NICCI
Nepal-India Chamber of Commerce & Industry

IV edition

A Handbook for
Indian Investors

Investing in Nepal



2026

EMBASSY OF NEPAL
New Delhi, India

सत्यमेव जयते
Economic Diplomacy Division
Ministry of External Affairs
Government of India

A Handbook for

Indian Investors

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2026

A Handbook for Indian Investors – 2026

4th Edition

Published by:
© Nepal-India Chamber of Commerce & Industry (NICCI)

In association with:
Embassy of Nepal, New Delhi, India **and Embassy of India,** Kathmandu, Nepal

Compiled and prepared by:
Pioneer Law Associates, Kathmandu, Nepal

Layout and design by:
Bikram Chandra Majumdar

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Foreword



Nepal and India share a unique and enduring relationship shaped by geography, history, culture, open borders and close people-to-people ties. These strong foundations have created a natural partnership with considerable scope for expanding trade, investment, industry and economic cooperation.

After domestic investment, foreign direct investment plays an important complementary role in Nepal's industrial and economic development, particularly where domestic capital, technology or expertise is insufficient to meet investment requirements. Within this, Indian investment has been an important contributor, particularly since the liberalization of the 1990s and the Nepal-India Trade Treaty of 1996. Indian enterprises have established a significant presence in manufacturing, banking and financial services, insurance, telecommunications, pharmaceuticals, tourism, infrastructure, energy and other sectors, bringing capital, technology, managerial expertise and employment opportunities. According to Nepal Rastra Bank's FDI data based on actual investment, companies from around 60 countries have invested in Nepal, with India accounting for nearly one-third of Nepal's total FDI stock and remaining the largest source of FDI.

Since the Nepal Investment Summit in April 2024, economic cooperation between the two countries has continued to broaden, particularly in hydropower, electricity trade, transmission infrastructure and connectivity. The expanding cross-border power trade has opened new possibilities for investment in Nepal's energy sector, while developments in information technology, digital services, manufacturing, tourism and other emerging areas offer further opportunities for Indian investors.

For Nepal, the priority is not only to attract investment but also to facilitate its timely realization and create an environment in which investment can grow sustainably. Predictable policies, transparent procedures, efficient administration, reliable infrastructure and appropriate investment protection are important to achieving this objective. Greater domestic value addition, technology and skills transfer, and stronger linkages with Nepali enterprises can further enhance the contribution of foreign investment to economic development.

Against this backdrop, A Handbook for Indian Investors in Nepal, Fourth Edition, 2026 provides a timely and practical reference to Nepal's investment policies, procedures, institutions and emerging opportunities. This Fourth Edition reflects the continuing evolution of Nepal's investment environment and the expanding areas of Nepal-India economic cooperation.

NICCI remains committed to strengthening dialogue between the business communities and institutions of the two countries and to facilitating a more conducive environment for investment and enterprise. I hope this Handbook will assist Indian investors in exploring opportunities in Nepal and contribute to deeper investment cooperation and stronger economic partnership between our two countries.

I express my sincere appreciation to the Embassy of India, Kathmandu, and all concerned institutions, experts and the NICCI team for their valuable support and contributions towards bringing out this edition.

Sunil K.C.
President
Nepal-India Chamber of Commerce & Industry (NICCI)

Preface



It gives me immense pleasure to present the Fourth Edition of *A Handbook for Indian Investors in Nepal*, published by the Nepal-India Chamber of Commerce & Industry (NICCI), as part of our longstanding endeavour to facilitate Indian investment in Nepal through reliable information and practical guidance.

The journey of this Handbook began in 2011, The first edition, *Doing Business in Nepal – A Guide for Indian Investors*, was launched in July 2011. The second edition, published in 2018/19, adopted a question-and-answer format for greater accessibility, while the third edition, prepared in association with the Embassy of India, Kathmandu, and with the support of the Embassy of Nepal, New Delhi, was released during the Nepal Investment Summit in April 2024 in Kathmandu organized by the Investment Board, Nepal.

This Fourth Edition incorporates updated information on Nepal's investment policies, regulatory framework, institutional mechanisms and business environment. As Nepal's economy and investment landscape continue to evolve, timely and dependable information remains essential for investors seeking to establish or expand their businesses.

India remains Nepal's largest trading partner and a leading source of foreign investment, with Indian enterprises building a strong and diverse presence across manufacturing, banking and financial services, insurance, telecommunications, pharmaceuticals, tourism, education, infrastructure, cement, hydropower and other sectors. Their engagement has brought more than capital—contributing technology, managerial expertise, employment and wider industrial linkages to Nepal's economy. As the investment landscape evolves, information technology, digital services, renewable energy and other knowledge-based sectors are opening new avenues to further deepen and diversify the Nepal-India investment partnership.

Realizing these opportunities requires a predictable and transparent investment environment, efficient procedures, reliable infrastructure and constructive engagement among the governments and business communities of both countries. NICCI remains committed to facilitating such engagement and addressing practical issues affecting investors.

I express my sincere gratitude to the Embassy of India, Kathmandu, for its continued partnership and support since its first edition. I also acknowledge the valuable contributions of the concerned government agencies, experts, business representatives and the NICCI team in preparing and updating this edition.

I trust that this Handbook will serve as a useful reference for Indian investors exploring opportunities in Nepal and contribute to stronger investment partnerships and shared economic prosperity between our two countries.

Keshab Man Singh
Director General
Member Secretary, Task Force for Investment Guide for Indian Investors (3rd Edition), NICCI

सत्यमेव जयते
Embassy of India
Kathmandu, Nepal

Message
Chargé d'Affaires



NICCI's consistent efforts towards the further enhancement of economic ties between India and Nepal have been well-recognized and appreciated. The publication of the new edition of the Handbook for Indian Investors is a valuable initiative by NICCI, that will help provide reliable and relevant information to entrepreneurs and businesses that are interested in investing in Nepal.

The comprehensive economic partnership between India and Nepal has maintained a steadfast upward trajectory which has been marked by extensive cooperation in the domains of trade, commerce and investments.

As the traditional areas of economic collaboration have grown stronger, both countries are now exploring synergies and opportunities in newer domains such as technology, AI, startups, renewable energy, IT, and connectivity.

This type of comprehensive and mutually beneficial interaction in the economic domain is consistent with the overall India-Nepal relationship that has always been special, multidimensional, and underpinned by a deep civilizational connect and extensive people-to-people linkages.

I am confident that this Handbook will not only help facilitate greater interaction between our businesses, but also contribute to further enhancement of the deep friendship between India and Nepal.

Dr. Rakesh Pandey

Message

Chargé d'Affaires a.i.



I am pleased to extend warm greetings to the Nepal-India Chamber of Commerce & Industry (NICCI) on the publication of the updated *Handbook for Indian Investors Investing in Nepal, 4th Edition, 2026*. I commend NICCI's continuing contribution to strengthening business relations between our two countries.

India is Nepal's largest trading partner and its largest source of foreign investment. Our geographical proximity and longstanding business relationships provide a strong foundation for collaboration between Indian and Nepali enterprises. Indian businesses have made valuable contributions to Nepal's development, while expanding cross-border connectivity and electricity trade offer further opportunities for mutually beneficial partnerships in hydropower, manufacturing, tourism, agro-processing, information technology and infrastructure.

