Nepal

RISK & COMPLIANCE REPORT

DATE: March 2018

KNOWYOURCOUNTRY.COM

Executive Summary - Nepal	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	Non - Compliance with FATF 40 + 9 Recommendations Not on EU White list equivalent jurisdictions Corruption Index (Transparency International & W.G.I.) World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score)
Medium Risk Areas:	Weakness in Government Legislation to combat Money Laundering

Major Investment Areas:

Agriculture - products:

pulses, rice, corn, wheat, sugarcane, jute, root crops; milk, water buffalo meat

Industries:

tourism, carpets, textiles; small rice, jute, sugar, and oilseed mills; cigarettes, cement and brick production

Exports - commodities:

clothing, pulses, carpets, textiles, juice, pashima, jute goods

Exports - partners:

India 55.7%, US 10.1%, Germany 4.4% (2012)

Imports - commodities:

petroleum products, machinery and equipment, gold, electrical goods, medicine

Imports - partners:

India 51%, China 34.5% (2012)

Investment Restrictions:

Foreign investment proposals must fall within eligible industry categories. These include: agriculture and forestry; manufacturing; electricity, both water and diesel-generated; civil aviation, including airport construction and installation of navigational equipment and facilities; road construction; hotels and resorts; transport; communications; housing and apartments; and a restricted range of services.

Foreign investment is prohibited in the defence sector, however, in recent years; the Government of Nepal has opened several sectors to foreign investment, such as the commercial banking sector and the service sectors. Foreign investment in financial, legal and accounting services are still limited by legislation

Contents

Section 1 - Background

In 1951, the Nepali monarch ended the century-old system of rule by hereditary premiers and instituted a cabinet system of government. Reforms in 1990 established a multiparty democracy within the framework of a constitutional monarchy. An insurgency led by Maoist extremists broke out in 1996. The ensuing 10-year civil war between rebels and government forces witnessed the dissolution of the cabinet and parliament and assumption of absolute power by the king. Several weeks of mass protests in April 2006 were followed by several months of peace negotiations between the Maoists and government officials, and culminated in a November 2006 peace accord and the promulgation of an interim constitution. Following a nationwide election in April 2008, the newly formed Constituent Assembly (CA) declared Nepal a federal democratic republic and abolished the monarchy at its first meeting the following month. The CA elected the country's first president in July. Between 2008 and 2011 there have been four different coalition governments, led twice by the United Communist Party of Nepal-Maoist, which received a plurality of votes in the Constituent Assembly election, and twice by the Communist Party of Nepal-United Marxist-Leninist. In August 2011, Baburam BHATTARAI of the United Communist Party of Nepal-Maoist became prime minister. After the CA failed to draft a constitution by the May 2012 deadline, BHATTARAI dissolved the CA and called for new elections. Months of negotiations failed to produce a new election date. Finally, in March 2013, the chief justice of Nepal's Supreme Court, Khil Raj REGMI, was sworn in as Chairman of the Interim Council of Ministers for Elections to lead an interim government and charged with holding Constituent Assembly elections by December 2013.

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Nepal is no longer on the FATF List of Countries that have been identified as having strategic AML deficiencies

Latest FATF Statement - 27 June 2014

The FATF welcomes Nepal's significant progress in improving its AML/CFT regime and notes that Nepal has established the legal and regulatory framework to meet its commitments in its action plan regarding the strategic deficiencies that the FATF had identified in February 2010. Nepal is therefore no longer subject to FATF's monitoring process under its on-going global AML/CFT compliance process. Nepal will work with APG as it continues to address the full range of AML/CFT issues identified in its mutual evaluation report.

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Nepal was undertaken by the Financial Action Task Force (FATF) in 2011. According to that Evaluation, Nepal was deemed Compliant for 1 and Largely Compliant for 3 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for all 6 of the Core Recommendations.

Key Findings from latest Mutual Evaluation Report (2011):

The key findings of this report are as follows: Nepal faces a number of money laundering (ML) and terrorist financing (TF) risks and threats. Primary predicate crimes in Nepal are drug trafficking, human trafficking, arms trafficking, corruption, counterfeit currency, tax evasion and gold smuggling. Significant vulnerabilities relate to the porous Indo-Nepal border including terrorist activity and TF.

Nepal has criminalised ML in the Asset (Money) Laundering Prevention Act 2008 (ALPA) but there are significant deficiencies in this offence and the range of predicate offences is not wide enough to comply with the FATF standards. In addition, ancillary offences do not extend to conspiracy and counselling and possibly do not extend to aiding the commission of a predicate offence. Criminal liability for legal persons, as well, is not clearly enacted nor is it pursued by law enforcement and prosecution authorities.

TF is not criminalised. Despite including TF within the definition of ML in the ALPA, the structure of the ML offence does not encompass TF.

The mechanism for freezing the assets of terrorists listed under UNSCR 1267, and for freezing other terrorist assets, is provided within the framework of subordinate instruments (FIU Directives) which is not legally binding and is therefore unenforceable.

The Nepal FIU is a departmental unit within the Nepal Rastra Bank (NRB), Nepal's central bank. However, notwithstanding that the ALPA provides that the FIU shall be located within the NRB, the FIU lacks a sufficient administrative basis for its continuing operations. In addition, the FIU lacks proper skills and resources to properly undertake analysis of STRs and TTRs (threshold transaction reports). The FIU also requires operational independence within NRB.

Financial institutions, as well as some non-financial institutions (including casinos), are required to file STRs and TTRs but significant deficiencies in the ML offence and the lack of a TF offence narrows the scope of reporting. In addition, the implementation of the reporting obligation is ineffective.

Nepal has attempted to require financial and non-financial institutions to adopt AML/CFT preventive measures since 2008, however the instruments imposing those requirements are not enforceable and there are gaps in the scope of institutions included – postal saving banks, commodities brokers, lawyers, accountants, person acting as real estate agents and precious metal/gem dealers are not included. Access to beneficial ownership of natural and legal persons is not ensured and effective measures to protect NPOs from abuse for terrorism financing purposes are not yet in place.

Customer identification and verification is a weakness in Nepal's preventive measures. The measures which purport to impose identification requirements for non-banks are not binding; and

Nepal does not have a mutual legal assistance (MLA) law. Although Nepal has provided very limited MLA it has only done so on an ad hoc, unstructured, basis and not in compliance with the requirements of the FATF recommendations. In relation to extradition, Nepal has not used the Extradition Act (either to extradite a foreign national or to prosecute Nepal citizens) since its enactment in 1988. The extradition process enables considerable executive intervention and is not likely to enable the swift surrender of requested persons.

2013 Asia Pacific Group on Money Laundering Yearly Typologies Report: -

Trends:

The following are the identified, or suspected, trends and types of Money Laundering in Nepal:

- False identification
- Misuse of ATM card for the purpose of receiving Indian currency
- False source of income
- Under or over invoicing
- Real estate including a lesser amount mentioned in the land deed than the market price
- Tax/revenue evasion
- Trade based ML

• Extortion
• Illegal telephone service Voice over Internet Protocol (VoIP)
• Fund siphoning
• Currency exchange and smuggling
• Use of hundi
• Structuring, use of complex structure of companies
• Use of family members/relatives or friends, corruption

Emerging trends

• Currency exchange from Nepal to India without licence
• TBML
• Banking frauds
• Corruption
• Extortion
• Real estate
• Tax evasion

Declining trends

• Revenue
• Extortion
• Indian currency exchange.

US Department of State Money Laundering assessment (INCSR)

Nepal was deemed a 'Monitored' Jurisdiction by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

Nepal is not a regional financial center. Government corruption, a large and open border with weak border enforcement, limited financial sector regulations, and a large informal economy continue to make the country vulnerable to money laundering and terrorist financing. Nepal is not a significant producer of narcotic drugs; however, hashish, heroin, and domestically produced cannabis and opium are trafficked to and through Nepal. Relatively porous borders also are used to facilitate the trafficking of persons. Other major sources of illegally earned income include tax evasion, corruption, counterfeit currency, smuggling, and invoice manipulation.

While government and banking industry officials report that most remittances flow through formal banking channels, a portion is believed to flow through informal channels. Additionally, the government has limited ability to determine whether the source of money ostensibly sent as remittances from abroad is licit or illicit. Officials have identified the use of under- and over- invoicing as a major money laundering challenge. Other problems are bulk counterfeit currency and gold smuggling into India. An open border with India and inadequate security screening make it difficult to detect currency and gold flowing in and out of the country.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:
"All serious crimes" approach or "list" approach to predicate crimes: List approach
Are legal persons covered: criminally: YES civilly: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:
Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: YES
KYC covered entities: Banks, securities agents, insurance agents, casinos, money remitters and changers, cooperatives, designated government agencies, lawyers and notaries, auditors, trust and company service providers, and precious metals and stone traders

REPORTING REQUIREMENTS:
Number of STRs received and time frame: 350: July 16, 2014 – July 15, 2015
Number of CTRs received and time frame: 3,197,539: July 16, 2014 – July 15, 2015 STR covered entities: Banks, securities agents, insurance agents, casinos, money remitters and changers, cooperatives, designated government agencies, lawyers and notaries, real estate brokers, auditors, and precious metals and stone traders

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:
Prosecutions: 2: July 16, 2014 – July 15, 2015
Convictions: 4: July 16, 2014 – July 15, 2015

RECORDS EXCHANGE MECHANISM:
With U.S.: MLAT: NO Other mechanism: YES
With other governments/jurisdictions: YES

Nepal is a member of the Asia/Pacific Group on Money Laundering (APG), a FATF-style regional body.

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

Nepal is taking steps to bring its legislation into compliance with international standards. However, a lack of resources and capacity continue to hamper efforts to combat money laundering. Nepal enacted the AML law in 2008 and Parliament ratified it in 2014. However, as of late 2015, Nepal's financial intelligence unit (FIU) is still putting into place the required regulations and directives. In September 2014, the FIU implemented new AML/CFT software that enables the storage of data on suspicious financial transactions. As of late 2015, officials state the software is still not fully functional. A key problem is that reporting entities must have compatible software to electronically submit data on suspicious financial transactions. As of late 2015, the FIU is still receiving suspicious transaction reports (STRs) in hard copy form that the FIU must manually enter into its database. The FIU receives currency transaction reports

(CTRs) on compact discs that it must also enter into its database. The FIU has a backlog of STRs that it is working to analyze, which delays investigations.

