme permits duty-free import of inputs for producing exports, subject to meeting minimum value-addition requirements. The DGFT has the authority to exclude certain products from the scope of the DFIA Scheme through the issuance of a Public Notice. For instance, specific drugs procured from unregistered sources are excluded from the scheme.

4.2.6 Transport and Marketing Assistance

In 2019, India implemented the Transport and Marketing Assistance (TMA) Scheme, which was initially effective from 1 March 2019 to 31 March 2020 but has been extended. This scheme aims to provide financial assistance for the transportation and commercialization of agricultural products in specific export markets. Under the TMA Scheme, exporters receive reimbursement for a portion of their freight charges. The amount of reimbursement varies based on the export destination and ranges from INR 700 to INR 3,500 per tonne, subject to periodic adjustments[31].

Participation in the TMA Scheme requires exporters to be registered. The scheme covers all agricultural products (HS Chapters 1 to 24), with a few exceptions. Exporters must utilize ports that utilize the Electronic Data Exchange system for their exports to be eligible for the scheme benefits.

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[29] Government of India and Government of Nepal (2009). Treaty of Trade between the Government of India and the Government of Nepal. Ministry of Commerce and Industry, Government of India. Link accessible here.

[30] For more information on this specific Scheme, refer to paragraph 4.04 of the FTP (2015-2021).

[31] World Trade Organization. (2021). Trade Policy Review: India.

4.2.7 Massive Subsidy to the Agricultural Sector

India's explicit subsidies remain primarily focused on providing support to the agricultural sector, ensuring food security, and alleviating poverty. Consequently, food and fertilizer subsidies constituted the majority (71%) of explicit subsidies in the fiscal year 2020-21. Food subsidies encompass various components, including the subsidy allocated to the Food Corporation of India (FCI) under the National Food Security Act (NFSA), the subsidy for decentralized procurement of food grains under NFSA, and the sugar subsidy granted within the framework of the Public Distribution System[32].

4.2.8 TBT

Significant amendments were made to the standardization legislation with the enactment of the Bureau of Indian Standards (BIS) Act, 2016, which replaced the BIS Act, 1986[33], and came into effect in 2017. The introduction of the new BIS Act brought about several changes, including:

1. Introduction of multiple conformity assessment schemes, allowing for self-declaration of conformity.
2. Authorization of agencies, other than BIS, by the Central Government to assess conformity for mandatory certification.
3. Empowerment of the Central Government to mandate certification for any product.
4. Implementation of mandatory hallmarking for gold and silver.
5. Introduction of additional consumer protection measures.
6. Expansion of measures to take action against non-compliance with Indian standards, applicable to retailers, individuals, manufacturers, and companies.
7. Enactment of more stringent penal provisions.

4.3 Nepal and China

The Trade and Payments Agreement between Nepal and China has been an active pact since 1981. The agreement facilitates and permits the use of a multitude of trading points for the transportation of goods between Nepal and China.

In March 2016, Nepal and China signed the Transit and Transport Agreement, which has further bolstered their trade relationship. Under this agreement, Nepal has been granted access to utilize Chinese ports for conducting third-country trade. The agreement has been hailed as a significant milestone in Nepal's trade relations, providing an alternative to India's ports that Nepal had been relying on for transit trade.

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[32] Ibid

[33] BIS, *Annual Report 2017-18*. Department of Consumer Affairs, *Bureau of Indian Standards*. Viewed at: https://consumeraffairs.nic.in/organisation-and- units/division/bureau-indian-standards; Press Information Bureau, *Bureau of Indian Standards (BIS) Act 2016 brought into force with effect from 12th October, 2017*.

Moreover, China's decision to grant zero-tariff access to over 8000 Nepali products in May 2010 was a significant step in promoting greater trade cooperation between the two countries. This decision has provided Nepali producers with increased market access to China and has helped reduce the trade imbalance that had previously favoured China. This move has also been beneficial in promoting Nepal's economic growth and development, while simultaneously strengthening bilateral trade ties between the two nations.

4.4 Trade Protection Measures Adopted by China

4.4.1 Trade Remedy Measures

As of December 2020, China had enforced 113 definitive anti-dumping measures, affecting imports from 16 countries or territories. The European Union was treated as a single entity when these measures were applied to all member states. Notably, imports from the United States were subject to the highest number of anti-dumping measures, followed by Japan, the European Union, and the Republic of Korea. This trend has remained consistent with previous years. Additionally, China's countervailing investigations and the corresponding measures in force have maintained a relatively frequent[34].

4.4.2 Import Prohibitions

Starting from January 1, 2021, China implemented a complete prohibition on the importation of all solid waste products, discontinuing the previous system that allowed imports of specific waste under licensing conditions. These waste materials were categorized in the Catalogue of Restrictive Solid Waste (which could be used as raw materials) and the Catalogue of Non-restrictive Solid Waste. Concerns regarding China's measures restricting and prohibiting solid waste imports were raised in the WTO Committee on Import Licensing by various countries including the European Union, the United States, Canada, the Republic of Korea, Australia, and Japan during the review period. These concerns encompassed issues such as the global recycling processing capacity and the apparent disparity in applying bans and contaminant standards to domestically sourced solid wastes. China was urged to enhance transparency by notifying both current and planned measures and to consider less trade-restrictive alternatives. In response, China highlighted the pollution issues within the country and the importance of minimizing the adverse effects of solid waste. However, certain recycling materials such as brass, iron-steel materials, copper and cast aluminium alloys may be imported if they meet the required standards[35].

4.4.3 Import Licensing Requirements

China's import licensing system uses two types of licenses: automatic and non-automatic. Automatic licenses are granted for most goods, while non-automatic licenses are required for

[34] World Trade Organization. (2021). Trade Policy Review: China.
[35] Ibid

certain goods, such as dual-use substances. Import licenses are also used to allocate Tariff Rate Quotas (TRQs), which are limits on the quantity of certain goods that can be imported into China.

The majority of import licensing requirements in China are concentrated in two HS sections: 17 (transport equipment) and 3 (animal/vegetable fats and oils). These sections include goods that are considered to be sensitive or strategic, such as aircraft, weapons, and oilseeds.

The import licensing system in China is used to protect national security, public interest, and comply with relevant international agreements. It also helps to ensure that the Chinese government has control over the import of certain goods.

4.5 Nepal and Bangladesh

The General Trade Agreement, also known as the "Trade & Payment Agreement," serves as the foundation for bilateral trade between Bangladesh and Nepal. The Trade and Payments and Transit Agreements with Protocol was signed in Kathmandu on April 2, 1976, with immediate effect. Article II of the treaty states that the “two contracting parties shall accord each other the most favoured nation treatment in respect of issue of license, custom formalities, custom duties and other taxes, storage and handling charges, fees and charges of any kind levied on export and import of goods to be exchanged between the two countries.” There are ongoing discussions concerning certain bilateral trade agreements. Specifically, Bangladesh has put forth a proposition for a comprehensive trade agreement with Nepal since 2018. Nepal's request pertains to obtaining duty-free market access for 76 different goods, whereas Bangladesh is advocating for preferential treatment for 42 distinct goods.

4.6 Trade Protection Measures adopted by Bangladesh

4.6.1 Tariff Protection

Tariff protection varies significantly across sectors, with agricultural products having an average tariff of 18.1% and non-agricultural products having an average tariff of 14.1% (according to WTO definitions)[36]. Tariffs remain high for goods in which Bangladesh should be competitive. Within the agricultural sector, the highest average tariffs are observed for beverages, spirits, tobacco, sugars, confectionery (25%), dairy (23.1%), coffee and tea (22.9%), and fruits, vegetables, and plants (21.3%). In the manufacturing sector, clothing has the highest tariffs (24.5%), followed by fish and fishery products (23.8%) and textiles (19.4%), which are essential inputs for the Ready-Made Garment (RMG) industry.

Around 53% of tariff lines are subject to rates of 10% or below, while 25% rates apply to 45.5% of tariff items. Additionally, 4.6% of tariff lines are duty-free and impact various products such as

[36]World Trade Organization. (2021). Trade Policy Review: Bangladesh

wheat, onions, pulses, edible oils, seeds, fertilizers, medicines, and cotton. These tariff differentials create competition distortions by favouring certain industries.

4.6.2 Regulatory Duty

Bangladesh imposes a regulatory duty (RD) on imports, including preferential imports, to make up for the gradual reduction in customs duties and generate revenue. The RD is applied to a wide range of tariff lines, with the majority taxed at a rate of 3%, except for those with higher MFN customs duty rates. Certain items have specific RD rates based on their classification, such as chassis fitted with engines exceeding 4,000 cc, which incurs varying percentages of RD along with a 1% landing charge. In the past, the RD rate was 5% for goods subject to a 25% customs duty, excluding those with concessional rates.

In addition to the RD, imported goods in Bangladesh are also subject to other taxes, including value-added tax (VAT), supplementary duty (SD), advance trade VAT (limited to commercial importers), and advance income tax. When all these charges are combined, the average total tax incidence (TTI) on imports is 59.3%, with a wide range of rates reaching as high as 845.6% for specific products like semi-finished iron or non-alloy steel[37].

[37] Ibid

Chapter 5
Observation, Findings and Analysis

5.1 Key Informant Interviews (KII)

A set of questionnaires were developed to gather the information and ideas from trade experts about the trade protection measures in Nepal. The detailed information about the respondents for this KII are shown in Annex-1. Based on the responses from the experts from different sector, findings drawn from them are generalized as below.

National Tea and Coffee Development Board

The tea industry plays a significant role in Nepal's economy, with the production of Orthodox tea being a prominent sector. The NTCDB has successfully established trademarks and registrations to enhance the marketability of Nepalese orthodox tea in key international markets. Despite possessing the "Collective Quality Trademark" and "Nepal Tea Quality from the Himalayas" registrations in the United States and India, the NTCDB has encountered SPS-related issues that hinder the export of their products.

The export of tea in the international market faces several major obstacles that significantly impact its success. One of the primary challenges is quality control, which encompasses inconsistencies in quality standards across importing countries and the lack of harmonization in grading and certification systems. This creates difficulties for exporters in meeting diverse international requirements. Additionally, limited adherence to internationally recognized quality standards and inadequate infrastructure for quality control and certification processes hinder the ability to consistently deliver high-quality tea products. Another significant obstacle is the constraints faced in testing and testing lab facilities. The limited availability of accredited laboratories for comprehensive testing poses a challenge in ensuring tea quality and safety. Furthermore, a shortage of technical expertise in conducting quality assessments further impedes exporters' ability to comply with international standards.