The Government of Nepal has placed private investment and enterprise at the heart of its economic reform agenda. Its 100-point governance reform agenda prioritises investment facilitation through more integrated, digital and transparent procedures, including a single-window approval system for investors. Building on this commitment, the Budget for Fiscal Year 2026/27 announces "Investment Express" to integrate business registration, financial services, tax processes and visa applications through an automated system. It also sets out measures to simplify investment and profit repatriation, reduce duties on industrial raw materials, support information technology exports and agro-processing, and improve services in special economic zones.

Recent legislative developments include the Finance Act, 2083, and the Alternative Development Finance Mobilisation Act, 2083. The Government has also published a Private Investment Protection and Promotion Strategy. Alongside these steps, proposed amendments to foreign investment, industrial enterprise and company laws aim to simplify approvals, facilitate business expansion and improve the investment environment.

To strengthen practical support for investors, Investment Board Nepal has established an Investor Facilitation and Grievance Redressal Desk to assist with the submission of proposals, provide information and address concerns. Together, these initiatives seek to reduce the cost of doing business and make investment procedures more efficient and transparent.

I encourage Indian businesses to explore Nepal's investment opportunities and build lasting partnerships with Nepali enterprises that generate employment, strengthen local supply chains and promote the transfer of skills and technology. This Handbook will serve as a useful reference for investors navigating Nepal's evolving policies and procedures. The Embassy of Nepal in New Delhi remains ready to facilitate business contacts and connect interested investors with the relevant institutions in Nepal.

I extend my best wishes for NICCI's 32nd Annual General Meeting and for the success of this publication.

Dr. Surendra Thapa
Chargé d'Affaires a.i.

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ABBREVIATIONS

AOA	Articles of Association
Arbitration Act	Arbitration Act 1988
BAFIA	Banking and Financial Institution Act 2016
BFIs	Banks and Financial Institutions
BIPPA	Bilateral Investment Promotion and Protection Agreement 2011
Bonus Act	Bonus Act 1974
Civil Code	Civil Code 2017
COD	Commercial Operation Date
Companies Act	Companies Act 2006
Customs Act	Customs Act 2007
Customs Rule	Customs Rules 2007
DOED	Department of Electricity Development
DOI	Department of Industry
DOL	Department of Labor and Occupational Safety
DTAA	Double Taxation Avoidance Agreement
EIA	Environment Impact Assessment
EPA	Environmental Protection Act 2019
EPR	Environmental Protection Rules 2020
ERC	Electricity Regulatory Commission
Excise Duty Act	Excise Duty Act 2002
Excise Duty Rules	Excise Duty Rules 2002
EXIM	Export Import
EXIM Code	Export Import Code
Export and Import Control Act	Export and Import Control Act 1957
FDI	Foreign Direct Investment
FITTA	Foreign Investment and Technology Transfer Act 2019
FITTR	Foreign Investment and Technology Transfer Regulation 2021
FERA	Foreign Exchange (Regulation) Act 1962
GON	Government of Nepal
IAOM	Industrial Area Operation and Management Regulation
IBN	Investment Board of Nepal
ICD	Inland Container Depots
ICP	Integrated Check Posts
IDML	Industry District Management Limited
IEE	Initial Environment Examination
IIPB	Industry and Investment Promotion Board
IEA	Industrial Enterprises Act 2020
IER	Industrial Enterprises Rule 2022
INR	Indian Rupee
IRD	Inland Revenue Department
IRO	Inland Revenue Office
IT	Information Technology
ITA	Income Tax Act 2002
ITR	Income Tax Rules 2003
Labor Act	Labor Act 2017
Labor Rule	Labor Rules 2018
LRO	Land Revenue Office

MCLR	Marginal Cost of funds-based Lending Rate
MOA	Memorandum of Association
MOEWRI	Ministry of Energy, Water Resources and Irrigation
MOICS	Ministry of Industry, Commerce and Supplies
MOL	the Ministry of Land Management, Cooperative and Poverty Alleviation
MOU	Memorandum of Understanding
MULA	Mutual Legal Assistance Act 2014
MW	Megawatt
N/A	Not Applicable
NCRO	Nepal Copyright Registrar's Office
NEA	Nepal Electricity Authority
NEPSE	Nepal Stock Exchange
New York Convention	New York Convention on the Recognition and Enforcement of Foreign Arbitral Award 1957
NPR	Nepalese Rupee
NRB	Nepal Rastra Bank
NRB Bylaws	Nepal Rastra Bank Foreign Investment and Loan Management Bylaws, 2021
OTC	Over the Counter
OCR	Office of the Company Registrar
p.a.	Per Annum
PAN	Permanent Account Number
PDA	Project Development Agreement
PDTA	Patent Design and Trademark Act 1965
PPA	Power Purchase Agreement
PPP	Public Private Partnership
PPPIA	Public Private Partnership and Investment Act 2019
PPPIR	Public Private Partnership and Investment Regulation 2020
RCOD	Required Commercial Operation Date
Social Security Act	Social Security Act 2018
SES	Summary Environmental Study
SEZ	Special Economic Zone
SEZA	Special Economic Zone Authority
SEZ Act	Special Economic Zone Act 2016
SEZ Rules	Special Economic Zone Regulation 2017
SSF	Social Security Fund
SSS	Social Security Schemes
TDS	Tax Deducted at Source
Trade Union Act	Trade Union Act 1992
TRIPS Agreement	Trade Related Aspects of Intellectual Property Rights, 1994
TTA	Technology Transfer Agreement
UNCITRAL	United Nations Commission on International Trade Law
USD	United States Dollar
VAT	Value Added Tax
VAT Act	Value Added Tax Act 1995
VAT Rules	Value Added Tax Rules 1996
WTO	World Trade Organization

NEPAL'S POTENTIAL AND ATTRACTIVENESS AS AN INVESTMENT DESTINATION

Foreign Direct Investment (FDI) is a key driver of economic development, modernization, income growth, and employment. It facilitates the dissemination of technological know-how in the form of new capital inputs, increases competitiveness in the domestic input market, fosters business growth, boosts corporate tax revenues and promotes international trade integration. Nepal has pursued a liberal foreign investment policy and endeavored to cultivate an investor-friendly environment in order to attract FDIs. Foreign investments in Nepal take the form of, among others, technology transfer, equity investment by foreign individuals or institutional investors, joint venture with Nepalese investors or a wholly owned foreign enterprise.

The government of Nepal has prioritized encouraging foreign direct investment to overcome the deficit in private capital formation. Some of the major laws that affect foreign direct investment in Nepal are the Foreign Investment and Technology Transfer Act (FITTA) 2019, the Foreign Exchange (Regulation) Act 1962, the Public Private Partnership and Investment Act 2019, Foreign Investment and Loan Management Bylaws 2021 and the Industrial Enterprises Act 2020. Similarly, FDI laws and regulations are administered and implemented by the Department of Industry (DOI), the Investment Board of Nepal (IBN), and the Nepal Rastra Bank (NRB).

India is the largest source of FDI for Nepal, contributing 32.8% share in the total FDI Stock. The majority of India's foreign direct investment (97.1%) is concentrated in three industries: electricity, gas, steam, and air conditioning (31.9%), manufacturing (39%), and financial and insurance services (21.3 percent). The investment in electricity, gas, steam, and air conditioning (mainly the hydropower industry) remains the greatest in terms of paid-up capital. Nepal's strategic location allows it to share a border with India, granting it free and simple access to the Indian market. In addition, there are bilateral investment protection and double tax avoidance agreements between Nepal and India, which make Indian investments in Nepal quite appealing. Other opportunities and advantages for foreign investment in Nepal include the availability of cheap labor, the low threshold for foreign investment, a guarantee against expropriation, a welcoming visa policy for foreign investors, representatives, and their dependents, a zero-tariff on products from Least Developed Countries (LDCs) such as duty-free, quota-free market access to the European Union under Everything But Arms (EBA) arrangements and duty-free US market access to sixty-six types of garment items upto 2026.