In 2015, the FIU became a member of the Egmont Group of FIUs. The FIU continues to pursue a three-fold approach: increasing outreach to the banking community about AML/CFT regulations; hiring more officials to check records for compliance; and increasing sanctions for noncompliance. A senior FIU official indicated that FIU manpower is less of a problem for carrying out its mission than technical deficiencies, as noted above; coordination problems among other government agencies; and endemic corruption that enables offenders (especially those who are politically connected) to avoid prosecution. A senior official of Nepal's Department of Money Laundering Investigation (DMLI) also noted that it receives information only in hard copy from other branches of the Nepali Government. The DMLI is trying to acquire software to enable electronic communication of data with relevant government departments. Lack of sufficient information from other parts of the government hinder the DMLI's ability to investigate and prosecute money laundering cases.

Although the AML law contains a provision calling for covered entities to keep records of customers and transactions, there are no enforceable sanctions for noncompliance. In practice, institutions maintain records to comply with tax laws.

Coordination among key government agencies is weak. The Nepal Police Central Investigation Bureau (CIB) and the Nepal Police Counterterrorism Directorate both have authority to investigate and arrest counterfeit currency operatives, narcotics traffickers, smugglers, and human traffickers, but have done little in the way of pursuing complex financial crimes. The CIB is seeking assistance from donors to build its investigative capacity.

While the Government of Nepal has made progress in constructing an AML/CFT regime, additional work is required on developing expertise in financial crimes investigations, case management, interagency and departmental coordination, and border control.

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, Nepal does not conform with regard to the following government legislation: -

Maintain Records over time - By law or regulation, banks are required to keep records, especially of large or unusual transactions, for a specified period of time, e.g., five years.

Arrangements for Asset Sharing - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

Cooperates with International Law Enforcement - By law or regulation, banks are permitted/required to cooperate with authorized investigations involving or initiated by third party jurisdictions, including sharing of records or other financial data.

Disclosure Protection - "Safe Harbour" - By law, the jurisdiction provides a “safe harbour” defence to banks or other financial institutions and their employees who provide otherwise confidential banking data to authorities in pursuit of authorized investigations.

EU White list of Equivalent Jurisdictions

Nepal is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

To view historic Governance Indicators Ctrl + Click here and then select country

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

Nepal is not considered to be an Offshore Financial Centre

US State Dept Narcotics Report 2014:

Nepal is not a significant source or transit state for illegal drugs. Nepal's Narcotics Drug Control Law Enforcement Unit (NDCLEU) was replaced by the Narcotic Control Bureau (NCB), effective November 29, 2012. The NCB reports that an increasing number of Nepali nationals are involved in drug trafficking operations, previously dominated by foreign nationals. Customs and border controls in Nepal remain weak, but international cooperation has resulted in increased narcotics-related interdictions in Nepal and abroad. No new narcotics control legislation was passed or implemented in 2013. Cultivation of cannabis has been largely eradicated in one previously prevalent district, but is on the rise in some areas; most is destined for India. Heroin from Southwest and Southeast Asia is smuggled into Nepal across the porous border with India and through Kathmandu's Tribhuvan International Airport (TIA). Pharmaceutical drugs also continue to be diverted and abused. Nepal is not a producer of chemical precursors, but serves as a transit route for precursor traffic between India and China. Nepal's basic drug law is the Narcotic Drugs Control Act, 2033 (1976, last amended in 1993), making the cultivation, production, preparation, manufacture, export, import, purchase, possession, sale, and consumption of most commonly abused drugs illegal. The NCB has the lead in law enforcement efforts and is focused on supply control. It has improved its capacity in recent years, and made quality arrests and seizures, particularly through stationing more personnel at TIA. In 2013, the overall number of drug-related arrests increased, and overall drug seizures also rose. Between January and September 2013, police arrested 2,184 individuals for drug trafficking. Hashish seizures in 2013 decreased 57.5 percent from the same period in 2012. Heroin seizures decreased 46.3 percent, but diverted pharmaceutical drugs seizures were up 73.7 percent over the same period in 2012. Evidence suggests that narcotics enter through Nepal from India, Pakistan, and Afghanistan en route to China, Iran, Europe, North America, Australia, and other countries in Asia. A small percentage of narcotics, especially hashish, is trafficked to the United States through international express parcel services.

The United States provides support to various parts of the Nepali justice sector to combat corruption and improve the rule of law. The United States encourages the Nepali Government to enact and implement effective drug control legislation.

US State Dept Trafficking in Persons Report 2016 (introduction):

Nepal is classified a Tier 2 country - a country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Nepal is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Nepali women and girls are subjected to sex trafficking in Nepal, India, the Middle East, Asia, and sub-Saharan Africa. Nepali men, women, and children are subjected to forced labor in Nepal, India, the Middle East, Asia, and the United States in construction, factories, mines, domestic work, begging, and the adult entertainment industry. In many cases, the imposition of high fees facilitates forced labor, and recruitment agencies engage in fraudulent recruitment. Unregistered migrants—including the large number of Nepalis who travel through India or rely on unregistered recruiting agents—are particularly vulnerable to forced labor and sex trafficking. Some migrants from Bangladesh and possibly other countries transit Nepal en route to employment in the Middle East, using potentially falsified Nepali travel documents, and may be subjected to human trafficking. Nepali and Indian children are subjected to forced labor in the country, especially in domestic work, brick kilns, and the embroidered textile, or zari, industry. Bonded labor exists in agriculture, brick kilns, the stone-breaking industry, and domestic work. Many Nepalis living in areas affected by an earthquake that struck Nepal in April 2015 are vulnerable to trafficking. Traffickers utilize social media and mobile technologies to exploit their victims. Some government officials are reportedly bribed to include false information in genuine Nepali passports, including of age documents for child sex trafficking victims, or to provide fraudulent documents to prospective labor migrants, a tactic used by unscrupulous recruiters to evade recruitment regulations.

The Government of Nepal does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government continued to prosecute suspected traffickers in 2015; however, the law did not define the prostitution of children as human trafficking absent force, fraud, or coercion. The government took steps to address the increased vulnerability of women and children in areas affected by the April 2015 earthquake, including awareness-raising programs. The government adopted labor migration guidelines in April 2015, including a policy to reduce the financial burden on Nepali migrant workers at risk of being subjected to trafficking. Nonetheless, the government's victim identification and protection efforts remained inadequate, and the government did not track the total number of victims identified. The government inconsistently implemented anti-trafficking laws, as many government officials continued to employ a narrow definition of human trafficking. The impact of the April 2015 earthquake placed a significant strain on government resources.

US State Dept Terrorism Report 2016

Overview: Throughout 2016, domestic political unrest continued to plague Nepal as members of Madhesi groups from the country's southern Terai area agitated for amendments to the constitution promulgated in September 2015. While the protests were mainly peaceful, agitators sometimes employed violent tactics. Ten years after the 1996-2006 Maoist insurgency, most Maoist factions have joined the legitimate political process, and the Communist Party of Nepal-Maoist Center leads the Nepali government as of late 2016. But some participants of the former Maoist insurgency remained outside of the political process and occasionally used violence or threats to meet their objectives. Neither the ethnic protestors in the Terai nor the Maoist splinter groups have any known links to international terrorist groups.

Legislation, Law Enforcement, and Border Security: Nepal lacks a law specifically criminalizing terrorism or the provision of material support to terrorist networks. If an act of terrorism were to take place, Nepali courts would likely prosecute the perpetrators on the basis of laws pertaining to its constituent crimes, e.g. murder, arson, etc. Most Nepali officials view Nepal as at low-risk for an international terrorist incident. Accordingly, there is little impetus to introduce new laws.

A serious international terrorist event inside Nepal targeting foreigners would pose new and serious challenges for the Nepal Police and the justice sector and would strain the country's investigative and judicial capacities. Under the current legal regime, a terrorist attack would likely be charged under its constituent crimes, such as murder or arson, while Nepal's anti-money laundering statute would encompass financial support for the offense. Nepal has limited experience with countering and investigating transnational crime, performing formal mutual legal assistance, and handling extradition requests. The country's ability to process modern forms of evidence (e.g., cyber, DNA, explosives) to international standards is also limited, but it is poised to expand with the Nepal Police Special Bureau's establishment of a cybercrime investigation unit and the Nepal Police Criminal Investigation Division's inauguration of a digital forensics lab in December 2015. Nepali law enforcement agencies have demonstrated interest in receiving outside technical assistance and training. Nepal cooperates with other South Asian countries when they request assistance in investigating suspected terrorists, mainly through identification and tracking.

While Nepal has specialized units to investigate and respond to terrorist incidents (Nepal Police Special Bureau), law enforcement units have limited capacity to effectively detect, deter, or identify terrorist suspects. An open border with India and relatively weak airport security present vulnerabilities.

Kathmandu's Tribhuvan International Airport lacks state of the art baggage screening technology and relies on physical pat-downs and metal detectors for passenger screening. Weak controls restricting access of airport employees are present throughout the facility, and initial and recurrent background checks on employees may not be rigorous.

Nepali police officers participated in the Department of State's Antiterrorism Assistance (ATA) program. In 2016, the ATA program funded five training courses to improve counterterrorism capabilities within Nepali law enforcement agencies. More than 100 Nepali officers attended the 2016 ATA courses, which included: terrorism public awareness training consultation; hospital based management of mass casualty incidents; management of terrorist investigations training; fraudulent document recognition-behavioral analysis train-the-trainer; and best counterterrorism practices-community policing training.

Countering the Financing of Terrorism: Nepal belongs to the Asia Pacific Group on Money Laundering, a Financial Action Task Force (FATF)-style regional body. While the Government of Nepal has made progress in constructing an anti-money laundering/countering the financing of terrorism (AML/CFT) regime, additional work is required to develop expertise in financial crimes investigations, case management, interagency and departmental coordination, and border control. In 2014, Nepal enacted implementing regulations to address key deficiencies in its AML/CFT regime, including the seizing, freezing, and confiscation of terrorist assets, to comply with UN Security Council resolution (UNSCR) 1373 and the UN Security Council ISIL (Da'esh) and al-Qa'ida sanctions regime. Nepal is taking steps to bring its legislation into compliance with international standards, but corruption, a large and open border, limited financial sector regulations, a large informal economy, and a lack of resources and capacity continued to hamper efforts to counter illicit financial flows.