In addition to quality-related challenges, the high shipping and transportation costs associated with exporting tea pose significant hurdles. The landlocked geography of some tea-producing regions, combined with the distance from major ports, leads to logistical inefficiencies and increased costs in transporting tea to international markets. Moreover, the industry grapples with challenges such as inefficient logistics and supply chain management, as well as the burden of high freight charges and insurance costs. The implementation of Sanitary and Phytosanitary (SPS) measures presents another substantial obstacle. Non-tariff barriers and compliance requirements related to SPS standards vary across countries, creating complexities for exporters. Meeting these requirements demands additional resources and efforts, impacting the competitiveness of tea in the international market. It is also important to note that the export subsidy of 8 percent, although meaningful is not implemented in practice.

Nepal Agricultural Federation

Nepal has faced challenges in exporting its products due to various issues, including the need for quality certification standards, verification of test reports, and the lack of efficient sanitary and phytosanitary (SPS) measures for agricultural products like *"rayo Saag,"* mustard greens, which is not listed in quarantine. This legal obstacle creates difficulties in exporting the approved product, causing trade disruptions. Furthermore, India utilizes SPS measures as a tool to discourage the import of Nepali products unless it specifically requires livestock products. SPS measures also vary for tea, livestock products, and seasonal vegetables when traded with India. During the peak season, Nepal's vegetable products are more expensive than those in India, resulting in reduced vegetable exports due to higher costs. However, during the off-season, the cost of production for Nepali vegetables is comparatively lower, leading to higher flows of exports to India. India imposes major SPS measures such as quality weight verification certification, technical barriers to trade (TBT), and other diverse standards against Nepali agricultural products.

Nepal has a long-standing relationship with China, particularly regarding the export of products such as oranges, mangoes, and butter. China has shown considerable interest in these products; however, they require an Insects-Free Zone certificate, which serves as an important sanitary and phytosanitary (SPS) measure. This certificate ensures that the exported products are free from harmful insects and pests. Conversely, there have been instances where Nepali livestock products have been refused by China due to the presence of Foot-and-Mouth Disease (FMD), an animal health issue. Such instances highlight the significance of complying with SPS requirements when exporting agricultural and livestock products to China.

When it comes to foreign products, fulfilling all the necessary requirements and quality measures for export to India can be challenging. This difficulty arises due to the open border between Nepal and India, as well as the influence of buyers and the favourable facilities provided by the Indian government for the export and production of agro-products. Consequently, Indian products become cheaper compared to Nepali products, despite potential differences in quality. As a result, Nepali farmers find it difficult to match the level of government facilitation provided in India, both in terms of production and supply of agricultural products. This discrepancy in support leads to a rise in the cost of production for Nepali farmers, making it harder for them to compete with Indian products in terms of pricing.

The heavy import of agro-products can be attributed to the combination of low domestic production and high demand in Nepal. However, there are several issues related to quality standard measures and certification in Nepal. These issues include the lack of advanced testing technology, provisions for testing, availability of skilled human resources for testing, and limited knowledge regarding pesticide usage.

Due to the self-interest of Indian private business owners, Nepali traders, and the growing demand for agro-products, there are instances where certification agencies may fail to enforce strict standards consistently. This inconsistency in certification processes may occur from time to time. Additionally, in the case of herbal products, Nepal lacks the necessary tools, technology, and human resources to effectively measure and certify the quality of these products. This further adds to the challenges faced in ensuring consistent quality standards for herbal products in the Nepali market.

Textile industry

In the garment industry, the import process is relatively easier compared to exporting goods from Nepal. To address this issue, adopting Non-Tariff Measures (NTMs) policies can be a potential solution. By implementing NTMs, the complexity of importing garments can be increased while facilitating easier export processes. Furthermore, the main challenge for Nepali garment exports lies in logistics. Improving and streamlining logistics operations is crucial to reducing export barriers. This includes enhancing transportation infrastructure, optimizing supply chain management, and ensuring efficient customs clearance procedures. In addition, there is a need for stronger governmental initiatives to support and promote garment exports. The government should actively engage in creating favourable policies, providing financial incentives, and facilitating market access for Nepali garment products. This can involve establishing export promotion agencies, offering export-related training and support programs, and engaging in trade negotiations to expand market opportunities for Nepali garment exports. Furthermore, the absence of a floor price has negatively impacted small-scale industries, while the government's failure to conduct value chain analyses for both raw material imports and imported final goods has further hindered their development.

Veterinary Standards and Drug Regulatory Laboratory and TEPC

The quality of food delivery poses a significant challenge that acts as a substantial trade barrier for Nepali product exports. Similarly, exporting dog and cat food from Nepal to Europe is challenging as EU member countries have rejected products like "chupri" due to animal disease concerns. Similarly, India has reduced its imports of Animal bone mill due to Foot-and-Mouth Disease (FMD) concerns. To overcome these obstacles, Nepal should establish and maintain a FMD-free zone by vaccinating animals and meeting international standards, ensuring compliance for exporting goods to these regions. Although quarantine facilities and laboratories are present, there is limited availability of labs and a shortage of qualified human resources.

Plant Quarantine and Pesticide Management Centre

The senior plant protection officer for plant and pesticide quarantine highlighted several key issues and challenges in Nepal's quarantine facilities and procedures. Credibility issues with certificates, lack of emphasis on product quality, and mis-certification of foreign products with Nepalese certificates of origin were noted. Additional challenges include inadequate treatment facilities, limited operational capabilities of laboratories, and infrastructural shortages. In terms of imported goods, customs dominance, inadequate quarantine offices, and release of consignments without proper processes were identified. While there are 40 main and 131 sub custom offices serving as entry points throughout the country, only 15 quarantine offices are available for plant quarantine regulation. As a result, consignments often get released without undergoing necessary quarantine processes in entry points where dedicated quarantine offices are absent. Insufficient treatment facilities and capacity for Methyl Bromide Fumigation pose challenges, as evidenced by noncompliance notifications and issues such as returned consignments from Australia and inability to export Bet from Sudurpaschim Province to India. Existing laboratories face difficulties due to a lack of an organogram and necessary human resources. The government's oversight of essential provisions in phytosanitary regulations adds to the challenges. Nepal Agriculture Research Council and associated institutions are not mandated for quarantine research. These factors collectively contribute to limitations in quarantine facilities and procedures, while hindering effective processes for imported goods. The proposed Central Phytosanitary and Diagnostic Laboratory remains non-operational due to resource and organizational constraints.

Department of Food Technology and Quality Control (DFTQC)

Insufficiency in human resources and limited availability of laboratory equipment within the divisions of the Department of Food Technology and Quality Control (DFTQC) present notable challenges. The dearth of adequately trained personnel and essential laboratory facilities impedes the division's capacity to effectively carry out quality control and testing activities.

The scarcity of skilled human resources in the DFTQC divisions curtails their ability to manage the growing demands and intricacies associated with ensuring food safety and quality. This shortage of personnel not only affects the division's capability to conduct comprehensive inspections and examinations but also hampers its capacity to enforce pertinent regulations and standards. Notably, it has been observed that only screening tests are conducted at the customs points near the border, while other divisions of the DFTQC lack sufficient skilled human resources and the necessary equipment to consistently perform pesticide screening on a large volume of samples. At present, only two groups of pesticides are being screened. Furthermore, inadequate allocation of resources, such as division vehicles, has resulted in division officers having to conduct investigations using their personal or public transportation. Capacity strengthening of divisions in the provinces is also necessary by adding inspection tools and expanding the lab according to their specific need assessment.

5.2 Case Study: Footwear Industry

The footwear industry in Nepal is a significant contributor to the country's economy, employing over 55,000 people and producing an estimated sixty million pairs of shoes annually. The industry is not only focused on the domestic market but also exports its products to international markets.

The industry has emerged as a significant export sector, providing employment opportunities for a considerable portion of the population, particularly women. Despite its relatively recent inception, footwear manufacturing has become a source of livelihood for more than 30 percent of female workers. One notable aspect of the industry is the production of footwear made from natural fibres or felt, which has contributed to expanding employment opportunities specifically for women. The Nepalese footwear market exhibits a commendable commitment to environmental sustainability. The industry's minimal impact on the environment sets it apart from many other manufacturing sectors. A substantial number of footwear manufacturers in Nepal focus on producing leather-based shoes, employing traditional production methods. This approach not only upholds cultural heritage but also aligns with sustainable practices.

The utilization of natural fibres or felt in footwear production showcases the industry's dedication to eco-friendliness. These materials are often biodegradable and sourced from renewable resources, further reducing the ecological footprint of the sector. By adopting such practices, the Nepalese footwear market demonstrates its conscientiousness towards environmental preservation. Moreover, the employment opportunities generated by the footwear industry have significant implications for women's empowerment and socio-economic development. The sector plays a crucial role in promoting gender equality by providing a substantial number of jobs for women. This fosters economic independence and enhances the overall socio-economic status of women in Nepal.

In order to further develop and expand the footwear industry in Nepal, it is essential to provide support to the industry in the form of infrastructure, training, and access to markets. This will help to ensure that the industry is able to compete on a global scale and create even more jobs for Nepalese. The government has a responsibility to support the footwear industry in Nepal. The Footwear Manufacturer's Association of Nepal (FMAN) has outlined a number of grievances and expectations that they hold from the concerned authority. By providing the necessary support, the government can help to create jobs, boost the economy, and promote Nepali exports.