Foreign investors have made praiseworthy investments in hydropower, industry, manufacturing, service, tourism, construction, agriculture, minerals, and energy throughout the years. Beyond its ecological and climatic advantages over India and China, the country's location in the Himalayas, home to eight of the world's highest mountains, rich flora and fauna, hill terrains, lakes, rivers and religious centers like Janakpur, Lumbini, Pashupatinath and Muktinath offers enormous potential for tourism. From near sea level in the Terai area to the world's highest summit, Nepal's scenery is incredibly diverse. Within only 193 kilometers, the country experiences all four seasons, making it an attractive investment destination for businesses in fields as diverse as herbal and organic farming. In addition, FDI in the medical tourism industry is booming thanks to Nepal's proficiency in procedures such as cataract removal, heart bypass surgeries and organ transplants. It is estimated that Nepal's technical potential for hydropower is 83 Gigawatts (GW), and although all the technically potential water resources may not be developed, around 42 GW is considered economically viable. Minerals, both metallic and nonmetallic, and other natural items are abundant throughout the nation. Massive reserves of talc, limestone, and other building materials may be found here.

COUNTRY PROFILE

Geography of Nepal

Nepal, or the Federal Democratic Republic of Nepal as it is formally called, is a South Asian landlocked country. The Himalayas cover a large portion of the nation, although the Indo-Gangetic plains are also a feature of the country's geography. Nepal is home to people of many different ethnicities, languages, religions, and cultural backgrounds. Nepal is a secular federal parliamentary republic with 7 distinct provinces, as established by the country's 2015 constitution. Before adopting this structure, Nepal was administratively divided into 14 zones and 5 development regions, both of which were replaced by the current seven provinces.

Statistics of Nepal

Government	Federal Parliamentary Republic
Capital	Kathmandu
Area	147,181 km^2
Population	29,192,480 (as per Census Report 2021)
Per Capita GDP (United States Dollar ("USD")	1535.9 in July 2025
Official Language	Nepali at the national level Nepali along with Maithili and Bhojpuri in Madhesh Province Nepali/ English for legal documents
Currency	Nepalese Rupee ("NPR") 1 Indian Rupee (INR) = 1.60 NPR (Pegged)

Political and Legal System in Nepal

The present written and governing Constitution of Nepal was adopted in the year of 2015 by the constituent assembly. As per the Constitution of Nepal (2015), the power vested in the state has been seen to be apportioned among three crucial branches in order to ensure a separation of powers, thus guaranteeing checks and balances. These branches are the parliament, executive and judiciary. Any and all laws, that may be enacted by the parliament or any other government agencies (in the forms of directives, circulars etc.) must be seen to be consistent with the constitution, failing which, it is within the power of the Supreme Court to render them invalid. Thus, the constitution of Nepal (2015) is seen to be the fundamental law of the country.

The head of the state is the President while the head of the government is the Prime Minister. The federal and state parliamentary system is followed in Nepal. The federal legislature is bicameral with two houses. One is the House of Representatives and the other is the National Assembly. At the provincial level, each of Nepal's seven provinces is governed by a unicameral Provincial Assembly. The State's Executive power is vested with the council of ministers.

Nepal's common law-based legal system is greatly influenced by Hindu customary law. Acts passed by the Parliament, regulations developed by the Council of Ministers or other appropriate law-making organizations, and circulars and directives issued by government agencies in accordance with delegated laws are included in the legal instruments. Various policies may also be issued by the government. In general, the policies aid in understanding the government's attitude and are the suggested course of action for the future; nevertheless, they are not legally binding and neither do they provide any rights or obligations. Furthermore, the Act's provisions cannot be overridden by Policy.

The Constitution guarantees the independence of powers for the judiciary. In Nepal, there are three different levels of courts: the District Court, the High Court, and the Supreme Court. The Supreme Court is the "court of record" and possesses the authority to conduct judicial reviews.

The right to property has been recognized by the Constitution as a fundamental right, and the Constitution guarantees that any property that is located within the confines of Nepal's boundaries will not be taken over by the government. The government is prohibited from nationalizing any sector of the economy. The sole permissible exception to this rule is that the government is allowed to purchase privately owned land if it is required for public use, as long as the owners are compensated accordingly. In the case of public interest, requisition, or acquisition, or if it puts an encumbrance on the property of another person, non-nationalization is an exception.

Economic System

The country relies largely on imports of raw resources and exports of its agricultural and forestry goods to maintain its economy. Exports include rice, jute, lumber, and textiles, while imports include petroleum, building materials, fertilizers, metals, and most consumer items. Nepal's economic system is seen to be a combination of capitalism and socialism. The nation has a Privatization Act from 1993 and has constantly pursued a liberalization agenda since 1990 in an effort to engage the private sector in new areas of trade and commerce. According to the Economic Survey 2025/26 conducted by the Ministry of Finance, the estimate for economic growth for FY 2025/2026 is 3.85%.

FOREIGN DIRECT INVESTMENT ("FDI")

The government of Nepal has established a number of measures to encourage and safeguard foreign investment in the country. The government of this nation has passed the Foreign Investment Policy, 2014 in order to protect the legal standing of investors and describe the amenities that have been made available. Currently, Nepal possesses a market that is open and liberalized, which welcomes international investment in a diverse assortment of industries. Additionally, Nepal is a member of the World Trade Organization, which enables the country to take advantage of the concessions that are made available to WTO members.

Nepal is a landlocked country that is located between India and China. Over the past several years, it has emerged as a center for economic growth and development due to its strategic location. This makes Nepal an ideal place for new business ventures. Additionally, there is statutory protection for investments in place in this country, which ensures that each and every investment is safeguarded. Investors also have the ability to invoke rights protecting their investments and properties from being nationalized. They also have the right to a hundred percent repatriation of any gains made from their investments, which helps make Nepal an attractive platform for financial transactions.

Since Nepal has opened a wide variety of its industries to the possibility of receiving foreign investment, the country has become a dynamic and alluring destination for this type of investment. The majority of Nepal's industrial sectors are open to 100 percent foreign ownership, although several industries have restrictions on the maximum amount of foreign investment that can be held in such sectors.

The door to foreign investment in Nepal is wide open across a diverse range of economic fields and sizes of industries; the government of Nepal has expressed its acceptance of capital in both small and large sized businesses. Because of Nepal's advantageous geographic location, several industries, including energy and tourism, have been able to make the most of the potential investment opportunities available in their respective environments. The government has also played a role in this by elevating the status of international investment as a top priority.

Nepal has received foreign investment from 60 different countries as of mid-July 2025. In terms of total FDI stock, India ranks top position with Rs.57.8 billion followed by China (Rs.30.6 billion), South Korea (Rs. 17.6 billion)) and Hong Kong (Rs.13.4 billion) as per the 2024/2025 survey report on Foreign Direct Investment in Nepal. Also, Indian investors do not need visas to make investments in Nepal as is required by citizens of other countries. In addition to this as of 2026, the government has revised the minimum threshold for foreign direct investment (FDI) to Rs 20 million (NPR) from the existing Rs 50 million (NPR).