Nepal's financial intelligence unit, the Financial Information Unit (FIU-Nepal) is a member of the Egmont Financial Group of Intelligence Units. In 2014 it adopted AML/CFT software that can store suspicious financial transactions data, but the software was not fully operational by the end of 2016 due to a lack of compatible software among reporting entities to electronically submit data. Instead, reporting entities continued to submit hard copy reports to the FIU-Nepal. Additionally, key parts of the Nepali government responsible for AML/CFT lacked the ability to share data electronically. Cooperation and information sharing among government agencies remained a key obstacle to more effective AML/CFT efforts.

Nepali law criminalizes terrorist financing for any purpose, including through money laundering and financial transactions related to terrorism. The FIU-Nepal and the Department of Money Laundering Investigations (DMLI) lacked expertise, access to data, and other resources, however. During 2016, the DMLI and the Department of Revenue Investigation did not have any open investigations for suspected terrorist financing. There were no instances in 2016 of the government freezing or seizing assets for counterterrorism reasons.

The Nepal Rastra Bank (NRB), the central bank of Nepal, licenses and monitors money services businesses (MSBs) that receive remittances. MSBs in Nepal may receive inbound remittances, but funds must be distributed to recipients through banks, which are required to collect data on the originator. The government has limited ability to determine whether the source of money sent as remittances from abroad is licit or illicit, and has difficulty investigating informal money transfer systems such as *hundi* and *hawala* because the normally small nature of their businesses makes them hard to detect.

The NRB's FIU-Nepal directives do not cover non-profit organizations unless specific information indicates that they are involved in money laundering or terrorist financing. Only commercial banks are required to submit suspicious transaction reports (STRs). NGOs must register with the Social Welfare Council and obtain permission from the Ministry of Finance to receive donations. The government lacks information on how many NGOs comply with this regulation.

Officials have identified trade-based money laundering, specifically the use of under- and over-invoicing by businesses as a major source of money laundering. Nepal's open border with India and inadequate security screening at border entry points make it difficult to detect the smuggling of currency, gold, and counterfeit notes, all of which are potential sources of funding terrorism.

International Sanctions

None applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	31
World Governance Indicator – Control of Corruption	24

Pervasive corruption is a major challenge for foreign companies in Nepal. Kickbacks and facilitation payments are widespread in public procurement and when reigstering a business. In Nepal, corruption reduces competitiveness and significantly increases the costs of starting a business. Further, the courts are plagued by corruption. The Prevention of Corruption Act is the country's principal anti-corruption law; it criminalizes corruption, bribery, money laundering, abuse of office and facilitation payments in the public and private sectors. However, implementation and enforcement is inadequate, leaving the levels of corruption in the country unchallenged. **Information provided by GAN Integrity.**

US State Department

Corruption, including bribery, raises the costs and risks of doing business. Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It also deters international investment, stifles economic growth and development, distorts prices, and undermines the rule of law. According to the Corruption Perception Index 2013 released by Transparency International (TI) in December 2013, Nepal ranked 116th among 177 countries and fell in the range of "highly corrupt" countries.

It is important for U.S. companies, irrespective of their size, to assess the business climate in the relevant market in which they will be operating or investing, and to have an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms operating or investing in foreign markets should take the time to become familiar with the relevant anti-corruption laws of both the foreign country and the United States in order to properly comply with them and, when appropriate, they should seek the advice of legal counsel.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U.S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

Corruption and Government Transparency - Report by Global Security

Political Climate

The political situation in Nepal has been extremely volatile during the past several years, during which the country has gone through an uneasy transition often characterised by violent power struggles between the King, political parties and Maoist insurgents. The country's economic performance continues to be affected by this political instability, with GDP growth slowing down to 3.5% in 2010 from 4% in 2009. In February 2005, King Gyanendra Bir Bikram Shah Dev took direct control over the country, claiming that the former government had failed to tackle the Maoist rebellion, to improve the standard of public services, and to fight corruption. After public protests calling for peace and democracy, and pressure from the international community, the King was forced to reinstate the Parliament in April 2006. One month later, the Parliament stripped the King of his powers as head of the army and as head of state. Nepal was declared a secular state and, after successful peace negotiations, the Maoists were included in the Parliament, and an interim constitution was promulgated. In the April 2008 elections, the Maoist Communist Party of Nepal obtained a majority in Parliament and the country suspended the monarchy, and consequently become a republic. In May 2009, Nepal's Parliament chose communist leader Madhav Kumar Nepal as the new Prime Minister.

Corruption is a fundamental problem in Nepal. Both petty and grand corruption are considered to be endemic in both the public and private sectors. This has been emphasised by Global Integrity 2009 which also reports that civil servants are known to demand bribes even for routine services, and the Bertelsmann Foundation 2012 notes that corruption in the political system has become highly institutionalised. Although the Prevention of Corruption Act 2002 has established sanctions for corrupt practices, and the Commission for the Investigation of Abuse of Authority (CIAA) has been created to investigate financial irregularities and corruption involving public officials, the legislation is poorly enforced, allowing top government officials to act with impunity. In addition, it has been argued that the existing anti-corruption system serves to target only low-level public officials, with a minimal impact on the top political and business figures. Similarly, a 2011 BBC article reports that Nepal generally has a history of failing to prosecute high ranking officials suspected of corruption. According to Transparency International's Global Corruption Barometer 2010, 67% of the surveyed Nepalese households perceive the level of corruption as having increased the past three years, and 41% consider the government's efforts to fight corruption as effective, while 27% consider it as ineffective.

As such, the volatile political climate and persistent transition in Nepal's government has only meant that attention has been diverted away from anti-corruption efforts. Nonetheless, a national anti-corruption strategy was adopted in 2009, and aims at increasing transparency in public service delivery, of financial activities of political parties, and of NGO funding. However, a 2011 report by Norad reports that the implementation is slow and no real strategy has been made to allocate the financial resources to carry out its stated goals. As reported in a February 2010 article by Himalayan Times, Prime Minister Madhav Kumar has acknowledged the existence of corruption and the lack of transparency in Nepal and has called for collective efforts to combat corruption. In March 2011, the Supreme Court sentenced Chiranjivi Wagle, the former government minister to 18 months imprisonment for corruption. According to a May 2011 article by The Economist, Wagle was the first former government minister to be convicted for corruption since transition to democracy in 1990. Nepal signed the United Nations Convention against Corruption (UNCAC) in December 2003, and ratified it in March 2011. According to a February 2011 news article by Himalayan Times, the ratification of this Convention is believed to enable the relevant authorities to take stronger measures against corruption and enhance their effectiveness.

Business and Corruption

The lack of economic opportunities that characterises the Nepali economy is associated with the political turbulence that has adversely affected the growth of manufacturing, transport, communication and tourism from time to time. According to business executives surveyed by the World Economic Forum Global Competitiveness Report 2011-2012, the costs of petty crime, violence, terrorism and organised crime imposed on companies are high in Nepal. In fact, Nepal entered the 'grey list' of high financial risk, during Financial Action Task Force's (FATF) annual meeting. According to a February 2012 article by Republica, Nepal averted, by a significantly small margin, being blacklisted thanks to the government's promises to commit to adopt stringent measures to combat money laundering and acts of terror financing. In its latest report on Nepal, the FATF found that corruption, the circulation of counterfeit money, and tax evasion, have all risen due to the lack of implementation of various regulatory mechanisms. The government of Nepal has until June 2012 to formulate or amend laws for controlling financial crime. Nepal's investment climate remains constrained not only by these costs and frequent political instability, but also by the overall level of corruption. According to the same report, business executives surveyed rank corruption as the second most problematic factor for doing business in the country, exceeded only by government instability. According to the World Bank & IFC Enterprise Surveys 2009, 20% of companies identify corruption as a major constraint for doing business. In addition, 49 % of service companies report competing against unregistered or informal companies and 18% identify practices of companies in the informal sector as a major constraint to doing business

Inconsistent enforcement of anti-corruption measures remains a major concern for the business environment in the country, according to the US Department of State 2010. Corruption is rampant throughout all sectors in Nepal. Petty corruption, in particular, is endemic in all key public sectors, and it is common for officials to solicit bribes even for routine services, as reported by the Bertelsmann Foundation 2012. A March 2012 article published by the Asia Human Rights Commission condemns the rampant corruption within the tax administration, amongst others, and reports that almost USD 16 million in taxes collected during the fiscal year 2010-2012 were not deposited in the state's coffers. According to the World Bank & IFC Enterprise Surveys 2009, 15% of companies expect to make informal payments to public officials in order to 'get things done'. Furthermore, business executives surveyed by the World Economic Forum Global Competitiveness Report 2011-2012 indicate that the ethical standards of companies operating in Nepal in their interactions with public officials, politicians and other companies are low and present a competitive business disadvantage. These business executives also report that there is a significant extent of favouritism of well-connected companies and individuals in government officials' decisions regarding policies and contracts, and that the diversion of public funds to companies, individuals or groups due to corruption is fairly common. There is a strong tradition in Nepal of inflating project costs and the valuations of securities, and there are limited liability provisions for companies regarding loans. There are also frequent allegations of corruption perpetrated by government officials in the procurement of goods and in the awarding of contracts, according to the US Department of State 2011. Companies are recommended to use a specialised public procurement due diligence tool in order to mitigate corruption risks related to public procurement in Nepal.

Powerful businesspeople in Nepal enjoy close relationships with politicians and high-ranking government officials, as indicated by Transparency International's Global Corruption Report 2009. These relationships are sometimes used to influence politicians and to escape prosecution for alleged corrupt practices. Corruption thrives at the nexus of the private sector, the bureaucracy and the politicians. For example, politicians can provide security or camouflage for corrupt deals between private parties and bureaucrats. Grand corruption in the political system, with political parties functioning as tools of the high-caste Kathmandu-based elite, is institutionalised. Businesspeople can reportedly buy their way into politics by giving large donations to political parties. According to Transparency International’s Global Corruption Report 2009, the nomination of high-profile businesspeople by major political parties to the Constituent Assembly in July 2008 clearly signalled the extent of the close, opaque relationship between political parties and businesspeople. According to the same report, these businesspeople, once in power, can manipulate laws and interfere with the public procurement process to their favour. Companies are recommended to develop, implement and strengthen integrity systems and to conduct extensive due diligence when planning to invest in or already doing business in Nepal.