Some basic details about the footwear industry can be observed in the following table, the data is retrieved from a study conducted by FMAN in 2074 BS:

Table 5: Footwear Industry Profile

	Amount in (NRs)
No of Footwear Industries	Estimated to be around 1500
Domestic Market Coverage	60%
Capacity of shoe production	3/worker
Capacity Utilization of the	35%

industries	
Areas of concentration	Kathmandu, Biratnagar, Birgunj, Butwal, and Bhairawa
Production Capacity (Annually)	160 Million pairs
Investment	Estimated to be above 30 Billion
Bank loan	Estimated to be above 4 Billion
Export Capacity	Estimated to be above 50 Million
Origin of the workers	70% workers from India with an estimated salary of above 40,000/ month
% of raw materials imported	65-70%

Table 6: Imported Custom Tariff Rate of Shoes FY 2076-2077

Range of Valuation	Qty in pairs	Percentage	Custom Rate	Import Revenue
Below Rs. 100	5,23,292	2.37	30%	2,13,92,958
Rs. 101-200	99,10,097	44.86	30%	82,35,95,255
Rs. 201-400	1,14,53,354	51.85	30%	1,60,62,44,218
Above Rs. 401	2,02,019	0.91	30%	5,22,32,080
Total	2,20,88,762	100		2,50,34,64,511

Table 7: Imported Custom Tariff Rate of Shoes FY 2077-78

Range of Valuation	Qty in Pairs	Percentage	Custom Rate	Import Revenue
Below Rs. 100	1,18,45,308	28.79	30%	14,14,83,737
Rs. 101-200	1,55,94,364	37.90	30%	1,09,99,98,819
Rs. 201-400	1,14,88,637	27.92	30%	1,38,76,48,718
Above Rs. 401	22,17,802	5.39	30%	49,98,94,303
Total	4,11,46,111	100		3,12,90,25,577

Table 8: Imported Custom Tariff Rate of Shoes FY 2078-79

Range of Valuation	Qty in Pairs	Percentage	Import Value	Perce ntage	Import Revenue	Perce ntage	Cutom Rate Upto
Below Rs. 100	128431	0.49	7410652	0.1	3613404	0.09	30%
101-200	754507	2.9	108720798	1.4	53653699	1.41	30%
Rs. 201-400	19326257	74.37	4807483325	61.9	2382007458	62.59	30%
Above Rs. 401	5777968	22.23	2842993007	36.61	1366190337	35.9	30%
Total	25987163	100	7766607782	100	3805464898	100	

Table 9: Imported Custom Tariff Rate of Shoes FY 2079-80, First Six Months(Shrawan-Poush)

Range of Valuation	Qty in Pairs	Percentage	Import Value	Percentag e	Import Revenue	Percentage
Below Rs. 100	26350	0.24	2396293	0.06	1440141	0.06
101-200	66743	0.60	10418341	0.26	6375196	0.27
Rs. 201-500	8611042	76.90	2468372515	60.70	1498304711	64.11
Above Rs. 501	2493387	22.27	1585621837	38.99	830931075	35.55
Total	11197522	100	4066808986	100.00	2337051123	100.00

Table 10: Imported Custom Tariff Rate of Shoes (sole and Upper) FY 2079-80, First Six months(Shrawan-Poush)

Range of Valuation	Qty in Pairs	Percentage	Import Value	Percentage	Import Revenue	Percentage
Below Rs 100	5776205	71.74	271419178	53.69	81823357	58.41
Rs101-200	2275794	28.26	234131813	46.31	58252280	41.59
Total	8051999	100.00	505550991	100.00	140075637	100.00

Source: Department of Customs, Ministry of Finance, Government of Nepal

The above data raises the following concerns:

1. It can be seen that import value of most shows is below 400
2. Expensive shoes are missing from the data
3. The domestic cost of a pair of shoes estimated to be around Rs. 1000 is valued at less than Rs. 400 and even though it is issued through LC and TT.

Major Problems in the Footwear Industry

5.2.1 Absence of Trade Protection Instruments as MIP

Trade protection measures have served as a significant instrument in India's strategy to safeguard its highly competitive export sectors. These measures have been employed to shield domestic industries from foreign competition and promote their growth. Presently, the Federation of Manufacturers in India (FMAN) is advocating for government intervention to institute protective measures, thereby facilitating the advantages for domestic manufacturers in the marketplace. This demand by the FMAN underscores the significance of trade protection as a means to foster the growth and competitiveness of domestic industries.

5.2.2 Smuggling

The open border between Nepal and India has become a hotspot for organized smuggling activities, particularly in the theft and smuggling of shoes and slippers. Individuals involved in these activities exploit low-class locals to carry out their illicit operations. This has led to a concerning rise in theft incidents in the region. Near the border area of Nepal towards India, several large warehouses are suspected to be operating as hubs for smuggling. These warehouses serve as storage facilities where various groups and individuals smuggle goods into Nepal, hiding them in secret locations, and later distribute them throughout the country. The scale of this illegal trade is staggering, with an estimated 20 million pairs of shoes and slippers stolen annually, each valued at approximately Rs. 500. When considering the loss solely in terms of monetary value, the government is estimated to be losing an annual revenue of Rs. 5.82 billion. The repercussions of this widespread smuggling can be observed in almost every shoe shop, where bootleg Indian shoes are readily available, highlighting the prevalence of this illegal trade in the market.

The illicit activities related to stolen shoes and slippers involve not only individuals but also businessmen from Nepal and India who are complicit in the theft. These businessmen exploit the government's oversight and deliver these stolen goods on credit to Nepali markets located near the border. By operating within the government mechanism, they can collect payments on credit, further fueling their profits. The availability of these stolen goods at attractive prices entices local shoe sellers, who are also driven to participate in the theft. In some instances, a significant quantity of shoes and slippers is even stolen from customs checkpoints, indicating a high level of organization and coordination within the smuggling groups. Alarmingly, rather than diminishing, these groups involved in large-scale smuggling are growing in number. It has become evident that collusion among individuals from various authorities and bodies is occurring within these groups, leading to a more complex and challenging situation for combating this illegal trade.
A revenue leakage of 10 Billion is projected for the FY 2079/80

Table 11: Projected Loss in Revenue due to smuggling

Projection	Amount in NRs
Revenue Loss	10 Arba
Average Consumption Per Capita	3 pairs
Total Demand	9.15 Crores
Cost Per Pair	500
Local Production	2.71 Crores
Imported	4 Crores
Supply Gap	2.41 Crores
Revenue Loss Calculation	7 Arba
Additional Revenue Loss (VAT, etc)	3 Arba

Presently, there is no mandatory requirement for imported shoes to display "Made for Nepal" or Maximum Retail Price (MRP) markings. This absence of compulsion means that imported footwear can enter the Nepalese market without explicitly indicating their origin or providing information regarding their maximum retail price. The lack of a "Made for Nepal" label on imported shoes raises concerns regarding transparency and consumer awareness. Furthermore, the absence of MRP markings on imported shoes deprives consumers of essential information about the maximum price at which the product should be sold. MRP serves as a standard guideline that helps prevent price manipulation and ensures fair pricing practices. Without MRP markings, there may be an increased risk of retailers charging arbitrary prices for imported footwear, potentially leading to unfair or inflated costs for consumers. Additionally, it is worth noting that there is currently no provision in place that mandates importers to open Letter of Credit (LC) for importing shoes into Nepal. The absence of this requirement has implications for the transparency and accountability of import transactions in the footwear industry as they serve as important financial instruments providing secure mechanism for ensuring payments to exporters while safeguarding the interests of importers.

5.2.3 Under-Billing

The issue of tax evasion and illicit trade practices in the footwear industry in Nepal has been a cause for concern. Traders have been found to intentionally understate the value of imported goods in order to evade customs duties and taxes, leading to reduced revenue collection. Additionally, deceptive practices such as declaring a smaller quantity of goods than what is actually being imported have also been detected. Occasional arrests and prosecutions have provided evidence of these fraudulent activities.

The Customs Department's import statistics support the claim of underreporting, revealing a significant disparity between the declared import value and the actual market value of the imported shoes. Through analysis of import data, market consumption, and domestic production, it becomes apparent that substantial under-billing is taking place.

The lack of adequate market opportunities, unhealthy competition, limited government support for marketing low-cost products, rising raw material prices, and increased production costs have severely impacted Nepali industries. As a result, local industries have struggled to operate at even half of their production capacity, ultimately leading to a state of collapse. Furthermore, industries that were once able to export footwear and sustain themselves are now facing closure due to a lack of government support, protection, digitization, and rampant tax evasion. This dire situation not only puts thousands of direct jobs at risk but also threatens the overall stability of the Nepali economy.

A significant portion of Nepal's footwear market, especially in relation to low-cost products, has been dominated by imports from India that benefit from reduced taxation and revenue evasion. This has created immense challenges for Nepali industries, exacerbating their already precarious state. Effective measures need to be taken, including comprehensive reforms, strengthened enforcement, and government support, to address these issues and safeguard the domestic footwear industry.

5.2.4 Impeded competitiveness through customs duty disparities

According to Chief of Staff to CMD and Corporate Affairs Head at Kiran Shoes Manufacturers Pvt. Ltd (Goldstar), there is an imperative need to establish fixed and effective policies while updating regulations accordingly. In the footwear industry, the custom duty on imported raw materials, such as chemicals, adhesives, TPU, and stiffener sheets, is charged at a rate of 30%, whereas the duty on semi-finished footwear stands at 15%. This discrepancy in duty rates creates an imbalance and poses challenges to the competitiveness of local manufacturers.

Furthermore, the implementation of antidumping laws is intended to prevent the export of goods to Nepal at prices below their normal value, which can cause significant harm to domestic industries. However, the absence of effective controls at the India-Nepal open border allows for the dumping of goods from India at prices lower than the combined 58% effective customs and VAT rate in Nepal. This disrupts the market and creates difficulties for local goods to compete with these illegal imports.

Additionally, countervailing measures such as duty drawbacks on raw material imports for manufacturers engaged in exports and cash incentives are advantageous for manufacturers. However, the associated procedures are often burdensome, and the timely receipt of incentives remains a challenge. Moreover, macroeconomic factors such as increasing bank interest rates, high electricity costs, and unfavourable exchange rates, along with global macroeconomic trends like rising raw material prices, further compound the difficulties faced by manufacturers in producing competitive products within Nepal.

In conclusion, expert's insights shed light on the pressing need for robust and updated policies, addressing disparities in custom duties and implementing effective controls to prevent illegal imports. Additionally, streamlining procedures for countervailing measures and mitigating the impact of macroeconomic factors are essential to enhance the competitiveness of the footwear manufacturing sector in Nepal.