Industries Approved for FDI by Category (F/Y 2024-2025)

Category	No. of Projects	Total Capital	Foreign Investment	No. of employments
Agro and Forestry Based	12	1,605,000,000	1,466,000,000	624
Energy Based	1	250,000,000	25,500,000	33
Information Technology Based	382	1,990,869,800	1,849,600,000	5570
Infrastructure	2	120,000,000	50,000,000	40
Manufacturing	55	5,750,097,233	3,842,050,000	2101
Mineral	-			
Service	84	35,847,883,400	30,907,730,000	2902
Tourism	304	28,410,270,000	26,824,260,000	14614
Total	840	73,974,120,433	64,965,140,000	25884

Source: Industrial Statistics, Department of Industry, 2024/2025

Chapter 1

DOING BUSINESS IN NEPAL: General Overview

Indian investors can make equity investment and carry out business activities in Nepal by adopting any of the following commercial presence:

(a) Limited liability companies:

An Indian investor can invest or operate a business in Nepal

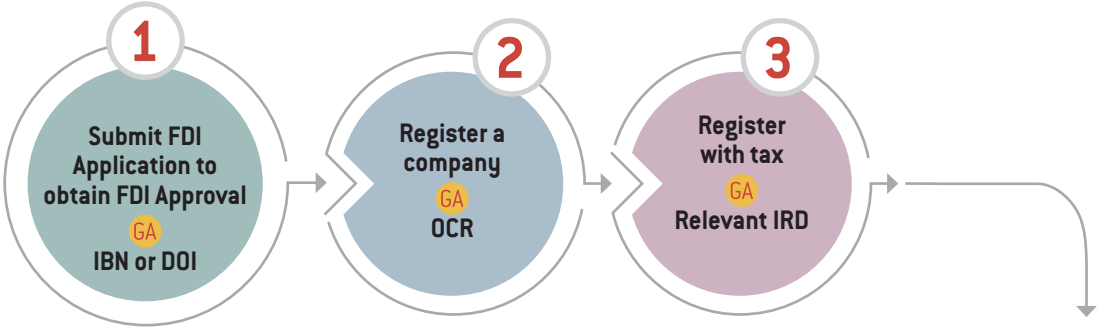
(i) by incorporating a limited liability company in Nepal,

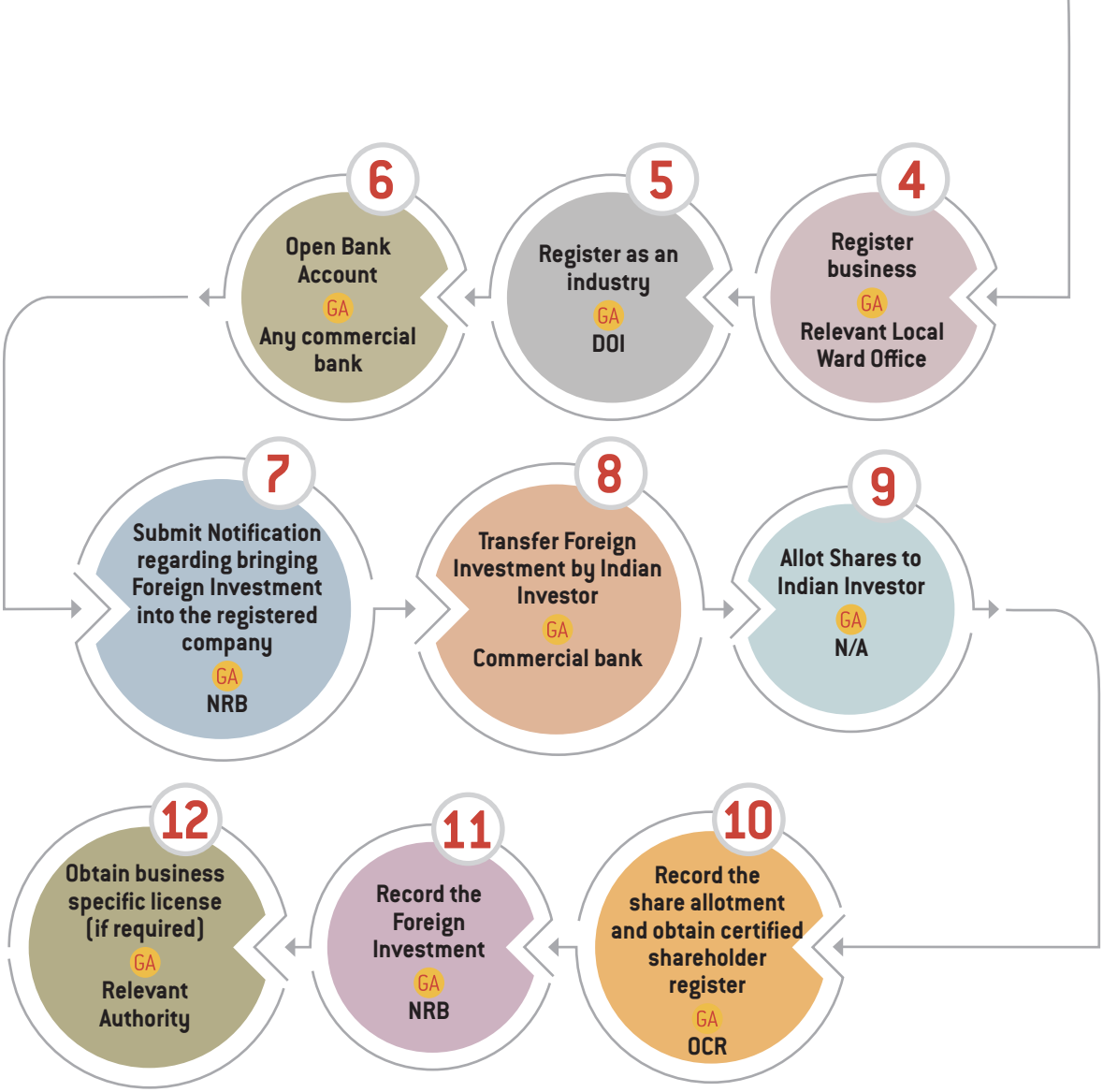
(ii) by acquiring shares of a limited liability company already in existence. Indian investors can incorporate a private limited company or a public limited company. Private limited companies can also be incorporated with a single shareholder. At least seven shareholders are required to incorporate public limited companies. There is no provision for registration of limited liability partnerships.