Regulatory Environment

Even though the Government of Nepal has been seeking to implement investor friendly-policies, implementation has often proved complicated due to the fragile and shifting political situation, insecurity and pervasive corruption. While it is difficult to produce a clear overview of Nepal's regulatory environment, it is clear that it remains cumbersome and corruption-prone. This is supported by, among others, Global Integrity 2009, according to which bribery and corruption have been flourishing for years in key offices responsible for Nepal's public service. Furthermore, this corruption-prone environment does not show any signs of improvement, despite the political changes of recent years. Similarly, Bertelsmann Foundation 2012 characterises the administrative system as inefficient and riddled with corruption. According to the World Economic Forum Global Competitiveness Report 2011-2012, policy instability and inefficient government bureaucracy continue to be among the most problematic factors for doing business in Nepal. Moreover, business executives find the burden of government administrative requirements (permits, regulations, reporting) and transparency in relation to obtaining access to information concerning changes in government policies and regulations affecting their industries to be problematic.

The procedures and time required to start a company in Nepal largely reflect the regional averages. According to the World Bank & IFC Doing Business 2012, it takes 7 procedures and an average of 29 days to start a company, and there is no minimum deposit requirement to obtain a company registration number. However, the related cost of 37.4% of GNI per capita is significantly higher than the regional average. Nepal has simplified licensing requirements for companies and imposed strict timelines for the issuing of licences, resulting in the time for obtaining the required licences being cut by 2 months. According to the US Department of State 2011, foreign investment is prohibited in the defence sector, however, in recent years; the Government of Nepal has opened several sectors to foreign investment, such as the commercial banking sector and the service sectors. Foreign investment in financial, legal and accounting services are still limited by legislation, making it difficult for foreign investors to seek help cutting through regulatory red tape. The Department of Industries has developed and designated the One Window Committee as a focal point for foreign investment in order to facilitate corporate registration, land transfers, utility connections, administrative services agreements, and coordination among various agencies. Despite this initiative, investors frequently complain about bureaucratic delays and lack of transparency in obtaining investment licences. In most cases, it is not only the One Window Committee, but also one to six ministries or departments that review business proposals, thus making licensing and permit procedures time-consuming and complicated. Business visas are generally issued to approved investors for a period of one to five years. However, companies should be aware that the business visa process is reported to be quite bureaucratic and time-consuming, taking more than 24 work hours per visa over a period of 20 to 30 days, as reported by the US Department of State 2011.

According to the World Economic Forum Global Competitiveness Report 2011-2012, Nepal performs poorly in relation to the efficiency of the legal framework for private companies to settle disputes and to challenge the legality of government actions and/or regulations. Business executives are also critical of the level of independence of Nepal's judiciary from the influences of members of government, citizens and companies. Furthermore, the US Department of State reports that property disputes account for half the current backlog in Nepal's overburdened court system and such cases may take several years to settle. Laws and regulations pertaining to property registration, ownership and transfer are unclear, and the interpretations of these laws are highly inconsistent. The Arbitration Act of 1999 provides for the enforcement of foreign arbitral awards and limits the conditions under which those awards can be challenged. In disputes where one party is a foreign company, the parties involved are advised to settle through consultation with a representative from the Department of Industries present. If no settlement can be reached, arbitration in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) can be sought, or in cases of contracts exceeding USD 7 million, the Nepali government may permit stipulation of foreign legal jurisdiction. Nepal is a member of the International Centre for the Settlement of Investment Disputes (ICSID) and signatory to the New York Convention of 1958 and has updated its legislation on dispute settlement to bring its laws into line with the requirements of the convention. Access the Lexadin World Law Guide for a collection of business and investment related legislation in Nepal.

Section 3 - Economy

Nepal is among the poorest and least developed countries in the world, with about one-quarter of its population living below the poverty line. Nepal is heavily dependent on remittances, which amount to as much as 29% of GDP. Agriculture is the mainstay of the economy, providing a livelihood for almost 70% of the population and accounting for about one-third of GDP. Industrial activity mainly involves the processing of agricultural products, including pulses, jute, sugarcane, tobacco, and grain.

Nepal has considerable scope for exploiting its potential in hydropower, with an estimated 42,000 MW of commercially feasible capacity. Nepal and India signed trade and investment agreements in 2014 that increase Nepal's hydropower potential, but political uncertainty and a difficult business climate have hampered foreign investment.

Nepal was hit by massive earthquakes in early 2015, which damaged or destroyed infrastructure and homes and set back economic development. Political gridlock in the past several years and recent public protests, predominantly in the southern Tarai region, have hindered post-earthquake recovery and prevented much-needed economic reform. Additional challenges to Nepal's growth include its landlocked geographic location, persistent power shortages, and underdeveloped transportation infrastructure.

Agriculture - products:

pulses, rice, corn, wheat, sugarcane, jute, root crops; milk, water buffalo meat

Industries:

tourism, carpets, textiles; small rice, jute, sugar, and oilseed mills; cigarettes, cement and brick production

Exports - commodities:

clothing, pulses, carpets, textiles, juice, jute goods

Exports - partners:

India 61.3%, US 9.4% (2015)

Imports - commodities:

petroleum products, machinery and equipment, gold, electrical goods, medicine

Imports - partners:

India 61.5%, China 15.4% (2015)

Banking

Nepal Rastra Bank (NRB) regulates the national banking system and also functions as the government central bank. As a regulator, NRB controls foreign exchange; supervises, monitors, and governs operations of banking and non-banking financial institutions; determines interest rates for commercial loans and deposits; and also determines exchange rates of foreign currencies. As the government's bank, NRB maintains all government income and expenditure accounts, issues Nepali bills and treasury notes, as well as loans to the government, and determines monetary policy.

Commercial lending in Nepal is governed under the Commercial Bank Act of 1974, the Finance Company Act of 1985, and the Bank and Financial Institutions Act of 2006, which authorizes the NRB to issue guidelines to all commercial banks and financial institutions on interest rates, interest ceilings, and areas of investment.

Two large banks dominate the commercial banking sector: Nepal Bank Ltd., which is 40.5 percent government-owned, and Rastriya Banijya Bank (National Commercial Bank), which is 100 percent government-owned. Together, Nepal Bank Ltd. And Rastriya Banijya Bank account for 16.7 percent of the entire banking system's deposits and 12.3 of loans, as of October 2010. Both banks also have a large number of non-performing loans and are technically insolvent. Since the expiration of a five-year contract with foreign management teams, the Nepal Bank Ltd. has been run by NRB, while Rastriya Banijaya Bank is being run by a team of consultants hired by the NRB, and the term of the consultants will conclude in April 2011. The process for hiring new management teams for both the banks is currently under way.

In the 1980s, Nepal opened up the commercial banking sector to foreign participation. Since then several joint venture banks have been established including: Nabil Bank; Nepal Investment Bank; Standard Chartered Bank; State Bank of India; Bank of Kathmandu ; Everest Bank; Nepal Sri Lanka Merchant Bank; Nepal Bangladesh Bank; and Nepal Bank of Ceylon. A large number of finance companies have also been established. Existing banking laws do not allow branch operation by any foreign banks. All commercial banks have correspondent banking arrangements with foreign commercial banks, which they use for transfers and payments.

Stock Exchange

In 1994, the government expanded the role of the Nepal Stock Exchange by allowing private brokers to operate. The volume of trading subsequently increased dramatically, but has since stabilized. Although local law permits foreign investors to buy shares on the local stock exchange, in practice investment in the stock exchange is not yet open to foreign investors. This is due mainly to the provisions of the Foreign Investment and Technology Transfer Act of 1992, which requires the Department of Industry to approve the purchase of local shares by foreigners.

Section 4 - Investment Climate

Executive Summary

With an annual Gross Domestic Product (GDP) of about USD 21 billion, and total trade of USD 8.6 billion, Nepal is a small contributor to the global economy. However, its location between India and China – two of the world's fastest growing economies – may make Nepal attractive to some foreign investors. Nepal's natural resources have significant commercial potential.

- Hydroelectric power – of which Nepal has an estimated 40,000 MW of commercially viable potential – could be a major source of income and help meet South Asia's growing energy needs.
- Other sectors offering potential investment opportunities include agriculture, tourism, and infrastructure.

Nepal offers opportunities for investors willing to accept inherent risks and the unpredictability of doing business in the country. While Nepal has established some investment-friendly laws and regulations, significant investment barriers remain.

- Corruption, laws limiting the operation of foreign banks, limitations on the repatriation of profits, limited currency exchange facilities, and the government's monopoly over certain sectors of the economy, such as electricity transmission and petroleum distribution, undermine foreign investment in Nepal.
- Millions of Nepalis look for employment overseas, creating a drain on an already poorly trained workforce.
- The proliferation of politicized trade unions, typically affiliated with one or more political parties, and unpredictable general strikes also limit investment.
- Immigration laws and visa policies for foreign investors can be cumbersome and obstructive, which are exacerbated by an inefficient government bureaucracy and a relatively high turnover rate of officials.
- Political uncertainty is another challenge for foreign investors in Nepal. The country has made considerable strides since the end of a ten-year Maoist insurgency in 2006. Nepal has held free and fair Constituent Assembly elections in 2008 and 2013, completed the integration of former combatants into the Nepalese Army, and promulgated a constitution in 2015. However, widespread dissatisfaction with some constitutional provisions led to prolonged protests across much of Nepal's southern Terai belt, as well as a prolonged blockage of Nepal's border with India.
- Nepal's geography also presents challenges. The country's mountainous terrain and poor infrastructure increase the cost of transportation of raw materials as well as finished goods. The nearest seaport is in Kolkata, India, about 900 kilometers from Kathmandu.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	130 of 167	transparency.org/cpi2015/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	99 of 189	doingbusiness.org/rankings
Global Innovation Index	2015	135 of 141	globalinnovationindex.org/content/page/data-analysis
U.S. FDI in partner country ($M USD, stock positions)	2013-14	$5.36	Host Government/DOI
World Bank GNI per capita	2014	$730	data.worldbank.org/indicator/NY.GNP.PCAP.CD

Millennium Challenge Corporation Country Scorecard

The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced "scorecards" for countries with a per capita gross national income (GNI) of USD 4,125 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: http://www.mcc.gov/pages/selection/scorecards. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: www.mcc.gov/pages/docs/doc/report-guide-to-the-indicators-and-the-selection-process-fy-2015

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

The Government of Nepal (GON) officially welcomes foreign direct investment (FDI). In practice, however, American and other foreign companies say that corruption, bureaucracy, and a weak regulatory environment make investing in Nepal very difficult. While official laws are generally welcoming to foreign investors, the investment climate remains challenging. As an example, in January 2016, the Norwegian company Statkraft notified the Investment Board of Nepal (IBN) that it was discontinuing work on the 650 MW Tamakoshi hydropower project and withdrawing from discussions on a Project Development Agreement. The company cited the "absence of necessary policies and regulatory framework," and "increased bureaucratic hurdles for foreign investments" as reasons for its withdrawal.