5.2.5 Absence of Segregation between Manufacturers and Traders

The existing import duty structure for footwear does not demonstrate a clear segregation between charges imposed on manufacturers and traders. Consequently, this lack of differentiation fails to provide appropriate incentives for manufacturers who contribute significantly to the industry by offering employment opportunities, producing high-value-added goods, substituting imports, and promoting exports. As a result, manufacturers are not adequately rewarded with lower manufacturing costs compared to traders and companies that engage in less value-added production. The absence of clear segregation in import duties undermines the potential growth and competitiveness of manufacturers who make substantial contributions to the footwear sector.

The issue of segregation between manufacturers and traders extends beyond the footwear industry and also holds significance in the context of agricultural products, as emphasized by a representative of Nepal Agricultural Federation (NAF). The segregation between manufacturers and traders refers to the need to differentiate and establish distinct roles, responsibilities, and policies for these two entities within the agricultural sector. One of the primary reasons for advocating segregation is to provide appropriate support and incentives to manufacturers, such as farmers, who are engaged in agricultural production. Manufacturers play a vital role in ensuring food security, rural livelihoods, and overall economic development. They face various challenges, including access to resources, technology, market information, and fair prices for their products. By establishing clear segregation, policies can be tailored to address the specific needs of manufacturers, facilitating their growth and sustainability.

5.2.7 Trademark-Related Problems

The Goldstar brand has successfully registered multiple trademarks to protect its intellectual property rights in both India and Nepal. In India, they have secured seven trademarks under class 25, which covers footwear, clothing, headgear, and accessories, as well as one trademark under class 42. Similarly, in Nepal, the company has registered 41 trademarks under class 25 through Kiran Shoes Manufacturers and an additional 17 trademarks through Modern Slipper Industries Pvt. Ltd.

Over the span of 2008 to 2022, Goldstar has taken legal action by filing 30 cases in various states of India to address instances of trademark infringement. Regrettably, a significant portion of these cases, specifically ten of them, are still pending and unresolved. This prolonged legal process is concerning for the company as it leads to extended timelines and increased costs associated with trademark protection. Additionally, the requirement to travel to India for each court hearing poses operational challenges for Goldstar.

5.2.7 Limited Technological Advancements and Manpower Training in Nepal

The President of the Footwear Manufacturers Association of Nepal (FMAN) highlighted a concerning disparity in the productivity of Nepali workers compared to their counterparts in India and China. According to the remarks, on average, Nepali workers can produce only 3 pairs of shoes per day, whereas Indian workers can make 8 pairs and Chinese workers can produce 12 pairs.

This significant difference in productivity raises concerns about the competitiveness and efficiency of the Nepali footwear industry. The lower production output per worker not only affects the overall manufacturing capacity but also limits the ability to meet market demands and compete with international counterparts. One of the contributing factors to this productivity gap is the lack of a structured system for training workers and introducing modern technology in the footwear industry in Nepal. The absence of comprehensive training programs and skill development initiatives means that Nepali workers may not have access to the latest techniques, methodologies, and equipment utilized in the global footwear manufacturing sector. This knowledge and technology gap puts them at a disadvantage, as they are unable to leverage the benefits of modern manufacturing processes and advancements.

Moreover, the lack of investment in modern technology in the footwear industry hinders the potential for increased productivity and efficiency. The integration of advanced machinery, automation, and digital systems has the potential to streamline production processes, enhance precision and quality, and optimize resource utilization. However, without a systematic approach to adopting modern technology, the industry may struggle to keep pace with international standards and advancements.

5.3 Trade Protection in European Union

The European Union (EU) is a political and economic union of 27 member states that are located primarily in Europe. The EU operates through a system of supranational institutions and intergovernmental-negotiated decisions by the member states. It aims to bring about the coordination of member states' economic policies, a single market in which goods and people move freely, and common policies on trade, agriculture, fisheries, and regional development[38].

The EU does a wide range of things, including:

- Promoting economic integration: The EU has created a single market where goods, services, capital, and people can move freely across member countries. This has led to increased trade and economic growth. This involves harmonizing regulations, removing trade barriers, and promoting fair competition.
- Implementing common policies: The EU develops and implements common policies in various areas, such as agriculture, fisheries, and regional development. These policies help to ensure that member states have a level playing field and that they work together to achieve common goals. The EU develops and implements common policies in various areas. For example, it has a Common Agricultural Policy (CAP) to support farmers and ensure food security, a Common Fisheries Policy (CFP) to manage fishing resources, and a Regional Policy to reduce economic disparities between regions.
- Protecting consumer rights and ensuring safety standards: The EU implements regulations and standards to protect consumer rights, ensure product safety, and safeguard public health and the environment. This includes initiatives related to food safety, product labelling, data protection, and environmental sustainability.

The European Union addresses unfair trade practices by employing Trade Defence Instruments (TDIs). The task of conducting investigations to ascertain the presence of subsidies or dumping, the resulting harm to European industries, and the potential implications of such actions for the overall EU economy falls under the responsibility of the European Commission. In the event that all legal requirements are fulfilled, the commission enforces duties or other relevant measures through the implementation of regulations. Furthermore, the commission provides assistance to European industries in anti-dumping or anti-subsidy investigations initiated by external nations. A report published by the European Court of Auditors[39], concluded that the Commission was successful as an enforcer of trade defence policy. As a participant in the WTO, the EU upholds its dedication to an open and rule-based system of international trade. However, in cases where third countries engage in unfair trade practices that violate WTO regulations, such as the provision of subsidies or engaging in dumping, the EU safeguards its industries through the utilization of TDIs. These TDIs serve as mechanisms to counteract and mitigate the adverse effects of such unfair practices on EU industries.

38 Directorate-General for communication (European Commission). (2022). The European Union. *What it is and what it does.*

39 European Court of Auditors. (2020). Special Report: Trade Defence Instruments - EU protection of its economic interests faces challenges.

Within the WTO membership, the EU demonstrates proactive engagement with TDIs, comprising 6.5% of all implemented measures. Over the 2014-2018 timeframe, the European Commission initiated an average of 13 new anti-dumping (AD) or anti-subsidy (AS) investigations annually. As of the conclusion of 2018, a total of 133 AD or AS measures were in effect, predominantly targeting products originating from China[40]. 68% of EU's AD and AS measures were against China, while India also stood at 5%. The TD investigations were followed by:

- Ad valorem Duty: a percentage of the price of goods
- Specific Duty: a fixed amount per unit of goods
- Variable Duty/ Minimum Import Price: the difference between a defined import price and the foreign exporter's export price.
- Price Undertaking: the individual foreign exporter voluntarily commits to selling its goods at or above the minimum import price which is not made public.

The EU serves as a notable exemplar in establishing an equitable environment and safeguarding its domestic industry against foreign imports. Given the substantial imposition of dumping duties by the EU, particularly on China, which is a significant exporter for Nepal, it is imperative for Nepal to promptly initiate investigations and adopt TD instruments, drawing inspiration from the EU's best practices. This urgency stems from the recognition of the EU's successful implementation of TD measures, indicating the relevance and potential benefits of such actions for Nepal's economic interests.

5.4 Analysis of Current Situation

a) Policy Implemented with Inefficiency

The Key Informant Interviews (KIIs) consistently indicate that despite the legislation of SACA, its enforcement, and implementation have been significantly lacking. The Anti-Dumping Agreement is an agreement within the WTO that governs the application of anti-dumping measures by WTO Members. Anti-dumping measures are unilateral remedies that can be applied by a member after an investigation and determination that an imported product is "dumped" and that the dumped imports are causing material injury to a domestic industry. The AD Agreement sets forth certain substantive and procedural requirements that must be met in order to impose an anti-dumping measure. A failure to meet these requirements can be taken to dispute settlement and may result in the invalidation of the measure. The AD Agreement does not establish any discipline on dumping itself. In other words, the AD Agreement allows WTO Members to take action against imported products that are sold at a price below their fair market value if the imports are causing material injury to a domestic industry. However, the AD Agreement sets forth strict rules that must

[40] Ibid

be followed in order to impose anti-dumping measures. These rules are designed to ensure that anti-dumping measures are not used as a protectionist tool.

The Agreement on Subsidies and Countervailing Measures (SCM Agreement) is an agreement within the World Trade Organization (WTO) that disciplines the use of subsidies and regulates the actions countries can take to counter the effects of subsidies. The SCM Agreement defines two categories of subsidies: prohibited and actionable. Prohibited subsidies are those that are considered to be unfair and distortive to trade. Actionable subsidies are those that are not prohibited but can still be harmful to trade if they cause adverse effects on other countries. The SCM Agreement also sets out rules for how countries can respond to subsidized imports. Countries can either use the WTO's dispute settlement procedure to seek the withdrawal of the subsidy or the removal of its adverse effects or, they can launch their own investigation and ultimately charge extra duty (known as “countervailing duty”) on subsidized imports that are found to be hurting domestic producers. The SCM Agreement applies to both agricultural and industrial goods. However, there are some exemptions for agricultural goods under the Agriculture Agreement's “peace clause”. The SCM Agreement is designed to ensure that subsidies are used fairly and do not distort trade. It also provides countries with a means to respond to subsidized imports that are harming their domestic industries.

Finally, The Agreement on Safeguards (SG Agreement) is a trade agreement that allows countries to take temporary measures to protect their domestic industries from surges in imports. These measures can include quantitative import restrictions, such as quotas, or duty increases. To be eligible for safeguard measures, a country must show that the surge in imports has caused or is threatening to cause serious injury to its domestic industry. Serious injury is defined as a significant overall impairment in the position of the industry, including a decline in output, sales, profits, employment, or wages. The SG Agreement sets out a number of procedural requirements that countries must meet before they can take safeguard measures. These requirements include:

1. Conducting an investigation to determine whether the surge in imports has caused or is threatening to cause serious injury to the domestic industry.
2. Providing notice to other WTO members of the investigation and of any proposed safeguard measures.
3. Consulting with other WTO members before taking safeguard measures.
4. Limiting the duration of safeguard measures to a maximum of four years.