(i) By incorporating a limited liability company:

The following table depicts general procedures for making investment by one or more Indian investors by setting up a new limited liability company (includes both private and public companies) in Nepal with or without collaboration with a Nepalese investor:

Foreign investment for establishment of limited liability company (public limited/private limited)





GA = Governing Authority

(ii) By acquiring shares of an existing limited liability company

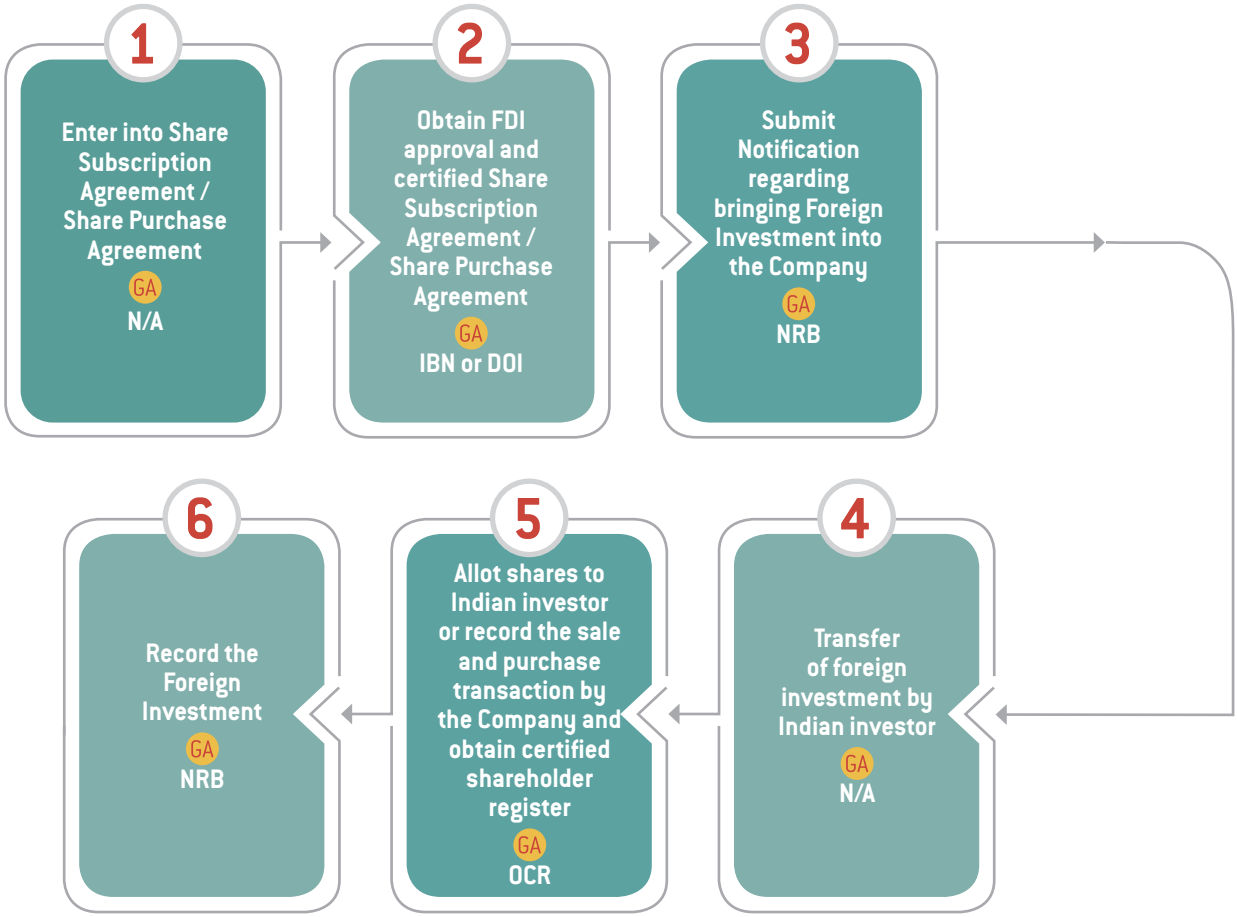
Investment in an existing company can be done in two ways:

(i) by purchasing shares from the existing shareholder/s in the name of the Indian investor, or

(ii) by subscribing new shares of the existing company by the Indian investor, either from the reserved shares or by increasing the issued capital of the company.

A share purchase agreement is required between the Indian investor and the intended seller (shareholder of the company) for the purchase of shares. A share subscription agreement is required between the Indian investor and the existing company for subscription of shares. The following table depicts the general procedures for making investment by one or more Indian investors in an existing company:

Foreign investment in an existing company



GA = Governing Authority

(b) Branch Office:

Indian companies can also register Branch Office to undertake business activities in Nepal. This option will be available only if the Indian investors are registered as a company in India.

i) Mandatory Branch Office Registration

The Companies Act 2006 ("Companies Act") of Nepal requires registration of a Branch Office if a foreign company is undertaking business activity in Nepal for a continuous period of one month or more from any office or any place used for that purpose. The mandatory requirement of branch registration is not applicable for Indian companies in cases where-(a) the Indian investor is making investment in share capital, or (b) providing debt to an entity in Nepal, or (c) participating in management of such entities (for example in the form of management services). These activities are not considered as "carrying out business activity" in Nepal. However, these activities require approval under the foreign investment laws of Nepal.

ii) Prerequisites for Branch Office Registration

A Branch Office in Nepal can be set up by obtaining government endorsement, based on which the Office of the Company Registrar will register such Branch Office. There are two ways to obtain government endorsement:

(a) by obtaining recommendation or approval from concerned regulatory authority, or

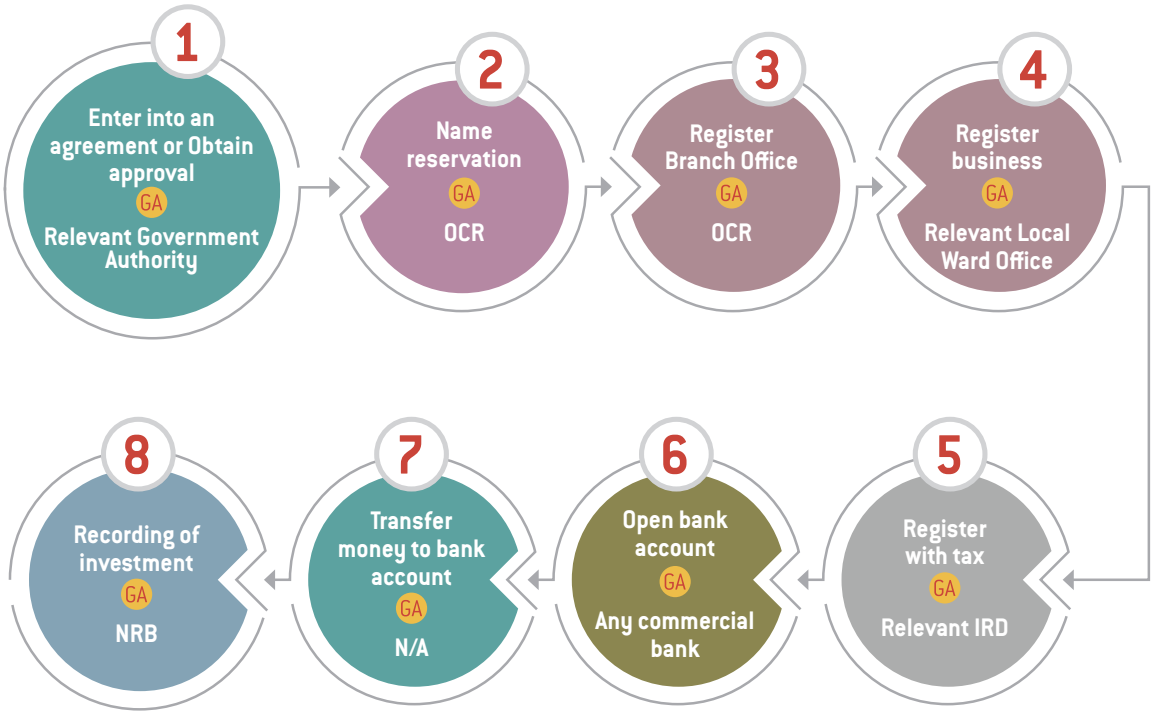
(b) by entering into an agreement with Government of Nepal (GON) authority.

As per Companies Act, an Indian company is required to obtain foreign investment approval from the concerned line government authority to set up a Branch Office in Nepal. Similarly, if an Indian company enters into an agreement with competent government authority, such agreement itself is also deemed to be the approval for registration of Branch Office.