Other Investment Policy Reviews

In 2012, the World Trade Organization (WTO) conducted a trade policy review, available online at: https://www.wto.org/english/tratop_e/tpr_e/tp357_e.htm

Laws/Regulations on Foreign Direct Investment

The most significant foreign investment laws are the Foreign Investment and Technology Transfer Act of 1992 (since amended), the Foreign Investment and One Window Policy of 2015, the Foreign Exchange Regulation Act of 1962, the Immigration Rules of 1994, the Customs Act of 1997, the Industrial Enterprise Act of 1992, the Electricity Act of 1992, the Privatization Act of 1994, and the annual budget, which outlines customs, duties, export service charges, sales, airfreight and income taxes, and other excise taxes that affect foreign investment.

In February 2015, the GON issued the new Foreign Investment and One-Window Policy 2015, which replaced the Foreign Investment Policy of 1992. The new policy defines priority sectors for foreign investment, including hydropower, transportation infrastructure, agro-based and herbal processing industries, tourism, and mines and manufacturing industries. The Foreign Investment and One Window Policy also establishes currency repatriation guidelines, outlines visa regulations and arbitration guidelines, permits full foreign ownership in most sectors, and creates a “one window committee” for foreign investors.

The Foreign Investment and One Window Policy opened the retail sector to foreign investment for the first time, but with some conditions. Foreign multi-brand retail stores (i.e., Wal-Mart or Tesco) are now permitted, provided the investor has operations in more than two countries and invests more than USD 5 million in fixed capital. The policy also states that foreign investors will be treated the same as domestic investors, and industries run by foreign investors cannot be nationalized. The new policy also aimed at easing visa policies for investors, family members, and assisting foreign investors with land acquisition, industrial security, and repatriation of investment and profits.

The Foreign Investment and Technology Transfer Act (FITTA) of 1992, as amended, eliminated the minimum investment requirement and opened legal, management consulting, accounting, and engineering services to foreign investment with a 51-percent ownership limit. It also clarified rules relating to business and resident visas. In general, under the FITTA, all agreements related to foreign investment are governed by Nepali law and subject to arbitration in Kathmandu under the United Nations Commission for International Trade Law rules. However, foreign law can be applicable in cases where the foreign investment exceeds approximately USD 6 million and where the parties make this choice clear in their agreement. The GON is revising the FITTA, although it is unclear when the legislation will be approved by Parliament.

The Customs Act and the Industrial Enterprises Act, revised in 1997, established invoice-based customs valuations and eliminated many investment tax incentives, replacing them with a lower, uniform rate. The Electricity Act defines special terms and conditions for investment in hydropower development. The Privatization Act of 1994 authorizes and defines the procedures for privatization of state-owned enterprises to broaden participation of the private sector in the operation of such enterprises.

The Nepal Stock Exchange does not allow foreign investors to own or trade any publicly traded companies on the exchange. Stock trading is available only for citizens of Nepal.

The terms and conditions of intellectual property protection are defined by the 1965 Patent, Design, and Trademark Act and the 2002 Copyright Act. The latter covers electronic audio and visual materials and subjects violators to fines and imprisonment, as well as the confiscation of unauthorized materials. Violators must also pay compensation claimed by the copyright holder. However, the law does not meet the standards for trade-related intellectual property rights required by the World Trade Organization. The Competition Promotion and Market Protection Act (2007) controls anti-competitive practices, protects against monopolies, promotes fair competition, and regulates mergers and acquisitions. The Competition Promotion and Market Protection Act, also contains special provisions for controlling black markets and misleading advertisements.

There is no public evidence of direct executive interference in the court system that could affect foreign investors. However, in recent years there has been public and media criticism of the politicization of the judiciary, including appointments of judges to Appellate Courts and the Supreme Court allegedly based on political affiliation.

Business Registration

The Department of Industry (DOI) provides registration for both domestic and foreign businesses (www.doind.gov.np/en/). The DOI is also the regulator of industrial properties like patent, design, and trademarks. The DOI's Industrial Promotion Board is responsible for approving small and medium-tier investments, while large-scale investments (more than USD 100 million) are approved by the Investment Board of Nepal (IBN). The DOI does not provide online registration. Applicants need to submit applications in writing and furnish hard copies of relevant documents for registration.

The IBN manages public-private partnerships (PPPs), cooperatives, and domestic and foreign private investment in the infrastructure sectors (www.ibn.gov.np). The IBN is mandated to grant approval for projects over NPR 10 billion (approximately USD 95 million). IBN does not provide an online registration facility. Applicants are required to submit applications in writing and furnish hard copies of relevant documents for approval.

All domestic and foreign companies are required to incorporate their business with the Ministry of Industry's Office of Company Registrar (OCR). The OCR provides online registration facility (www.ocr.gov.np/index.php/en/).

The Inland Revenue Department (IRD) provides registration for all domestic and foreign businesses (www.ird.gov.np). Investors can register online for permanent account numbers and tax documents.

The Nepal Rastra Bank (NRB) – the central bank of Nepal – provides approval and registration for banks and financial institutions (www.nrb.org.np). NRB does not provide online registration. Applicants need to submit applications in writing and furnish hard copies of relevant documents for registration.

The Nepal Telecommunications Authority (NTA) is the telecommunications regulatory body of Nepal, which provides prior approval and registration for all telecommunication services (www.nta.gov.np/en). NTA does not provide online registration. Applicants need to submit applications in writing and furnish hard copies of relevant documents for registration.

The Insurance Board regulates the insurance business of Nepal. The Insurance Board does not provide online registration. Applicants need to submit applications in writing and furnish hard copies of relevant documents for registration.

Additional References

- www.GER.co provides links to business registration sites worldwide, including an information portal for Nepal.
- http://www.doingbusiness.org/data/exploretopics/starting-a-business#close provides indicators from 189 economies, including Nepal, on the ease of starting a limited liability company, based on a survey of incorporation lawyers.

Industrial Promotion

The industrial sector accounts for about 15 percent of the country's GDP. The economy remains dependent upon subsistence agriculture (34 percent of GDP) and remittances (equivalent to about 30 percent of GDP). A lack of industrial growth has contributed to underemployment and unemployment, which in turn has contributed to an outward migration of youth seeking employment outside of Nepal.

The GON aims to attract FDI primarily in the infrastructure sector, especially roads and hydropower projects. Nepal's 2011 Industrial Policy, now under review, identifies strategies for promoting FDI. It calls for a greater focus on economic diplomacy from Nepali diplomatic missions abroad and seeks to leverage non-resident Nepalis as a source of FDI. It also aims to increase new product development in Nepal by giving customs breaks to investors who need to import raw materials or foreign-made goods.

Limits on Foreign Control and Right to Private Ownership and Establishment

Foreign and domestic private entities have the right to establish and own business enterprises and engage in various forms of remunerative activity. However, certain sectors are not open to foreign investment, including small-scale and "traditional" industries (such as handicrafts, wood carvings, and artwork), real estate, some types of primary agriculture and agribusiness, and weapons production. Depending upon the sectors foreign entities intend to operate in, approval and registration requirements may vary.

Other than the restricted sectors mentioned above, 100 percent foreign investment is permitted in most sectors. Some limits on foreign ownership are imposed for certain services sectors, such as banking and financial institutions where foreign investment is only permitted as a joint venture with a minimum of 20 percent to a maximum of 85 percent foreign ownership. Such joint ventures must be incorporated in Nepal in accordance with relevant Nepali laws. Branch operations of a foreign bank are only allowed in the wholesale banking sector, not in the retail banking sector. To operate a branch office of a foreign bank in Nepal, the minimum capital requirement is USD 20 million, and an additional USD 5 million is required for each new branch office. Restrictions on branch operations of foreign banks in the retail banking sector and requirements for mandatory domestic joint venture partner(s) have discouraged many international banks from entering Nepal's banking sector.

Privatization Program

Economic reforms, deregulation, privatization of businesses and industries under government control, and liberalized policies toward FDI were initiated in the early 1990s. Sectors such as telecommunications, civil aviation, coal imports, print and electronic media, insurance, and hydropower generation were opened for private investment, both domestic and foreign.

The first privatization of a state-owned corporation was conducted in October 1992 through a cabinet decision (executive order). The Privatization Act was passed fourteen months later in January 1994. A total of 23 state-owned corporations have been privatized, liquidated, or dissolved. The process, however, has been static since 2003. While foreign companies can participate in the privatization of state-owned enterprises, the government has not restarted privatization efforts. As of 2016, Nepal has 37 state-owned enterprises.

Screening of FDI

There are two government entities responsible for foreign investment. The first is the Industrial Promotion Board (IPB), chaired by the Minister of Industry, which is charged with coordinating economic policies, establishing guidelines for investment, approving foreign investment proposals, and determining applicable investment incentives.

The second entity is the Investment Board of Nepal (IBN), which was created to serve as a "one window" facility for domestic and foreign investors pursuing projects worth more than USD 100 million, or large scale projects in priority sectors such as civil aviation, tourism, and hydropower. The Board, chaired by the Prime Minister, has the authority to formulate investment policies, prioritize and approve projects, facilitate the signing of agreements among different ministries, provide financial and nonfinancial facilities, procure land, monitor project progress, order government agencies to issue necessary project approvals, and bypass existing regulations in the name of investment promotion.

The IBN has focused on hydropower development, and it is responsible for projects larger than 500 MW. In 2014, the IBN signed power-development agreements with Indian investors for two 900 MW developments, the Upper Tamakoshi and Arun III projects. Negotiations are ongoing with Indian and Chinese investors on other large hydropower projects. In January 2016, Norwegian company Statkraft notified the IBN that it was discontinuing work on the 650 MW Tamakoshi hydropower project and withdrawing from discussions on a Project Development Agreement, citing the "absence of necessary policies and regulatory framework," and "increased bureaucratic hurdles for foreign investments" as reasons for the company's withdrawal.