Based on the conducted Key Informant Interviews (KIIs), all respondents unanimously assert that the effectiveness of the Safeguards, Anti-dumping and countervailing Act 2076 (2019) (SACA) remains unproven to date. Expanding upon this research, a comparative analysis of the Anti-dumping measures between India and Nepal reveals a significant lag on Nepal's part. The implementation of the Anti-dumping act in Nepal only occurred in the year 2020, reflecting a comparatively recent initiation. One of the key experts states, “We have made our commitment to release our tariff and liberalize trade following the protocols and provisions of the WTO and SAFTA, therefore, there is already a bound limit set. For non-tariff measures, we do not have sufficient capacity to enforce NTMs. The trade remedy measures such as Safeguard, Countervailing, and Anti-Dumping, we have policies such as SACA, but we are not being able to enforce them effectively. Only the passage of law from the parliament is not sufficient for enforcement, this will require institutional capacity as well as human resources. For example: if we take the case of Anti-Dumping and Safeguard, we need to have the capacity to undergo a thorough analysis of the situation and there are many technical issues related to AD. AD investigation itself is a complicated task and according to our provision, this task is given to the Department of Commerce and Consumer Protection. The staff including the Directorate Generals are frequently changed and transferred and there is a question about the level of technical capacity within the department. We need to have a specialized group of people to work on this technical and complex matter. We have carried out legislation and created a necessary regime, but enforcement is still lagging."

One of the KII respondents stated that, "The safeguards are time bound and subject to appeals. Fixed and effective policies should be established, and regulations should be updated accordingly." Additionally, it has been reported that "Even though the act has been approved, there is no action plan for implementation. Therefore, due to a lack of action plan, there is no enforcement of the act."

In order to impose anti-dumping or countervailing duties, a government must first demonstrate that the unfairly traded goods have caused material injury to a domestic industry. Material injury is defined as a significant loss of sales, profits, or jobs. The government must also establish that the unfair trade practices are the primary cause of the injury. The rules for calculating normal and export prices, computing the differences, determining subsidy amounts, assessing the injury or impact of the unfair trade, and determining how long the punitive duties can last are all contained in the GATT and WTO agreements. These rules are complex and can be difficult to understand. However, they are designed to ensure that governments only impose anti-dumping or countervailing duties when they are necessary to protect domestic industries from unfair competition.

Here are some additional details about the rules governing anti-dumping and countervailing duties:

- Normal price: The normal price is the price at which a product is sold in the exporting country.
- Export price: The export price is the price at which a product is sold in the importing country.
- Margin of dumping: The margin of dumping is the difference between the normal price and the export price.

- Subsidy: A subsidy is a government payment that lowers the cost of production for a domestic industry.
- Injury: Injury is defined as a significant loss of sales, profits, or jobs.
- Causal link: The causal link is the relationship between the unfair trade practices and the injury.
- Punitive duties: Punitive duties are additional tariffs that are imposed on unfairly traded goods.

The GATT and WTO agreements also set out procedures for governments to follow when investigating allegations of unfair trade practices. These procedures are designed to ensure that governments make fair and impartial decisions.

Anti-dumping and countervailing duties are important tools that governments can use to protect domestic industries from unfair competition. However, these tools should be used sparingly and only when necessary. Governments should always consider the impact of these duties on consumers and businesses before imposing them. These duties also come with sunset clause that limits the duties to a certain period of time which means that there needs to be constant investigation to ensure if such unfair practices are being practiced again. Paragraph 5, section 17(2) of the SACA act states that an investigating officer shall be appointed to carry out investigations. Furthermore, paragraph 35(1) states that there shall be committee arranged for coordination and arrangement consisting of 9 members representing different ministries and departments. In comparison to Nepal's trading partner, Nepal lags significantly behind in terms of human resource capabilities and institutional capacity. Merely appointing an investigating officer may not be adequate to protect the domestic industry of the entire country. It is imperative to have dedicated personnel assigned to specific departments responsible for safeguarding, countervailing, and anti-dumping measures. This approach ensures the allocation of specialized individuals with distinct responsibilities and tasks related to each topic, thereby enhancing the effectiveness of trade protection mechanisms.

b) Inability to Penetrate the International Market

Nepal has encountered significant difficulties in attaining market access beyond its neighbouring country, India. While India poses its own set of challenges, expanding into other markets has proven to be equally formidable for Nepal. The country has faced barriers and limitations when attempting to enter and establish a foothold in various international markets.

These hurdles could stem from a variety of factors, including trade restrictions, regulatory frameworks, market preferences, cultural differences, and logistical complexities. The process of gaining market access involves navigating through intricate procedures, complying with stringent requirements, and meeting the specific demands of each target market. The impediments encompass both legislative and voluntary access requirements, where legislative requirements are obligatory, while voluntary requirements take the form of standards. Although voluntary in nature, these standards often function as de facto industry norms that are expected to be followed.

For instance, to enter the USA market, Nepal must comply with the legislative requirement set by the Consumer Product Safety Commission, which oversees children's footwear[41]. This includes limitations on lead content and phthalates. The lead content limit is set at 100 parts per million (ppm), and additionally, the use of paint or similar surface coatings on children's shoes must not exceed 90 ppm. Further requirements are stipulated under the Federal Hazardous Substances Act, Customs and Border Protection (CBP), the Environmental Protection Agency, and the Occupational Safety and Health Administration (OSHA).

In addition to legislative requirements, there are various voluntary requirements that Nepal needs to consider. These include standards such as F2232 for determining the longitudinal load required to detach high heels from footwear, F2412 and F2413 for foot protection, F2892 for soft toe protective footwear, and social accountability standards like ISO 26000, ILO standards, SA 8000, and OHSAS 18000, which address working conditions, health and safety, freedom of association, collective bargaining rights, working hours, compensation, management systems, and social accountability.

Despite the existence of the Nepal Bureau of Standards and Metrology, there is no guarantee that international standards, even those related to legislative requirements, are consistently met, let alone voluntary requirements. This highlights the need for Nepal to enhance its adherence to both legislative and voluntary requirements to effectively penetrate international markets.

c)Unawareness among Stakeholders

Case Study: Honey

The National Trade Integration Strategy of 2016 no longer prioritizes honey as a key product, but it is categorized under the "other export potential sector." One of the main obstacles hindering the export of honey is the issue of quality. According to key informant interviews conducted with officials from the Trade and Export Promotion Centre (TEPC), certain exporters have expressed their desire to export honey but have been unable to do so due to the Department of Food Technology and Quality Control's (DFTQC) refusal to issue labels confirming the honey's edibility. However, the DFTQC presents a different perspective on this matter. They argue that a trader cannot simply request the DFTQC to label honey as edible based solely on a sample. Instead, it is crucial to ensure that the production and processing methods align with the Hazard Analysis and Critical Control Points (HACCP) and International Organization for Standardization (ISO) principles. To achieve this, exporters should register their business, subject their products to

[41] Nepal in Data. (2017). Footwear from Nepal: Market Analysis and Market Strategy. Link accessible here.

periodic inspections by DFTQC, and ensure that their production practices are both ethical and traceable. Additionally, it is necessary to assess whether the product meets the requirements outlined by the Codex Alimentarius.

The above case study reflects:

1. Unawareness among exporters about SPS measures
2. Confusion among the government officials about the role of DFTQC
3. Underestimation of country-specific requirements to export honey

Despite Nepal adhering to Codex standards for honey export, it faces challenges in accessing the European Union (EU) market. Non-EU countries seeking to export "Products of Animal Origin," including honey, to the EU generally have two avenues to explore: qualifying for inclusion on the EU Third Country List, and/or meeting the EU's organic requirements and standards[42].

Both options necessitate the provision of a Health Certificate, which serves as an assurance that production and processing methods align with the Hazard Analysis and Critical Control Points (HACCP) and International Organization for Standardization (ISO) principles.

Option 2 can be seen as a viable solution specifically for the export of organic honey. However, certain importers who deal with organic products also insist on Third Country Listing as an additional measure to ensure compliance and mitigate risks, stating their preference for an extra layer of caution.

The import of animal-based products into EU countries is contingent upon Third Country Listing, serving as the foundational framework for import regulations. Unless a country is registered on this list, no product of animal origin, including those certified through alternative procedures like fair trade labelling (with the exception of organic certification), is permitted entry into EU countries. Non-EU nations such as Norway and Switzerland have also adopted the Third Country Listing system for their own import regulations.

Presently, Nepal is barred from exporting any animal-based products to the EU due to its absence from the Third Country List, coupled with a lack of an Approved Residue Monitoring Plan. Considering that the EU relies on imports for approximately 40% of its honey consumption, the EU market holds immense potential for Nepalese honey across various quality and price segments. However, tapping into this market necessitates meeting EU requirements, which calls for a unified approach among all stakeholders in Nepal's honey industry. Complying with the requirements of Third Country Listing not only facilitates access to the EU market but also enhances domestic health and consumer food safety mechanisms by establishing traceability instruments and international quality standards.

[42] Trade and Export Promotion Centre (TEPC). (2015). EU Third Country Listing for Nepali Honey. Link accessible here.

In 2008, Nepal's Department of Food Technology and Quality Control (DFTQC) submitted a Residue Monitoring Plan to the European Council and applied for inclusion in the Third Country List. However, the plan was not approved primarily due to inadequate infrastructure and insufficient laboratory facilities.

d) Unable to Catch the Opportunity

There are numerous avenues available for Nepal to employ both tariff and non-tariff measures (NTMs). Adhering to the guidelines established by the World Trade Organization (WTO), Nepal can utilize tariff rates to establish a level playing field, particularly in sectors where it possesses a competitive advantage. It is suggested that priority should be accorded to products with import substitution potential, granting them appropriate market access. Similarly, this study highlights the importance of facilitating market access for government-prioritized goods, even within Nepal. This approach could potentially reduce the need for imports. KII experts emphasize the significance of striking a balance between consumer rights and safeguarding domestic manufacturers, as disregarding either stakeholder could disrupt the supply chain.

e) Revival of Sick Industries

Clause 25 (A) of the Industrial Act[43] states that industries that have been suffering losses for five years in a row and running at less than 20 percent of capacity, are eligible to obtain the status of sick industry.

Government of Nepal has granted ten industries as sick industries in 2014.The industries are Nepal Boards Limited, Bara; Birat Leather Industries, Hetauda; Birat Shoe Industries, Kathmandu; Basulinga Sugar and General Industries, Kailali; Sumi Pharmaceuticals, Nawalparasi; Fluer Himalaya, Birgunj; Shree Antu Tea Industries, Ilam; Gaida Wildlife Camp, Chitwan; The Fulbari Resort, Pokhara and Dolphin Manor Hotel, Bardia.