FITTA is a special legislation that deals with foreign investment in Nepal. As per Section 8 of FITTA, a foreign industry may make foreign investment in Nepal by establishing its Branch industry thereby requiring the company to be registered as an industry in the country of its incorporation. However, FITTA does not define foreign industry and has mentioned that the provisions relating to Branch industry shall be as prescribed in the rules. In present context, the Department of Industry is not providing approval for registration of branch on the basis that they have no jurisdiction. Therefore, at present, Indian investors have the option to operate in Nepal on the basis of branch registration only in a situation where they have entered into an agreement with any government authority in Nepal or if there is any specific government authority for providing specific approval for Branch Office registration. This generally may be for the supply of goods or services or selection for project implementation in Nepal on the basis of public bidding. The registered Branch Office can undertake all such activities that are covered under such agreement entered into with the government authority on the basis of which the Branch Office is registered.

The following table depicts the step-by-step process of the registration of branch office:

Process of the registration of branch office



GA = Governing Authority

(c) Contact (Liaison) Office:

A contact office is required to be registered if an Indian company appoints any person in Nepal for the purpose of regular contact. The registration of a contact office entitles Indian companies to open an office in Nepal as well as hire required employees. However, Contact office is not permitted to undertake any business activities including marketing, advertisements and promotion of the Indian Company. They can carry out correspondence and act as a point of contact on behalf of the Indian company in Nepal, and provide assistance without charging any cost to any person in Nepal willing to use or import the products and service of the Indian company. The process of incorporation of contact office is same as that of a Branch office.

The following table depicts the step-by-step process of the registration of contact office:

Process of the registration of contact office



GA = Governing Authority

(d) Other options:

(i) Tax Registration:

There are also practices where business activities are operated on the basis of tax registration with the relevant tax office without registering a legal company or Branch Office. While this approach fulfills the compliance requirement under the tax laws, it will not comply with the requirement under the Foreign Investment and Technology Transfer Act 2019 or Companies Act. Further, this approach will also hinder the ability to repatriate profits earned in Nepal as the NRB, requires documents related to registration of a local company or Branch Office in Nepal.

(ii) Business in Individual Capacity:

There are also instances where business activities have been undertaken in individual capacity on the basis of tax office or business registration with municipalities. This approach is generally adopted in trading business an d also does not fulfill the legal requirement under the laws of Nepal. Further, trading business is not open for foreign investment and therefore trading activities may not be undertaken on individual basis by Indian investors.

Chapter 2

INVESTING IN NEPAL: Regulation of Foreign Investment

1. What laws regulate foreign investment in Nepal?

The relevant laws dealing with matters related to foreign investment are:

a. Foreign Investment and Technology Transfer Act, 2019 ("**FITTA**")

b. Foreign Investment and Technology Transfer Regulation, 2021 ("**FITTR**")

c. Foreign Exchange (Regulation) Act, 1962 ("**FERA**")

d. Public Private Partnership and Investment Act, 2019 (the "**PPPIA**")

e. Public Private Partnership and Investment Regulation, 2020 (the "**PPPIR**")

f. Industrial Enterprises Act, 2020 ("**IEA**")

g. Industrial Enterprises Rule, 2022 ("**IER**")

h. Nepal Rastra Bank Foreign Investment and Loan Management Bylaws, 2021 ("**NRB Bylaws**")

Department of Industry ("**DOI**"), Investment Board of Nepal ("**IBN**"), and Nepal Rastra Bank ("**NRB**") are the main regulatory bodies with regard to foreign investment in Nepal.

2. What is foreign investment?

a. The following investments made by a foreign investor in an industry are considered as "foreign investment":

- Investment in shares,
- Reinvestment of the dividends derived from foreign currency or shares,
- Lease Financing of certain assets of airlines, ships, machinery,
- Investment in venture capital fund,
- Investment in listed securities through secondary securities market,
- Investment made in units of a Specialized Investment Fund,
- Investment by purchasing shares or assets of a company,
- Investment received after issuing securities in a foreign capital market,
- Investment made through technology transfer (licensing of foreign intellectual property,

franchising, management and technical services, information technology, marketing and market research, financial, accounting and auditing, engineering, outsourcing, human resource outsourcing, digital data processing and digital data migration, design services, and other technical skill or knowledge), and

- Investment done by establishment and expansion of industry in Nepal.

b. FITTA provides the list of investors who can make foreign investment in Nepal. As per FITTA, an Indian Investor can be an individual, international organization, government bodies and other corporate entities, or firms. However, in certain sectors like financial institutions, investment can be made only by foreign financial institutions.

SHARE INVESTMENT

3. What sectors are open for Indian investors?

a) Nepalese law permits foreign investment in a wide range of activities and most of these sectors of business are open for investment. However, foreign investment is allowed only in industrial activities and not in trading activities. Nevertheless, IEA permits manufacturing companies to carry out the import activity within prescribed terms and conditions to examine the viability of the product in the Nepalese market.

b) Foreign investment is permissible in sectors which are (a) classified as industry (the "Positive List"), and (b) sectors which are not included in negative list (the "**Negative List**").

i) Industry Classification

Section 3 of the IEA classifies industry into eight categories and lists the nature of activities in each of these categories: (1) Energy-based Industry, (2) Manufacturing industry, (3) Agriculture and Forestry product-based Industry, (4) Mining Industry, (5) Infrastructure Industry, (6) Tourism Industry, (7) Industry based on Information technology, Communication technology and Information dissemination technology, and (8) Service Industry.

The Government of Nepal ("GON") can include business activities not included in any of the industry classification of the IEA. For this, the "GON" can publish a notice in the official Gazette upon recommendation of the Industry and Investment Promotion Board ("IIPB").

ii) Negative List

The negative list provided in the Schedule I of FITTA can be amended by the GON by publishing a notice in the Nepal Gazette.

Schedule I	
(a)	Poultry farming, fish farming, bee keeping, fruits, vegetable, oil seeds, pulse seeds, milk industry and priority production in agricultural sector except large scale industries related to the export more than seventy five (75) percent of their production.
(b)	Small and cottage industry,
(c)	Personal service business (such as hair salon, tailoring, driving, etc.,
(d)	Industry producing arms and ammunitions, bullets and shell, gunpowder, explosive materials, nuclear, biological and chemical (N.B.C.) weapon, atomic energy, radio-active materials;
(e)	Real estate business (other than construction industries), retail business, internal courier service, local catering service, moneychanger, remittance service;
(f)	Travel agency involved in tourism; guide, trekking and mountaineering guide, rural tourism including homestay;
(g)	Business of mass communication media (newspaper, radio, television and online news), motion picture of national language;

(h)	Management, account, engineering, legal consultancy service and language training, music training, computer training; and
(i)	Consultancy service having foreign investment of more than 51 percent.
(j)	Ride-sharing business having foreign investment of more than 70 percent.
(k)	In the case of industries providing aircraft operation, training, maintenance and passenger service facilities, foreign investment exceeding the following limits: (i) International air service: 80 percent; (ii) Domestic air service: 49 percent; (iii) Training institution: 95 percent; and (iv) Maintenance institution: 95 percent.

c) Foreign investment in certain regulated sectors like banking or insurance is permitted even if not classified as an industry. Foreign investment in these regulated sectors is governed by sector-specific laws.