Prior to the establishment of the Investment Board, the Department of Industry, under the Ministry of Industry, was designated as the "one window servicing agency" for all FDI. The Department of Industry still registers and classifies foreign investments and manages the income tax and duty drawbacks granted to some foreign investments. The Department of Industry remains the focal point for foreign investments of less than USD 100 million or investments outside of the priority sectors.

Under current administrative procedures, foreign investors are required to obtain licenses for manufacturing or service sector investments. Investments below USD 20 million are referred to the Department of Industry for action and are typically approved at the departmental level without the involvement of the IPB. For investments over USD 20 million, as many as six ministries review the business proposal prior to consideration by the IPB.

The Department of Electricity Development, under the Ministry of Energy, is responsible for licensing all investments in hydropower projects. However, decisions on project proposals that involve foreign investment are made by the Ministry of Energy itself. The Nepal Rastra Bank, the country's central bank, is responsible for issuing licenses to operate commercial banks and financial institutions. The Insurance Board is responsible for issuing licenses to operate insurance companies. The Civil Aviation Authority of Nepal is responsible for granting operating licenses to domestic and foreign airline operators, and the Nepal Telecommunications Authority is responsible for issuing licenses for operating any type of telecommunications and information technology services.

Licensing of new investments is often time-consuming and requires legal counsel and patience. The IPB, for example, is mandated by law to make a licensing decision within 30 days of submission of an application, but this deadline is routinely missed.

Competition Promotion and Market Protection

The Competition Promotion and Market Protection Act (2007) controls anti-competitive practices, protects consumers against monopolies, promotes fair competition for the growth of trade and commerce, and includes provisions for the control of mergers and acquisitions that would create potential monopolies. The Competition Promotion and Market Protection Act also contains special provisions for controlling black markets and misleading advertisements.

The Competition Promotion and Market Protection Board, established as part of the act, is chaired by the Secretary of the Ministry of Commerce. The Board is mandated to take measures to enhance fair market competition by encouraging competition and preventing monopolies. The Board is comprised of members from the Ministry of Law and Justice, the Ministry of Finance, the Ministry of Commerce, two private sector representatives, four consumer rights representatives, and the Director General of the Department of Commerce. The act also calls for the designation of a government official to serve as the market protection officer at the district level to investigate cases relating to violations of the Competition Promotion and Market Protection Act.

The new Constitution of Nepal (2015), under article 51 "Policies of the State," notes the need to protect the interest of consumers by maintaining fairness in trade, making the national economy competitive, ending practices such as black marketing and monopolies, and promoting competition in all business activity. The Black Marketing and Certain other Social Offenses and Punishment Act (1975) prohibits business practices such as black marketing, profiteering, hoarding and creation of artificial scarcity, fraudulent sale, and the adulteration and sale of drugs.

The Industrial Enterprises Act, 1992 (currently being revised) gives guidelines for economic policies to make the industrial sector competitive. The Foreign Investment and Technology Transfer Act (1992) states that industrialization of the country requires foreign investment and technology transfer to make the economy viable, dynamic, and competitive by mobilizing limited capital and other resources. The Consumer Protection Act (1997) protects the rights of the consumer and restricts unfair trade practices. Provisions in the Financial Administration Regulation (1999) prohibit unfair and anti-competitive practices in procurement of goods and services for the government.

Enforcement of such laws is irregular, which can create space for corrupt practices. Government procurements are often marred with charges of corruption and lack of transparency in the selection process. The constitutionally-mandated anti-corruption body, the Commission for Investigation Abuse of Authority (CIAA), monitors, enforces and prosecutes actions or decision by any government agency that violate or intend to violate laws (or constitute a misuse of power) that can be considered corrupt practice under the laws of Nepal. Private entities or individuals found engaging in such corrupt practices can be prosecuted by the CIAA.

2. Conversion and Transfer Policies

Foreign Exchange

The Foreign Investment and Technology Transfer Act of 1992 states that foreign investors can repatriate all profits and dividends, all money raised through the sale of shares, all payments of principal and interest on any foreign loans, and any amounts invested in transferring foreign technology. Foreign nationals working in local industries are also allowed to repatriate 75 percent of their income. Repatriation facilities (such as opening bank accounts or obtaining permission for remittance of foreign exchange) are available based on the recommendation of the Department of Industry, which normally provides approval of the original investment.

Despite these official policies, repatriation is difficult and not guaranteed. The relevant GON department and the NRB, which regulates foreign exchange, must approve the repatriation of funds. In most cases, approval must also be obtained from the Department of Industry. In the case of telecommunications, the Nepal Telecommunications Authority must approve the repatriation. In joint venture cases, the NRB and the Ministry of Finance must grant approval.

Several foreign companies have reported that the Government of Nepal insists on signing contracts using Nepal rupees (NPR) and not major world currencies, such as the U.S. dollar. Nepal's currency has been pegged to the Indian rupee (INR) since 1993 at a rate of 1.6 NPR to 1 INR. In recent years, the dollar has strengthened significantly against the NPR.

Remittance Policies

Foreign investors must apply to the NRB to repatriate funds from the sale of shares. For repatriation of funds connected with dividends, principal and interest on foreign loans, technology transfer fees, or expatriate salaries, the foreign investor applies first to the Department of Industry and then to the NRB. At the first stage of obtaining remittance approval, foreign investors must submit remittance requests to a commercial bank. However, final remittance approval is granted by the NRB foreign exchange department, a process that is often opaque and time-consuming.

After administrative approvals, a lengthy clearance process in the banking system also slows the transfer of foreign exchange. The experience of U.S. and other foreign investors indicates serious discrepancies between the government's stated policy of repatriation and its implementation.

In general, Nepalis are not permitted to invest outside of Nepal. Exceptions, however, can be granted on a case-by-case basis, and policing of the prohibition is weak.

The Financial Action Task Force (www.state.gov/j/inl/rls/nrcrpt/2015/vol2/index.htm) lists Nepal as a country that is "monitored."

3. Expropriation and Compensation

The Industrial Enterprise Act of 1992 states that "no industry shall be nationalized." To date, there have been no cases of nationalization in Nepal, nor are there any official policies that suggest expropriation should be a concern for prospective investors. However, companies can be sealed or confiscated if they do not pay taxes in accordance with Nepali law, and bank accounts can be frozen if there are suspicions of money laundering or other financial crimes. There have been no government actions or shifts in government policy that indicate possible expropriations in the foreseeable future.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Nepal's court system is based on Common Law and does not have a commercial code. Contract law is codified. A commercial court exists at the appellate level.

In disputes involving a foreign investor, the concerned parties are encouraged to settle through mediation in the presence of the Department of Industry. If the dispute cannot be resolved, cases may be settled either in a Nepali court or in another legal jurisdiction, depending on the amount of the initial investment and the procedures specified in the contract. Commercial disputes under the jurisdiction of Nepali courts and laws typically drag on for years.

Liquidation is covered by both the Company Act and the Insolvency Act of 2006. If a company is solvent, its liquidation is covered by the Company Act. If the company is insolvent and unable to pay liabilities, or liabilities are more than assets, then its liquidation is covered by the Insolvency Act. Under the Company Act, the claimant priorities are 1) government revenue; 2) creditors; and 3) shareholders. Under the Insolvency Act, the government is equal to all other unsecured creditors. Monetary judgments are made in local currency.

Nepal is a signatory to and adheres to the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards, and it has updated its legislation on dispute settlement to bring its laws into line with the requirements of that convention. The Arbitration Act of 1999 allows the enforcement of foreign arbitral awards and limits the conditions under which those awards can be challenged.

Bankruptcy

There is no specific act in Nepal that exclusively covers bankruptcy. The 2006 Insolvency Act provides for insolvency proceedings in Nepal and specifies the conditions under which such proceedings can occur. Additionally, the General Code of 1963 covers bankruptcy-related issues. Creditors, shareholders, or debenture holders can initiate insolvency proceedings against a company by filing a petition at the court.

Investment Disputes

Disputes are not frequently reported. We are aware of two cases in the last ten years in which a U.S. investor claimed that the GON did not honor portions of contracts.

All real property transactions must be registered, and property holdings cannot be transferred without following established procedures. Even so, property disputes account for half of the current backlog in Nepal's overburdened court system, and cases can take years to settle. Moreover, laws and regulations regarding property registration, ownership, and transfer are unclear, and interpretation can vary from case to case.

International Arbitration

In cases where contracts provide for the settlement of disputes through arbitration, disputes will be settled according to the procedures described in the contract. If no procedures are specified, the dispute will be settled according to the Arbitration Act of 1999.

In the event of a dispute with a foreign investor, the concerned parties are encouraged to settle it through mediation in the presence of the Department of Industry. If the dispute cannot be settled, cases involving investments of less than USD 5 million are referred to arbitration in Nepal in accordance with the Arbitration Rules of the United Nations Commission for International Trade Law. For investments that exceed this amount, the GON will permit stipulation of legal jurisdiction other than Nepal in shareholder agreements and contracts.

ICSID Convention and New York Convention

Nepal is a signatory to and adheres to the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards, and it has updated its legislation on dispute settlement to bring its laws into line with the requirements of that convention. The Arbitration Act of 1999 allows the enforcement of foreign arbitral awards and limits the conditions under which those awards can be challenged.

Duration of Dispute Resolution – Local Courts

Under insolvency proceedings, except when otherwise provided for in the agreement, the arbitrator is required to pronounce the decision within 120 days from the date of submission of documents. If the issue requiring arbitration is found to be inextricably linked with another issue on which the arbitrator cannot pronounce a decision, the concerned party may file a complaint to the court within 35 days from the date of notice from the arbitrator. Despite these regulations, commercial disputes under the jurisdiction of the Nepali courts and laws typically drag on for years.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Nepal became a member of the World Trade Organization (WTO) on April 23, 2004. During its accession, Nepal made commitments on Trade Related Investment Measures (TRIMs), including for agriculture, goods, and services. The December 2005 Hong Kong Ministerial Declaration allowed least developed countries (LDCs) to maintain on a temporary basis (five years, renewable subject to review) measures that reduce their obligations under the TRIMs Agreement. The Ministerial Declaration allowed Nepal the flexibility to implement provisions such as local content requirement on foreign investment. However, Nepal's investment regime is liberalized and there are no provisions for local content requirement (except for the retail banking sector). Under Nepal's WTO accession commitments, Nepal was allowed to continue with local content requirements for foreign investment in the retail banking sector.