The following trade protection measures can be adopted to revive the sick industries:

Safeguard duty: To ensure the preservation and viability of industries facing economic challenges, a strategy employed involves the imposition of temporary duties on imported goods that pose a significant competitive threat to the struggling sectors. This measure aims to safeguard the interests of the ailing industries by creating a temporary barrier against potentially adverse competition, providing them with an opportunity to recover and regain competitiveness within the market. Once the sick industries have successfully revived, it becomes feasible to consider the removal of safeguard duties. This subsequent course of action aligns with the objective of safeguard measures, which is to provide temporary protection and support to industries facing difficulties. The removal of safeguard duties signifies the restoration of normal trade conditions and reflects the recovery

[43] Government of Nepal. (1992). Ministry of Industry. *The Industrial Enterprises Act, 2049*

and regained competitiveness of the once-struggling industries. This process allows for a balanced approach, wherein safeguard measures are lifted upon the revitalization of the sick industries, enabling them to operate without the additional trade restrictions previously imposed.

Anti-dumping duty: A comprehensive examination of goods that bear resemblance to those produced by ailing industries can be conducted, leading to the potential imposition of anti-dumping duties. This measure aims to protect the struggling industries by countering unfair trade practices and shielding them from further losses. Anti-dumping duties act as a safeguard against the importation of goods at prices deemed to be below their fair market value, thereby mitigating the adverse impact of dumping on the domestic industries. By levying such duties, the government can create a level playing field, providing a temporary shield for the sick industries, and enabling them to recover and regain competitiveness within the market.

Local content requirements: Local content requirements involve imposing regulations that necessitate a specific proportion of product components to be sourced domestically. These requirements play a crucial role in fostering job creation within the domestic economy and providing support to domestic industries. For instance, to stimulate the utilization of Birat Leather, one of the sick industries, it should be proposed that shoes procured under the Nepali budget must originate from Nepal and utilize leather produced by Birat Leather. This directive aims to incentivize the consumption of domestically manufactured shoes, consequently bolstering the growth and advancement of the local shoe industry. Such a measure would lead to increased consumption of Nepalese products, safeguarding and expanding the domestic industry simultaneously. Import volumes would decrease, resulting in the creation of additional employment opportunities.

Imposition of MIP schemes: In order to facilitate the effective revival of the sick industries, it is crucial to implement robust monitoring mechanisms concerning import prices of goods that closely resemble those produced by the sick industries. Continual vigilance over the import prices of these industries will enable close scrutiny and assessment of competitive dynamics. In line with effective strategies implemented by India, the government should consider the implementation of Minimum Import Price (MIP) schemes for a limited duration. By adopting such schemes, the government aims to protect the domestic industries from excessive competition during their revival phase. Drawing inspiration from the Indian model, the MIP schemes would provide temporary measures to shield the sick industries from unfair competition and create a conducive environment for their recovery.

Subsidies: Subsidies encompass financial disbursements provided by the government to support domestic industries, aiming to enhance their competitiveness by mitigating cost burdens. While tax exemptions on machinery imports from the ailing industries exist as a form of support, it is imperative to maintain consistent monitoring to ensure optimal efficiency and desired outcomes. This diligent monitoring process ensures that the tax exemption provisions effectively contribute to the competitiveness and growth of the sick industries, thereby maximizing the intended benefits of these measures.

Quotas: Quotas are limits on the quantity of goods that can be imported. They can be used to restrict the amount of foreign competition that domestic industries face and encourage domestic production.

Chapter 6
Conclusion and Recommendation

6.1 Conclusion

This study has been conducted to recommend suggestions regarding the strategies that Nepal should adopt based on the trade protection measures used by Nepal's major trading partners and the experts' opinions on trade protection. In this study, the World Trade Organization (WTO), South Asian Free Trade Area (SAFTA) and Nepal's trade agreements with India, China and Bangladesh have been reviewed and analysed to determine the strategy Nepal should pursue in relation to trade protection within this scope. The trade protection measures currently being taken by Nepal's major trade partners serves as a significant basis for this analysis. This report has been prepared based on the analysis of studies published by the relevant ministries, departments and subordinate bodies of the Government of Nepal and views expressed by businesspeople involved in business and subject matter experts. Due to the bilateral and multilateral trade agreements made by Nepal in the past, there is no situation where the customs duty rate can be increased directly. However, there is a significant possibility to control imports through non-tariff measures. Nepal's major trading partners, such as India, China, Bangladesh, and the USA, are controlling imports through anti-dumping, countervailing and safeguards measures. The trade agreements have also opened provisions to protect the domestic industry through such measures.

It is observed that many countries of the world protect trade through tools such as subsidies on domestic production, quotas on the import of sensitive goods, health protection of humans, animals and plants (sanitary and phytosanitary) standards, and standardization, etc. In India, Subsidies have been given in agricultural production for fertilizers, seeds, irrigation, crop insurance, electricity, exports, infrastructure construction, bank credit and agricultural implements. As a result, the cost of production is reduced by 21 percent. In Japan, credit facilities are given to farmers to make the cost of agriculture production cheaper, while significant subsidies were also provided in China. Subsidies to farmers in countries within the European Union and restrictions on imports from other countries have been imposed. Countries like India and China control the import of agricultural and livestock products by maintaining quality standards (sanitary and phytosanitary standards). The import of Nepali tea has been obstructed in various countries due to insufficient quality, and in Europe, Nepali Churpi is now subject to control based on sanitary standards. The same standards are also hindering the export of pork meat to China. Every country maintains its own quality standards and requires quality certification as a non-tariff barrier."

At present, the most popular trade protection strategy employed by countries worldwide is the implementation of non-tariff measures. These measures include anti-dumping, countervailing, safeguard, and sanitary and phytosanitary measures. Anti-dumping duties are imposed when foreign goods are imported at prices lower than the market price, causing harm to the domestic industry. Anti-dumping duties are extensively applied in countries such as India, China, the USA, and the UK. For instance, India has imposed anti-dumping duties on imported jute from Nepal and Bangladesh. Following allegations by the Indian Jute Mill Association that Nepalese and Bangladeshi jute had caused damage to the domestic jute industry, anti-dumping duties ranging from $6.30 to $351.72 per ton have been levied since January 2017. Recently, this tax has been extended for 5 years. Similarly, anti-dumping duties were imposed on yarn imported from Nepal, Indonesia, China, and Vietnam in May 2020. The duties imposed on Nepal's polyester yarn were lifted in August 2021. Bangladesh also created transportation issues by imposing a non-tariff barrier on Nepali yarn. China initiated an anti-dumping duty on wine imported from Australia starting from 2020. Additionally, the United States and Great Britain are safeguarding their domestic industries from collapse by imposing anti-dumping duties on steel imported from China, which is significantly cheaper than the market price.

In Nepal, in the year 2076, the Ministry of Industry, Commerce, and Supplies implemented a law to establish provisions regarding safeguards, anti-dumping, and countervailing measures. According to these provisions, a 9-member committee, led by the secretary of the ministry, will serve as the implementing body. However, the procedures have not yet been determined and implemented. In neighbouring India, anti-dumping investigations and related taxes are carried out through the Directorate General of Trade Remedies 2018, which operates under the Ministry's Department. It is also evident in Nepal that a body related to Trade Remedies should be established within the department to work towards trade protection. There is a need to compile a list of sensitive goods and promote industries that can achieve self-sufficiency within Nepal. Import control can be achieved by imposing non-tariff measures on the import of such goods. Government agencies should raise public awareness to encourage the use of domestically produced goods that can meet the country's demand. By implementing sanitary and phytosanitary measures, Nepal can achieve self-sufficiency in products such as vegetables, fruits, wood, furniture, milk, fish, and meat. Additionally, increasing the production of items such as shoes, slippers, tea, zinc plates, paints, garments, textiles, and medicines can contribute to self-sufficiency. Nepal should apply anti-dumping and safeguard protection measures; just as other countries have imposed safeguards on the imports of Nepalese goods.

Nepal should prioritize the efficient augmentation of its capability to utilize trade protection measures. To bolster production capacity, it is imperative for the government to allocate subsidies to industries, bolster infrastructure development, and fortify its regulatory framework.

6.2 Suggestion for Trade Protection

In light of Nepal's existing state of domestic production, trade reliance on India, open borders, and its involvement in international trade agreements such as the WTO, SAFTA, and bilateral trade agreements, informed by global practices and direct engagements with experts, the ensuing recommendations are put forth pertaining to the strategy and prospective course of action that Nepal should pursue:

1. Due to the presence of the World Trade Organization, SAFTA, and bilateral trade agreements, Nepal has limited scope to exercise control over imports through direct customs taxes, except for certain limited and sensitive goods. As a result, several countries, including India, China, and the United States, currently employ non-tariff measures such as sanitary and phytosanitary regulations, anti-dumping measures, countervailing duties, safeguards, and quality standards. Nepal should consider adopting these trade protection measures as well.

2. It is imperative to establish a team comprising of proficient experts and technicians tasked with conducting comprehensive studies, collecting relevant data, conducting inspections, and implementing non-tariff taxes, such as anti-dumping, countervailing, and safeguards, on imported goods. Given the organizational structure in India, where the Director General of Trade Remedies oversees anti-dumping investigations, it is deemed essential to establish a Trade Remedies Branch within the department to assume responsibility for trade protection measures.

3. It is necessary to create a comprehensive inventory of products that can be domestically manufactured to meet the country's domestic demand, as well as items that are causing harm to the domestic industry due to imports. These items should be categorized as sensitive goods and given protection through measures such as support for infrastructure development, transportation and transit facilitation, production subsidies, and other forms of assistance.

4. Given the increasing prevalence of tax evasion and the consequent sale of imported goods at reduced prices through unrestricted borders, it is of paramount importance to augment market surveillance in order to address the prevailing challenge impeding the market penetration of domestically manufactured goods. To tackle this issue effectively, it becomes imperative to enforce obligatory labelling requirements for goods, encompassing details such as country and date of manufacture, producer's name and address, maximum retail price (MRP), and comprehensive information regarding ingredients utilized. Moreover, only goods that have duly settled customs duties should be permitted for circulation in the market.