4. What are the government approvals that are required for Indian investors to invest in Nepal?

a. Under Section 17 of FITTA, foreign investment under FITTA is approved by the DOI. Separately, under PPPIA, IBN approves investment for projects having an estimated cost of NPR 6 billion or more, while hydropower and other energy projects of more than 200 MW fall under IBN project implementation jurisdiction. The following government approvals are required:

(i) Approval for Setting up a Company

The Indian investor can bring investment for setting up a subsidiary company in Nepal after obtaining DOI approval and, where applicable, separate IBN project approval under PPPIA, followed by written information to NRB before remittance of foreign investment.

The table below presents the government authorities that requires approval of DOI/IBN and written information to NRB before remittance

Industry	Approval from	Written Information before remittance
Foreign investment under FITTA	DOI	NRB
Project having an estimated cost of NPR 6 billion or more under PPPIA	IBN	NRB
Indian investment in specified projects under IBN (Hydropower and other energy project of more than 200 MW under PPPIA)	IBN	NRB

(ii) Approval for Share Purchase

After procuring investment approval from the DOI/IBN, in terms shares transaction by purchase of shares by changing shareholding ratio of an existing company, approval from the DOI/IBN would be required for bringing foreign investment into Nepal. Prior NRB approval is not required for the foreign equity inflow; however, written information to NRB is required before remittance.

The table below presents the government authorities that requires approval of DOI/IBN for Indian investment:

Industry	Application to	Approval from
Foreign investment under FITTA	DOI	DOI
Project having an estimated cost of NPR 6 billion or more under PPPIA	IBN	IBN
Indian investment in specified projects under IBN (Hydropower and other energy project of more than 200 MW under PPPIA)	IBN	IBN

Besides DOI Approval, DOI seeks recommendation/approval of sector specific regulatory authorities for changing the ownership of foreign invested company. In case of hydropower company, the energy law requires prior approval for changing ownership, DOI issues approval of concerned regulatory authorities. However, in case of industries like IT where sectoral laws do not require prior approval for changing ownership, DOI issues approval without another regulatory authority's recommendation/approval.

(iii) Approval for Share Subscription

After procuring investment approval from the DOI/IBN, in terms of shares transaction by subscription of changing shareholding ratio of an existing company in Nepal, DOI/IBN approval would be required for bringing foreign investment in Nepal. Prior NRB approval is not required for the foreign equity inflow; written information to NRB is required before remittance.

The table below presents the government authorities that requires approval of DOI/IBN for Indian investment:

Industry	Application to	Approval from
Foreign investment under FITTA	DOI	DOI
Project having an estimated cost of NPR 6 billion or more under PPPIA	IBN	IBN
Indian investment in specified projects under IBN (Hydropower and other energy project of more than 200 MW under PPPIA)	IBN	IBN

Previously, pursuant to the provision of FITTA, 1992, the IIPB used to provide approval for foreign investment of more than five hundred million rupees. However, recently, the IIPB does not provide approval for foreign investment rather their jurisdiction has been amplified to (a) suggest Government of Nepal for policy, institutional and procedure reform, (b) set strategies and programs, (c) approval for establishment of industry and infrastructure, (d) to facilitate, coordinate and assist, (e) arrangement to provide service for foreign investment effectively as provided under FITTA.

Besides DOI Approval, DOI seeks recommendation/approval of sector specific regulatory authorities for changing the ownership of foreign invested company. In case of hydropower company, the energy law requires prior approval for changing ownership, DOI issues approval of concerned regulatory authorities. However, in case of industries like IT where sectoral laws do not require prior approval for changing ownership, DOI issues approval without another regulatory authority's recommendation/approval.

b. Following are the projects that fall under the jurisdiction of the IBN:

S. No.	Project
1	Projects having an estimated cost of NPR 6 billion or more
2	Investment in hydropower production projects of 200 megawatt (MW) or more capacity,

5. Can Indian investors invest in Nepal via Automatic Route i.e., without any governmental approval for foreign investment?

Yes, Indian investors can make foreign investment in Nepal via the Automatic Route. The DOI has implemented an electronic system for foreign investment through Automatic Route, whereby foreign investors can upload documents online, with the option to revise and correct them before submission. After review and verification by the DOI, investors can obtain foreign investment approval certificate electronically.

i. Applicability of Automatic Route for permissible types of Foreign Investment

There is no upper ceiling for foreign investment through automatic route. Automatic Route for foreign investment is open for:

a. incorporation of a new company as 100% subsidiary or as a joint venture, and

b. capital increment in an existing company with foreign investment.

ii. Industries where FDI can be made through Automatic Route

Following industrial sectors are open for foreign investment through automatic route.

A. Energy-based Industries

S. N.	Industry Sector
1.	The industry manufacturing machines, and equipment used to generate energy from air, solar power, biomass or other sources.
2.	Energy based on Biogas
3.	Energy Produced as a by-product of the Sugar Industry
4.	Study of Potential of Energy

B. Industries based on Agriculture and Forest Products

S. N.	Industry Sector
1.	Fruits and Vegetables Processing
2.	Production, processing, and storage of food items
3.	Animal and poultry feed production industries where agricultural produce is the primary raw material
4.	Silk Processing
5.	Tea and Coffee Processing
6.	Herb Processing
7.	Vegetable processing
8.	Rubber Processing
9.	Cold Storage (to store Local Fruits and Vegetables)
10.	Furniture and other wood-based industries
11.	Wood-based industries related to parqueting, seasoning, treatment plants, plywood, composite board, etc.
12.	Based on other Non-Timber Forest Products including Paper and Resin
13.	Cotton Processing

C. Infrastructure Industries

S. N.	Industry Sector
1.	Convention and Conference Centers
2.	Vehicle Parking
3.	Export Based Goods Processing Zone
4.	Cargo Complexes
5.	Polluted Water Purification Industries (Wastewater Treatment Plant)

6.	Building Film City/ Building Film Studio
7.	Commercial Complexes
8.	Private Warehouses

D. Tourism Industries

S. N.	Industry Sector
1.	Motel, Hotel, Resort, Bar and Restaurant
2.	Healing Center
3.	Conference and Sports Tourism
4.	Fun Park, Water Park

E. Information Technology Industries

S. N.	Industry Sector
1.	Technology Park
2.	I.T. Park
3.	Biotech Park
4.	Software Development
5.	Data Processing
6.	Digital Mapping
7.	Business Process Outsourcing (B.P.O), Knowledge Process Outsourcing (K.P.O)
8.	Data Center, Data Mining, Cloud Computing
9.	Web Portal, Web Design Service

The minimum capital requirement shall not be triggered while investing through automatic route for industries based on information technology.