Investment Incentives

The Nepal Laws Revision Act of 2000 eliminated most tax incentives; however, exports are still favored, as is investment in certain "priority" industries, such as tourism, civil aviation, and hydropower. There is no discrimination against foreign investors with respect to export/import policies or non-tariff barriers. There is no local content or export performance requirement. There is no requirement that foreign investors' share of foreign equity be reduced over time, or that technology be transferred. Foreign investment in cottage industries is not allowed.

The GON offers tax incentives to encourage industries to locate outside the Kathmandu Valley to reduce pollution and overpopulation in the Valley and to encourage development in poorer areas of Nepal.

Profits from exports are taxed at 20 percent. Customs, value added tax (VAT), and excise duties on raw materials used in the production of export items are supposed to be reimbursed within 60 days. In practice, however, these duty paybacks are often significantly delayed. Although income in certain priority industries, such as garments, carpets, and jewelry, used to be taxed at a concessional rate of ten percent, the Income Tax Act 2002 removed most of these concessions.

The Electricity Act of 1992 governs foreign investments in hydropower generation. The Act provides a flat one-percent customs rate on all imported construction materials, equipment, and spare parts, provided that such goods are not manufactured in Nepal.

Foreign investors are not required to disclose proprietary information to government agencies as part of the regulatory approval process. There are no restrictions on participation by foreign firms in government-sponsored research and development programs. However, depending on the nature of the job and expertise required, government agencies sometimes limit such participation to Nepali nationals.

In 2015 the GON issued the new Foreign Investment and One-Window Policy, which replaced the Foreign Investment Policy of 1992. The new policy defined priority sectors for foreign investment, including hydropower, transportation infrastructure, agro-based and herbal processing industries, tourism, and manufacturing industries. Foreign multi-brand retail chains are now permitted, provided the investor has operations in more than two countries and invests more than USD 5 million in fixed capital. The policy also states that foreign investors will be treated the same as domestic investors, and that nationalization of industries run by foreign investors is not allowed.

Research and Development

Nepal has limited funding and facilities for research and development. Most research-related activities are conducted by government agencies by in-house researchers and scientists. For example, the Nepal Agricultural Research Council (NARC) conducts research on seed and plant varieties, and agencies under the Ministry of Science and Technology conduct research on climate change and other environment related areas. The Nepal Academy of Science and Technology, an institute mandated to develop Nepal's national science and technology policy, conducts research in various fields, including the preservation of indigenous technologies. The Department of Food Technology and Quality Control under the Ministry of Agriculture Development primarily focuses on maintaining safety and quality of food and feed products in the country.

Performance Requirements

Nepali laws are either silent or unclear on performance requirements. There are no mandates for local employment. While the 2015 Foreign Investment Policy is supposed to ease the process of getting visas for foreigners, challenges remain, according to anecdotal reports. There are no government imposed conditions on permission to invest and the GON does not use "forced localization" policies.

Data Storage

Nepal has no laws relating to storage of data for law enforcement or privacy purposes.

6. Protection of Property Rights

Real Property

The Secured Transactions Act (2006) applies mortgage or lien in all transactions where the effect is to secure an obligation with collateral, including pledge, hypothecation and hire-purchase, sale of accounts and secured sales contracts, and lease of goods. The GON has established Secured Transactions Registration Office for registering notices as provided in this Act. Pursuant to this Act, the GON may also designate any office to perform the function of registering notices.

The government does not have special protections for traditional use rights for indigenous peoples. Most arable land has a title, although titles have sometimes been acquired in a fraudulent manner. There are no exclusive regulations for land lease or acquisition by foreign and/or non-resident investors. The Foreign Investment and Technology Transfer Act (1992), which governs foreign investment in general, and related laws governing foreign investment clearly state that investors can own any property, the title of which rests with the business/company, and not the owner.

Intellectual Property Rights

There is no exclusive act for the protection of intellectual property, and protections in general remain weak with little enforcement. Nepal signed the 1994 Agreement on Trade-Related Aspects of Intellectual Property Rights. However, patent registration under the Patent, Design, and Trademark Act does not provide automatic protection to foreign trademarks and designs. Similarly, Nepal does not automatically recognize patents awarded by other nations. Trademarks must be registered in Nepal to receive protection. Once registered, trademarks are protected for a period of seven years. The Copyright Act of 2002 covers most modern forms of authorship and provides adequate periods of protection. However, enforcement is weak. Nepal faces serious challenges in preventing the sale of counterfeit goods. The primary marketplaces in Nepal are flooded with counterfeit products, including electronic equipment, clothing, digital media, and pharmaceutical products.

Nepal became a member of World Intellectual Property Organization (WIPO) convention in1997, but has not yet signed the WIPO Copyright Treaty or the WIPO Performances and Phonograms Treaty. Nepal is not listed in the USTR's Special 301 report nor is it listed in the notorious market report. The GON is drafting an IPR Policy and Industrial Enterprise Act..

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at: www.wipo.int/directory/en/.

Resources for Rights Holders

Kevin Price
Economic Officer
U.S. Embassy Kathmandu
+977-1-423-4142
PriceKC@state.gov
A list of lawyers is available at: http://nepal.usembassy.gov/service/emergency-services/legal-assistance.html

7. Transparency of the Regulatory System

Foreign investors in Nepal deal with a cumbersome legal system in which basic procedures are neither quick nor routine. Government bureaucracy, with frequent changes of personnel, can be reluctant to accept legal precedents, and businesses are often forced to re-litigate issues that had been previously settled. Limitations on foreign ownership in some sectors create additional hurdles and red tape for foreign investors. Proposed laws and regulations may not be made available in draft form for public comment.

Foreign investors complain about bureaucratic delays and lack of transparency in procuring investment licenses. Government procurement is another area cited for lack of regulation and transparency. The Financial Procedures Rules of 2007, which govern most of the government's procurement, mandate government agencies to choose the lowest-cost bidder.

Labor, health, and safety laws are unevenly enforced. Many companies report that the process of terminating unsatisfactory employees is cumbersome, and that protective labor laws make it difficult to bring skilled foreign specialists, such as pilots, engineers, and architects, into Nepal.

8. Efficient Capital Markets and Portfolio Investment

Credit is generally allocated on market terms, although special credit arrangements exist for farmers and rural producers through the Agricultural Development Bank of Nepal. Foreign-owned companies can obtain loans on the local market. The private sector has access to a variety of credit and investment instruments. These include public stock and direct loans from finance companies and joint venture commercial banks.

Legal, regulatory, and accounting systems are neither fully transparent nor consistent with international norms. Though auditing is mandatory, professional accounting standards are low, and practitioners may be poorly trained. As a result, published financial reports can be unreliable, and investors often rely on general business reputations unless companies use international accounting standards.

Nepal moved to full convertibility for current account transactions when it accepted Article VIII obligations of IMF's Articles of Agreement in May 1994. The GON and NRB refrain from imposing restrictions on payments and transfers for current international transactions. Foreign investors can access credit locally, but the investor must be incorporated in Nepal under the Companies Act of 2006 and listed on the stock exchange.

Money and Banking System, Hostile Takeovers

Nepal's bank assets totaled about USD 21.75 billion as of February 2016, and deposits equaled USD 17.54 billion. As of July 2015, 2.68 percent of the total asset base was estimated to be non-performing. Considering the size of its economy, Nepal has a large number of banks and financial institutions (BFIs). Foreign commercial lending is scarce and expensive. Currently, there are no resident or non-resident foreign commercial banks that have standby credit limits for loans of a maturity of more than one year. There is no regulatory system to encourage and facilitate portfolio investment in the industrial sector. Lack of transparency or regular reporting of reliable corporate information also presents problems for potential foreign investors.

Nepal has no reported cases of hostile takeovers in the banking system. The Nepal Rastra Bank (NRB) has promoted mergers in the financial sector and published merger bylaws in 2011 to help better regulate the banking sector. Since 2011, a total of 78 BFIs have merged into 30 local institutions (as of July 2015). As of January 2016, there were 30 commercial banks, 73 development banks, and 48 finance companies registered with the NRB. This total does not include micro finance financial institutions, savings and credit cooperatives, non-government organizations (NGOs), and other institutions, which may function as BFIs. There are no legal provisions to defend against hostile takeovers.

9. Competition from State-Owned Enterprises

There are 37 state-owned enterprises (SOEs) in Nepal, including Nepal Telecom, Nepal Airlines Corporation, and the Nepal Electricity Authority. Since 1993, Nepal has initiated numerous market policy and regulatory reforms in an effort to open eligible government-controlled sectors to domestic and foreign private investment. These efforts have had mixed results. The majority of private investment has been made in manufacturing and tourism – sectors where there is either little government interest or the existing state-owned enterprises perform poorly. Most government-controlled sectors are not open for foreign investment.

The government maintains a list of SOEs on the Ministry of Finance's website (http://mof.gov.np/en/archive-documents/soe-information--yellow-book-29.html). Information on the SOEs' annual performance can be found on this website.

Corporate governance of SOEs remains a challenge, and executive positions have reportedly been filled by people connected to politically appointed government ministers. Board seats are generally allocated to senior government officials, and the SOEs are often required to consult with government officials before making any major business decisions. A 2011 executive order mandates a competitive and merit-based selection process, but has encountered resistance within some ministries. Third-party market analysts consider most Nepali SOEs to be poorly managed and characterized by excessive government control and political interference. The court system appears to favor SOEs over private entities. According to local economic analysts, SOEs are sometimes given preference for government tenders, although official policy states that SOEs and private companies are to compete under the same terms and conditions.

Private enterprises do not have the same access to finance as SOEs. Private enterprises mostly rely on commercial banks and financial institutions for business and project financing. SOEs also have access to financing from state-owned banks, development banks, and other state-owned investment vehicles. Similar concessions or facilities are not granted to any private enterprises.

OECD Guidelines on Corporate Governance of SOEs

The World Bank in Nepal assesses corporate governance benchmarks (both law and practice) against the OECD Principles of Corporate Governance, focusing on companies listed on the stock market. Awareness of the importance of corporate governance is growing. The NRB has introduced higher corporate governance standards for banks and other financial institutions. Under the OECD Principles of Corporate Governance, the World Bank recommended in 2011 that the GON strengthen capital market institutions and overhaul the Office of the Company Registrar (OCR). Although some reforms have been initiated many have not been finalized and no reforms have been instituted at the OCR.