5. In order to foster the growth of the domestic industry, it is essential to enforce a policy mandating that government entities prioritize the consumption of domestic products exclusively. Furthermore, conducting awareness programs in educational institutions, such as schools and colleges, to promote the utilization of Nepali products is imperative. Additionally, incentivizing private companies and financial institutions through tax concessions when they procure domestic products for official attire and other consumables should be considered.

6. To facilitate the marketing of domestic industries and products manufactured within the country, the government should provide subsidies for transportation. Additionally, the government should focus on developing supply chain mechanisms to enhance the efficiency and ease of distribution.

7. To address the issue of imported goods being sold at excessively low prices, the government should uphold quality standards and adopt minimum import price rule. Government should manage the required human resources, machinery, and tools to implement anti-dumping measures and regulatory duties on such items.

8. In order to facilitate cost reduction, it is advisable for the government to consider the adoption of a zero-customs duty policy on machinery employed in domestic production. Given the absence of tax disparity between raw materials and the final product, the emphasis has primarily been placed on importing the final goods. Therefore, it is recommended to undertake a comprehensive review of the prevailing tax rates by augmenting taxes on final goods, while concurrently adjusting the tax rate on raw materials in a commensurate manner.

9. The implementation of a regulation mandating the sale of at least 20 percent Nepali goods in supermarkets should be considered. Additionally, measures should be taken to control the import of goods without proper product trademarks and of substandard quality, in accordance with established quality standards.

10. A comprehensive assessment should be conducted on the market demand and the domestic production level of agricultural products, particularly vegetables, fruits, tea, milk, meat, and juices. In cases where domestic production sufficiently meets the demand, strict adherence to quality standards and sanitary and phytosanitary regulations should be enforced for imported goods. However, if the market demand surpasses domestic production, the government should provide assistance such as production subsidies and other forms of support to augment production levels.

11. The imports of domestically produced items such as shoes, slippers, zinc sheets, paints, garments, textiles, certain medicines, chips, kurkures, dalmoth, etc., should be regulated through the implementation of anti-dumping and safeguard measures.

12. To support the growth of vulnerable domestic industries industries such as sugar, soap, furniture, electric wire, and others, it is recommended to provide subsidies in areas such as credit, insurance, transportation, and production incentives. Additionally, tailored import quotas for these goods can significantly fortify the protection and progress of domestic production within these sectors.

13. There should be no custom duty on imported machinery used in exportable items such as shoes, garments, tea, cardamom, precious metals and ornaments. Additionally, the government should provide export subsidies and support in custom clearance, transportation, marketing and infrastructure construction of those exportable items.

14. Implementation of non-tariff measures requires adequate investigation, skilled personnel and a separate agency; it seems necessary for government agencies to increase their means, resources and capacity.

15. It is challenging to find skilled workers with a suitable work culture within the country to enhance the production capacity of domestic industries. As a result, many industries resort to importing workers from India at high costs. To address this issue, ministries and departments should facilitate industry-specific training programs. By doing so, it will not only contribute to increased employment opportunities but also foster industrial development.

Annex

Annex-1: List of organizations and people with whom KII was taken

S.N.	Name	Designation	Organizations
1	Mr. Buddhi Prasad Upadhyaya	Under Secretary	Ministry of Industry, Commerce and Supplies (MoICS)
2	Dr. Pradyumna Raj Pandey	Senior Agricultural Economist	Ministry of Agriculture and Livestock Development (MoALD)
3	Mr. Pursottam Ojha	Former Secretary	Ministry of Industry, Commerce and Supplies (MoICS)
4	Mr. Pawan Golyan	Chairman	Golyan Group, NYMA, NMB Bank
5	Mr. Rajendra Singh	Deputy Director	Trade and Export Promotion Centre (TEPC)
6	Mr. Chakrapani Acharya	Under Secretary	Ministry of Industry, Commerce and Supplies (MoICS)
7	Samik Shah		Nepal Carpet Manufacturer and Export Association
8	i) Mr. Ravi Kumar Prjapati ii) Mr. Rasmi Poudyal	Deputy Director Sr. Assistant	Confederation of Nepalese Industry
9	Mr. Rakesh Kumar Agrawal	FNCCI Board Member and MD	Arghakhanchi Cement LTD
10	Mr. Naniraj Ghimere	President	Footwear Manufacturer's Association of Nepal (FMAN)
11	Mr. Shiva Sundar Shrestha	President	Nepal Agricultural Federation (NAF)
12	Dr. Paras Kharel	Executive Director	South Asia Watch on Trade, Economics and Environment (SAWTEE)
13	Mr. Mohan Krishna Maharjan	Spokesperson	Department of Food Technology and Quality Control (DFTQC)
14	Dr. Deepak Khanal	Director	Nepal Tea and Coffee Development Board (NTCDB)

15	Ms. Sheetal Pandey	Chief of Staff to CMD, Corporate Affairs Head	Kiran Shoes Manufacturers Pvt. Ltd. (Goldstar)
16	Mr. Ganesh KC	Ex President	Nepal Agriculturul Federation (NAF)
17	Mr. Harihar Poudyal	Director	Custom Duty Tripureshwor
18	Dr. Mod Nath Gautam	Senior Veterinary Officer	Veterinary Standards and Drig Regulatory Laboratory
19	Mr. Krishna Raj Bajgain	Senior Officer	TEPC
20	Mr. Mahesh Chandra Acharya	Senior Plant and Protection Officer	Plant Quarantine and Pesticide Management Center
21	Mr. Sanjeev Kumar Thakur	Dierctor	Nepal Bureau of Standards and Metrology

Annex-2: List Questionnaires for KII

Key Informant Interviews (KII)

General KII

1. Non-Tariff Measures (NTM) such as Sanitary (food is safe for Human and Animal Health) and Phytosanitary(Policy for Plant Health) Measures (SPS) and Technical Barriers to Trade (TBT) can have a significant impact on the Least Developed Nations (LDCs), how does this translate in the scenario of Nepal?
2. Which countries pose a serious Trade Barrier threat for Nepali exports?
   Which goods are those?
3. Which countries pose a serious threat to unregulated and unwanted imports?
   Which goods are those?
4. Are importers and exporters aware of NTMs (Non-Tariff Measures)?
5. What are the major challenges associated with NTMs?
6. How can it be addressed?
7. Does Nepal meet international standards such as the ones stated in the Codex Alimentarius?=
8. For many goods, to name a few, soap, rosin and resin acid, textiles, and clothing, Nepal has no mandatory product requirements whereas the EU has certain chemical restrictions, soap is just one example, but there are so many examples of goods that do not face restrictions for import into the Nepali market, does this directly lead to an unnecessary inflow of unwanted goods?
9. How is the monitoring system of goods in Nepal?
10. Which agency does the conformity assessment in Nepal?
11. How can the import of unnecessary and unwanted goods be minimized if international protocols are followed?
12. What kind of measures should be taken to help strengthen the regulation of imports?
13. What kind of support do importers need from the government of Nepal?
14. What kind of support do exporters need from the government of Nepal?
15. In your opinion, what measures should be taken to control the import of unwanted items in Nepal?
16. What are the major policies that have followed by Nepal to test the quality of food for both fooding and feeding as the trade protection measures?
17. What will be the potential next policy that should be adopted by Nepal as a trade protection measure?
18. What are the challenge that have faced by Nepal to control the import of unwanted and unnecessary products?

Custom Duty Officers and FNCCI

1. What are the categories of goods that are allowed to enter Nepal without regulation, according to the existing import policies and regulations?
2. What are the goods that are facing high tariff rates as opposed to the limit set by bilateral agreements?
3. How is the Government of Nepal addressing these problems?
4. What are the trade protection measures adopted by Nepal? Is it satisfactory in your opinion, what more can be done?
5. A report by the Ministry of Finance has highlighted that Nepal has suffered a significant loss in revenue as a result of its participation in SAFTA. In addition to this, other countries in the agreement also get the same facilities as Nepal in the Indian market which has led to a “preferential erosion” of the special facilities enjoyed by Nepal in the past. What is your take on this?
6. The Safeguards, Anti-Dumping, and Countervailing Act, 2019 was passed by the Parliament and came into force in 2020. How effective has this act been so far for export promotion?
7. What are the major impediments to trade protection measures in Nepal?
8. What are the major challenges associated with Non-Tariff Measures?
9. How can it be addressed?
10. Does Nepal meet international standards such as the ones stated in the Codex Alimentarius (food code labelling)?
11. For many goods, to name a few, soap, rosin and resin acid, textiles, and clothing, Nepal has no mandatory product requirements whereas the EU has certain chemical restrictions, soap is just one example, but there are so many examples of goods that do not face restrictions for import into the Nepali market, does this directly lead to an unnecessary inflow of unwanted goods?
12. How is the monitoring system of goods in Nepal?
13. Which agency does the conformity assessment in Nepal?
14. How can the import of unnecessary and unwanted goods be minimized if international protocols are followed?
15. What kind of measures should be taken to help strengthen the regulation of imports?
16. What kind of support do importers need from the government of Nepal?
17. What kind of support do exporters need from the government of Nepal?
18. In your opinion, what measures should be taken to control the import of unwanted items in Nepal?
19. What are the major policies that have followed by Nepal to test the quality of manufacturing production as the trade protection measures?
20. What will be the potential next policy that should be adopted by Nepal as a trade protection measure?
21. What are the challenge that have faced by Nepal to control the import of unwanted and unnecessary products?

Treaty Experts (MoF) (DoI) (TEPO)

1. To what extent have the benefits of liberalization been realized in Nepal, according to scholarly perspectives that suggest the outcomes have been insufficient, and what factors may have contributed to these outcomes?
2. What are the discrepancies and unfair practices that have been impeding trade protection measures in Nepal?
3. A report by the Ministry of Finance has highlighted that Nepal has suffered a significant loss in revenue as a result of its participation in SAFTA. In addition to this, other countries in the agreement also get the same facilities as Nepal in the Indian market which has led to a “preferential erosion” of the special facilities enjoyed by Nepal in the past. What is your take on this?
4. What are the underlying factors and discriminatory practices in the treaties signed by Nepal bilaterally, esp with countries like India, China, and Bangladesh?
5. The Safeguards, Anti-Dumping, and Countervailing Act, 2019 was passed by the Parliament and came into force in 2020. How effective has this act been so far for export promotion?
6. What are the major impediments to trade protection measures in Nepal?
7. What are the major challenges associated with Non-Tariff Measures?
8. How can it be addressed?
9. For many goods, to name a few, soap, rosin and resin acid, textiles, and clothing, Nepal has no mandatory product requirements whereas the EU has certain chemical restrictions, soap is just one example, but there are so many examples of goods that do not face restrictions for import into the Nepali market, does this directly lead to an unnecessary inflow of unwanted goods?
10. How is the monitoring system of goods in Nepal?
11. Which agency does the conformity assessment in Nepal?
12. How can the import of unnecessary and unwanted goods be minimized if international protocols are followed?
13. What kind of measures should be taken to help strengthen the regulation of imports?
14. What kind of support do importers and exporters need from the government of Nepal?
15. In your opinion, what measures should be taken to control the import of unwanted items in Nepal?
16. What are the major policies that have followed by Nepal to test the quality as the trade protection measures?
17. What will be the potential next policy that should be adopted by Nepal as a trade protection measure?

Department of Food Technology and Quality Control (NTCDB)

1. Recently, there have been a lot of complaints from various parts of Nepal about the import of food and agricultural products with harmful chemicals and pesticide residue, what is the reason behind this?
2. Some exporters have cited difficulty in exporting due to a lack of testing facilities to meet international standards, for eg, taking the samples to NABL in Calcutta, due to the lack of facilities in Nepal, what is DFTQC planning to mitigate such challenges?
3. Nepal has Deviations from International Best practices for example, in Soaps (HS 340119), textiles, and clothes (HS 620431) where we have not set out any limits of chemicals, how will this impact the import and export?
4. 4. The deviation from International Best Practices also include
   (i) 3-MCPD in hydrolyzed vegetable protein and soy sauce (maximum levels are set by the European Union [EU] and other countries);23
   (ii) Dioxins and dioxin-like polychlorinated biphenyls (PCBs) in meat, fish, milk, eggs, oils, and fats (maximum levels are set by the EU and other countries);
   (iii) Polycyclic aromatic hydrocarbons (PAHs) in oils and fats, smoked meats, smoked fish, and fish, among others (maximum levels are set by the EU and other countries);
   (iv) melamine levels (maximum levels set by the EU as well as the Codex guidelines);24
   (v) erucic acid (maximum levels set by the EU); and
   (vi) nitrates in lettuce, spinach, and baby foods (maximum levels set by the EU)
5. In fact; What are the actions to be taken by Nepal for these standards?
6. Are importers and exporters aware of NTMs(Non-Tariff Measures)?
7. What are the major challenges associated with NTMs?
8. How can it be addressed?
9. Does Nepal meet international standards such as the ones stated in the Codex Alimentarius?
10. For many goods, to name a few, soap, rosin and resin acid, textiles, and clothing, Nepal has no mandatory product requirements whereas the EU has certain chemical restrictions, soap is just one example, but there are so many examples of goods that do not face restrictions for import into the Nepali market, does this directly lead to an unnecessary inflow of unwanted goods?
11. How is the monitoring system of goods in Nepal?
12. How can the import of unnecessary and unwanted goods be minimized if international protocols are followed?
13. What kind of measures should be taken to help strengthen the regulation of imports?
14. What kind of support do importers need from the government of Nepal?
15. What kind of support do exporters need from the government of Nepal?
16. What are the major policies that have followed by Nepal to test the quality of food for both fooding and feeding as the trade protection measures?
17. What will be the potential next policy that should be adopted by Nepal as a trade protection measure?

18. What are the challenge that have faced by Nepal to control the import of unwanted and unnecessary products?
19. In your opinion, what measures should be taken to control the import of unwanted items in Nepal?

Agricultural Experts (Nepal Agriculture federation)

1 Which goods have a seasonal advantage for exports to India?
2 What are the major challenges faced by Nepali products as a result of trade protection measures imposed by India and China?
3 What are the major trade protection measures that has adopted by china and india for Nepalese products?
4 What are the discrepancies and unfair practices that have been impeding trade protection measures in Nepal?
5 Recently, there have been a lot of complaints from various parts of Nepal about the import of food and agricultural products with harmful chemicals and pesticide residue, what is the reason behind this?
6 Some exporters have cited difficulty in exporting due to a lack of testing facilities to meet international standards, for eg, taking the samples to NABL in Calcutta, due to the lack of facilities in Nepal, what is DFTQC planning to mitigate such challenges?
7 Nepal has Deviations from International Best practices for example, in Soaps (HS 340119), textiles, and clothes (HS 620431) where we have not set out any limits of chemicals, how will this impact the import and export?
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(i) 3-MCPD in hydrolyzed vegetable protein and soy sauce (maximum levels are set by the European Union [EU] and other countries);23
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(iv) melamine levels (maximum levels set by the EU as well as the Codex guidelines);24
(v) erucic acid (maximum levels set by the EU); and
(vi) nitrates in lettuce, spinach, and baby foods (maximum levels set by the EU)
9 In fact; What are the actions to be taken by Nepal for these standards?
10 How is the monitoring system of goods in Nepal?
11 How can the import of unnecessary and unwanted goods be minimized if international protocols are followed?
12 What kind of measures should be taken to help strengthen the regulation of imports?
13 The Safeguards, Anti-Dumping, and Countervailing Act, 2019 was passed by the Parliament and came into force in 2020. How effective has this act been so far for export promotion?
14 What kind of support do importers need from the government of Nepal?
15 What kind of support do exporters need from the government of Nepal?

16 In your opinion, what measures should be taken to control the import of unwanted items in Nepal?
17 What kinds of labelling policy that taken by India for his imports?
18 What kinds of labelling policy that has been taken by Nepal for agricultural products?
19 The labelling policy of agricultural product is appropriate in case of Nepal?
20 What will be the potential next policy that should be adopted by Nepal as a trade protection measure?
21 What are the challenge that have faced by Nepal to control the import of unwanted and unnecessary products?

National Tea and Coffee Development Board

1. Is there an international standard that Nepal should adhere to when it comes to the quality of tea to be exported?
2. Which is the regulatory body that is responsible for testing the quality of tea produced in Nepal?
3. Is the accreditation test the quality of tea internationally accepted?
4. Which country imports the largest quantity of tea produced in Nepal?
5. Is the export of tea done according to the trade agreement signed by Nepal with the country answered in Q. 4?
6. The Safeguards, Anti-Dumping, and Countervailing Act, 2019 was passed by the Parliament and came into force in 2020. How effective has this act been so far?
7. What are the major obstacles to the export of tea in the international market?
8. What are the unfair practices adopted by the countries that import tea from Nepal?
9. What kind of measures should be taken to protect the tea industry of Nepal?
10. In your opinion, what measures should be taken to control the import of unwanted items in Nepal?
11. What are the major policies that have followed by Nepal to test the quality of food for both tea and coffee as the trade protection measures?
12. What will be the potential next policy that should be adopted by Nepal as a trade protection measure?
13. What are the challenge that have faced by Nepal to control the import of unwanted and unnecessary products?

National Tea and Coffee Development Board

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10. In your opinion, what measures should be taken to control the import of unwanted items in Nepal?
11. What are the major policies that have followed by Nepal to test the quality of food for both tea and coffee as the trade protection measures?
12. What will be the potential next policy that should be adopted by Nepal as a trade protection measure?
13. What are the challenge that have faced by Nepal to control the import of unwanted and unnecessary products?

Nepal Footwear Association

1. Is there an international standard that Nepal should adhere to when it comes to the quality of Footwear to be exported?
2. Which is the regulatory body that is responsible for testing the quality of footwear produced in Nepal?
3. Is the accreditation internationally accepted?
4. Which country imports the largest quantity of footwear produced in Nepal?
5. Is the export of tea done according to the trade agreement signed by Nepal with the country answered in Q. 4?
6. The Safeguards, Anti-Dumping, and Countervailing Act, 2019 was passed by the Parliament and came into force in 2020. How effective has this act been so far?
7. What are the major obstacles to the export of footwear in the international market?
8. What are the unfair practices adopted by the countries that import footwear from Nepal?
9. What kind of measures should be taken to protect the footwear industry of Nepal?
10. What will be the potential next policy that should be adopted by Nepal as a trade protection measure?
11. What are the challenge that have faced by Nepal to control the import of unwanted and unnecessary products?
12. In your opinion, what measures should be taken to control the import of unwanted items in Nepal?

Plant Quarantine and Pesticide Management

1) Please introduce yourself and your role as a plant and pesticides quarantine officer.
2) How long have you been working in the field of plant and pesticides quarantine?
3) Based on your experience, what are the common quality and safety issues that Nepali plants and pesticides face when exported abroad? Are the issues creating a barrier for Nepali exports?
4) Nepalese pesticides are not exported. Pesticides are only imported.
5) What are the potential consequences or impacts of these issues on the export of Nepali plants and pesticides?
6) According to the background information, there are infrastructural shortages and lack institutional capacities in plant and pesticides quarantine facilities. Can you describe the specific challenges faced in providing adequate quarantine facilities for plants and pesticides?
7) How do these challenges affect the overall quality and safety of exported plants and pesticides?
8) The background information suggests that there may be challenges or shortcomings in the quarantine procedures for imported plants and pesticides. What are the key issues or challenges faced in properly quarantining imported plants and pesticides?
9) How do these challenges impact the safety and quality of imported plants and pesticides?
10) What kind of institutional support and capacity building initiatives would be beneficial in addressing the challenges faced by plant and pesticides quarantine officers and improving the quarantine facilities and procedures?
11) Are there any international standards or best practices in plant and pesticides quarantine that Nepal can adopt or learn from to improve its quarantine facilities and procedures?
12) How do you see the future of plant and pesticides quarantine facilities and procedures in Nepal in terms of meeting international quality and safety standards?
13) Are there any upcoming initiatives or developments that could potentially improve the situation?
14) Is there any additional information or insights you would like to share regarding the challenges and improvements needed in plant and pesticides quarantine facilities and procedures?