Corporate governance of SOEs is poor, and executive positions are usually filled by individuals reportedly connected to politically appointed government ministers. Board seats are generally allocated to senior government officials, and the SOEs are often required to consult with government officials before making major business decisions. The Privatization Act of 1994 generally does not discriminate between national and foreign investors; however, in cases where proposals from two or more investors are identical, the government gives priority to Nepali investors.

Sovereign Wealth Funds

There are no sovereign wealth funds in Nepal.

10. Responsible Business Conduct

Government laws, policies, and rules concerning responsible business conduct (RBC), including environmental and social standards, are in place. However, government agencies and officials responsible for enforcing them have been criticized for failing to fulfill their responsibilities. The government has not drafted a national action plan for RBC, and does not factor RBC policies into procurement decisions. Workers' organizations and unions are the most vocal entities promoting or monitoring RBC. There are no independent NGOs or investment funds focusing on promoting or monitoring RBC. Other than the Department of Labor, which works with workers' organizations and unions, other government agencies do not encourage foreign and local enterprises to follow generally accepted RBC principles.

The GON does not maintain a national contact point for OECD MNE guidelines nor does it encourage adherence to OECD Due Diligence Guidance for Responsible Supply Chains of

Minerals from Conflict-Afflicted and High-Risk Areas. There are virtually no extractive industries in Nepal, and the country does not participate in the Extractive Industries Transparency Initiative.

11. Political Violence

In September 2015, Nepal adopted a new constitution – a key step in Nepal's post-conflict, democratic transition. In the Terai region (along Nepal's southern border with India), ethnic and caste groups protested elements of the constitution. The dissatisfaction led to widespread strikes across the Terai and blockages along the India-Nepal border that halted cross-border trade and transit. The disruptions across the Terai lasted from August 2015 until February 2016. Some protests resulted in violent clashes with security personnel, and about 50 protesters and police were killed.

Criminal violence, sometimes conducted under the guise of political activism, remains a problem, though a declining one. Bandhs (general strikes) called by political parties and other agitating groups sometimes halt transport and shut down businesses, sometimes nationwide. Americans and other Westerners are generally not targets of violence.

Business owners, especially those in the Terai, the southern plains bordering India, have been the target of extortion and kidnapping by political party activists and criminal groups aligned with them. To extort ransom, armed groups have targeted business entrepreneurs and local government employees, but generally not foreigners. Most of these criminal acts took place in the Central and Eastern Terai regions, and have decreased significantly in recent years.

U.S. citizens who travel to or reside in Nepal are urged to register with the Consular Section of the Embassy by accessing the Department of State's travel registration site at https://step.state.gov/step, or by personal appearance at the Consular Section, located at the U.S. Embassy Kathmandu. The Consular Section can provide updated information on travel and security, and can be reached through the Embassy switchboard at (977) (1) 423-4500, by fax at (977) (1) 400-7281, by email at mailto:consktm@state.gov, or online at http://nepal.usembassy.gov

U.S. citizens also should consult the Department of State's Consular Information Sheet for Nepal and Worldwide Caution Public Announcement via the Internet on the Department of State's home page at http://travel.state.gov or by calling 1-888-407-4747 toll free in the United States and Canada, or, for callers outside the United States and Canada, a regular toll line at 1-202-501-4444. These numbers are available from 8:00 a.m. to 8:00 p.m. Eastern Time, Monday through Friday (except U.S. federal holidays).

12. Corruption

Corruption, including bribery, raises the costs and risks of doing business. Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It also deters international investment, stifles economic growth and development, distorts prices, and undermines the rule of law.

The Commission for the Investigation of Abuse and Authority (CIAA) is the constitutional body for corruption control. The 2015 constitution empowers the CIAA to conduct "investigations of any abuse of authority committed through corruption by any person holding public office."

CIAA arrests and investigations tend to focus on lower level government bureaucrats. According to the Corruption Perception Index 2015 released by Transparency International (TI) in December 2015, Nepal ranked 130th among 167 countries, placing it in the range of "highly corrupt" countries.

It is important for U.S. companies, irrespective of their size, to assess the business climate in the relevant market in which they will be operating or investing, and to have an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms operating or investing in Nepal should take the time to become familiar with the relevant anticorruption laws of both Nepal and the United States in order to properly comply with them, and where appropriate, they should seek the advice of legal counsel.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U.S. firm that believes a competitor is seeking to use bribery of a foreign public official in international business, for example to secure a contract, should bring this to the attention of appropriate U.S. agencies, as noted below.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

The United Nations Convention Against Corruption entered into force on December 14, 2005, and there were 178 parties to it as of December 2015 (see http://www.unodc.org/unodc/en/treaties/CAC/signatories.html). The UN Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption, from basic forms of corruption such as bribery and solicitation, embezzlement, and trading in influence to the concealment and laundering of the proceeds of corruption. The Convention contains transnational business bribery provisions that are functionally similar to those in the OECD Anti-bribery Convention and contains provisions on private sector auditing and books and records requirements. Other provisions address matters such as prevention, international cooperation, and asset recovery. Nepal is a signatory to the UN Convention and ratified it in 2011.

Resources to Report Corruption

Mr. Shridhar Sapkota
Secretary
Commission for the Investigation of Abuse of Authority
CIAA Headquarter, P.O. Box No. 9996, Tangal, Kathmandu, Nepal
Phone: +9771-4440151, 4429688, 4432708
Fax: +9771-4440128, 4440104
Email: mailto:akhtiyar@ntc.net.np

International nongovernmental organization:

Mr. Bharat Bahadur Thapa
President
Transparency International Nepal (TIN)
P.O. Box 11486, Chakhkhu Bakhkhu Marga, New Baneshwor, Kathmandu

Phone: +977 1 4475112, 4475262
Fax: + 977 1 4475112
Email: mailto:trans@tinepal.org

Local nongovernmental organization:

Prof. Dr. Srikrishna Shrestha
President
Pro Public
P.O. Box: 14307, Gautambuddha Marg, Annamnagar
Phone: +977-01-4268681, 4265023; Fax: +977-01-4268022
Email: mailto:propublic@wlink.com.np

13. Bilateral Investment Agreements

Bilateral Taxation Treaties

Nepal does not have a bilateral investment treaty or free trade agreement with the United States. Nepal has bilateral investment treaties with the United Kingdom, Finland, France, Germany, India, and Mauritius. Nepal signed a Bilateral Investment Promotion and Protection Agreement (BIPPA) with India in October 2011, but the agreement has not yet entered into force. Nepal does not have a bilateral tax treaty with the United States.

14. Foreign Trade Zones/Free Ports/Trade Facilitation

Nepal has no Foreign Trade Zones or Free Trade Zones, but wants to establish a Special Economic Zone (SEZ) in Bhairahawa, near the Indian border. Under draft legislation, an industry exporting 75 percent or more of its products would be entitled to apply for a space in a SEZ and import raw materials and capital goods without paying custom duties, excise taxes, or sales taxes. An industry located in a SEZ would be exempt from paying income tax for five years from the date of commencement of commercial operations; after five years, the company would pay 50 percent of the normal tax. Additionally, such companies would be exempt from the value added tax for imported machinery, equipment, spare parts, and raw materials.

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) ($M USD)	2015 2014	$21,290 $19,700	2015 2014	N/A $19,770	www.worldbank.org/en/country

*Nepal Rastra Bank http://nrb.org.np/ofg/policy.php?tp=monetary_policy&&vw=15

Table 3: Sources and Destination of FDI

Direct Investment (Approved) from/in Counterpart Economy Data, FY 2013/14					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			Outward Direct Investment		
Total Inward	201.07	100%	Outward investment is not permitted under Nepali law		
China	73.14	36.4%	N/A	N/A	
India	65.40	32.5%	N/A	N/A	
South Korea	20.30	10.1%	N/A	N/A	
Hong Kong	10.72	5.3%	N/A	N/A	
USA	5.36	1.7%	N/A	N/A	
"0" reflects amounts rounded to +/- USD 500,000.					

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments

Legal system:

English common law and Hindu legal concepts

International organization participation:

ADB, BIMSTEC, CD, CP, FAO, G-77, IAEA, IBRD, ICAO, ICC, ICRM, IDA, IFAD, IFC, IFRCS, ILO, IMF, IMO, Interpol, IOC, IOM, IPU, ISO (correspondent), ITSO, ITU, ITUC (NGOs), MIGA,

MINURSO, MINUSTAH, MONUSCO, NAM, OPCW, SAARC, SACEP, UN, UNAMID, UNCTAD, UNESCO, UNIDO, UNIFIL, UNISFA, UNMIL, UNMISS, UNMIT, UNOCI, UNTSO, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

Section 6 - Tax

Exchange control

For further information - http://www.nepalgov.gov.np/

Treaty and non-treaty withholding tax rates

For further information - http://www.nepalgov.gov.np/

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: CIA World Factbook)

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: CIA World Factbook / https://www.cia.gov/library/publications/world-leaders-1/index.html)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: OECD Global Forum on Transparency and Exchange of Information for Tax Purposes PKF International)

DISCLAIMER

Part of this report contains material sourced from third party websites. This material could include technical inaccuracies or typographical errors. The materials in this report are provided "as is" and without warranties of any kind either expressed or implied, to the fullest extent permissible pursuant to applicable law. Neither are any warranties or representations made regarding the use of or the result of the use of the material in the report in terms of their correctness, accuracy, reliability, or otherwise. Materials in this report do not constitute financial or other professional advice.

We disclaim any responsibility for the content available on any other site reached by links to or from the website.

RESTRICTION OF LIABILITY

Although full endeavours are made to ensure that the material in this report is correct, no liability will be accepted for any damages or injury caused by, including but not limited to, inaccuracies or typographical errors within the material, Neither will liability be accepted for any damages or injury, including but not limited to, special or consequential damages that result from the use of, or the inability to use, the materials in this report. Total liability to you for all losses, damages, and causes of action (in contract, tort (including without limitation, negligence), or otherwise) will not be greater than the amount you paid for the report.

RESTRICTIONS ON USE

All Country Reports accessed and/or downloaded and/or printed from the website may not be distributed, republished, uploaded, posted, or transmitted in any way outside of your organization, without our prior consent. Restrictions in force by the websites of source information will also apply.

We prohibit caching and the framing of any Content available on the website without prior written consent.

Any questions or queries should be addressed to: -

Gary Youinou

Via our Contact Page at KnowYourCountry.com