F. Service-oriented Industries

S. N.	Industry Sector
1.	Mechanical Workshop
2.	Press and Printing related services
3.	Construction Business
4.	Photography
5.	Hospital
6.	Nursing homes, Clinics, Polyclinics, Rehabilitation homes, Physiotherapy Clinics, Ayurvedic and other alternative Hospitals
7.	Operation of Physical Exercise, Yoga-Meditation, and Practice Centers
8.	Sports Services, Swimming pools
9.	Operation of Cold Storage
10.	Solid Wastes collection and Sanitation, Recycling of Solid Wastes
11.	Rental, Repair, and Operation of Heavy Construction Equipment
12.	Veterinary services
13.	Health check-up services (such as X-ray, CT scan, MRI and Ultra-sound) and Health check-up Laboratory

14.	Business of operating completed infrastructure (e.g., Convention Centers, Fuel/Gas supply pipelines, Warehousing and Storage, Airports, Stadiums, Sports Complexes, Roads, Power Plants, Railway Services, Cargo Complex operations)
15.	Cargo Business (International Cargo Business)
16.	Dry Cleaning Business
17.	Advertising Services
18.	Advertising Material Preparation Services
19.	Soil Testing Services
20.	Health Club
21.	Electricity Survey
22.	Mineral Study and Research
23.	Equipment Repair and Installation Services

G. Manufacturing based Industries

S. N.	Industry Sector
1.	Livestock and fishery feed production
2.	Processing and Packaging of Livestock and Fishery Meat
3.	Production of oil fat from basic raw materials
4.	Production of Starch, Glucose, etc.
5.	Bakery Goods Production
6.	Confectionery and Biscuit Production
7.	Sugar Production
8.	Beverage Production (Non-Alcoholic)
9.	Textiles, Garments and Fabrics Production and Reuse
10.	Production of Electronic Household Appliances
11.	Production of goods using Plastic and Rubber
12.	Production of Bags, Pouch, Suitcases, Trolley bags and other bags carrying similar Goods
13.	Making Wooden materials other than items based on Traditional and Cultural Art
14.	Production of Toiletries Products such as Toothpaste, Soap and Shampoo
15.	Production of Goods using Glass
16.	Making Bicycles, Scooters, Motorcycles and Automobiles and making Equipment used in them
17.	Making Electric Lights, Switches, Meters, Meter Fuses, Wiring Wires, Compressors and other such items
18.	Making materials used in Medical, Surgical, Orthopedic Sectors
19.	Production of Electrical Wire
20.	Cement production
21.	Brick and tile production
22.	Iron rod (rebar) production
23.	Battery production
24.	Production of chemical and organic fertilizers
25.	Lubricant production
26.	Jaggery production
27.	Industries like Rice mills, oil mills, flour mills, and pulse mills
28.	Production of matches, candles, and incense sticks (Agarbatti)
29.	Production of fabrication materials
30.	Production of iron goods/materials
31.	Production of zinc sheets / metal sheet (Jasta Pata)
32.	Production of other food processing such as noodles, tea, and cheese-balls

33.	Production of electronic and electrical materials
34.	Production of electricity wires (cables)
35.	Production of paint and varnish
36.	Production of paper and pulp paper
37.	Production of stationery items
38.	Water processing/purification
39.	Production of bitumen and bitumen emulsion
40.	Production of furniture and plywood
41.	Production of tires and tubes

6. Is there a minimum amount required to be invested?

As published in the Gazette notification by Government of Nepal, FITTA requires every foreign investor to invest at least NPR 20 million in each company they invest in. The minimum foreign investment threshold does not apply to specified information technology and digital industries through the Automatic Route.

7. Is there a ceiling on foreign ownership?

Most of the sectors like manufacturing, hotel, energy, construction areas are open for 100% investment by Indian investors. However, there are certain sectors which has ceiling of foreign ownership, for example:

S.No.	Sectors	Maximum foreign ownership percentage	Relevant law
1.	Telecommunication	80%	Telecommunication Policy, 1999.
2.	Banking and Financial Institution	Minimum 20% and maximum 85%	Licensing Policy, 2006
3.	Aviation i. Air Operation ii. International Airlines iii. Flying School iv. Maintenance	49% (Domestic Airlines) 80% (International Airlines) 95% (Flying School or Training Organization) 95% (Maintenance Organization)	Aviation Policy, 2006 Air Operator Certificate Requirement – 2012 and FITTA
4.	Consultancy Business	51%	FITTA
5.	Insurance	80% of paid- up capital	Directives on Registration of Insurer and Operation of Insurance Services 2016 (2073)
6.	Internet Service Provider	80%	Nepal Telecommunication Authority, Internet Service Provider Operation Bylaws, 2020
7.	Payment Service Providers/ Payment Service Operators	15% of paid-up capital	Licensing Policy for Payment related Institutions, 2023
8.	Ride-sharing business	70%	FITTA

8. How much time will it take for an Indian investor to obtain approval and set up business?

As per the FITTA, the statutory timeline for providing DOI approval for foreign investment is seven (7) days. However, it takes 3 to 8 weeks to obtain approval from DOI and set up business in Nepal.

In case investment by way of purchase of shares of existing company, the statutory timeline for providing approval is seven (7) days. Likewise, pursuant to the provision of NRB Bylaws, prior NRB approval is not required for bringing foreign equity investment. Written information must be provided to NRB before remittance, and the foreign investment must be submitted for recording within six months after it is brought in. NRB decides a complete application for recording within seven (7) working days.

9. What documents are required to obtain foreign investment approval?

a) The following documents are required to obtain foreign investment approval from DOI/IBN and to comply with the applicable NRB foreign-investment information and accounting requirements:

S.N.	DOI/IBN Approval	No. of Documents	Language preference	S.N.	NRB Requirements for Submitting Prior Notification	No. of Documents	
1.	Application in standard format	1 Set (Original)	Nepali or English	1.	Application for written information before foreign currency is brought.	NA	NA
2.	Investment Agreement i.e., a. Joint Venture Agreement (if there is more than one investor for setting up business) b. Share Purchase Agreement c. Share Subscription Agreement	2 Sets	Nepali or English	2.	FDI Approval	NA	NA
3.	Notarized Decisions of investors stipulating intent to invest in Nepal	3 Sets (Original)	English		Decision of Nepali company		
4.	Project Report outlining the project background, market aspects, technical aspects, financial aspects, details of sources of funds, etc.	2 Sets	Nepali or English		Non-blacklisting letter issued to Nepali company by Credit Information Bureau		
5.	Notarized registration documents: a. Entity Registration Certificate b. Memorandum of Association (MOA), c. Articles of Association (AOA), d. Tax registration, e. Business License (if any)	2 Sets	English		In the case of an institutional foreign investor: a. Certified copy of institution registration certificate, b. Certified copy of the document that identifies the actual owner. (Not required in case of companies listed in the securities market), c. Certified copy of decision of the Board of Directors or authorized officer with regard to making foreign investment.		
6.	Corporate Profile of the Indian investor disclosing ultimate beneficiary, or Bio-data of the Indian investor with passport size photo if the investor is a natural person	3 Sets (Original)	English		Certified copy of passport if foreign investor is a natural person		i

7.	Financial Credibility Certificate issued by a bank in India.	2 Set (Original)	English		In case the natural person / institution remitting the amount, is not a foreign investor approved by the DOI / IBN a. Certified copy of his/her passport/ certified copy of institution registration certificate, b. Certified copy of documents related to the source of investment, c. Certified copy of the document that proves his/her relationship with the foreign investor. d. Self-declaration on behalf of both the sender and receiver of amount stating that national and international legal provisions related to anti-money laundering and combating the financing of terrorism and other national and international legal provision has been/ shall be complied with. e. On behalf of both send and receiver of amount, a certified copy of the decision of the board of directors disclosing such transaction or the decision of authorized person for a natural person who does not have board of directors along with a certified copy of a contract-agreement related to such transaction. f. In relation to the institution sending an amount, a certified copy of the document disclosing the actual owner (not required if the institution is listed in the securities board).		
8.	Copy of audited financial statements of the Indian investor (if a corporate entity)	2 Sets	English		Self declaration by foreign investor against Anti-money laundering and ant-counter-terrorism financing.		
9.	Notarized copy of Passport of the director/ representative of the Indian investor.	3 Sets	English				
10.	Notarized Power of Attorney	2 Set	English	Applicable only for Institutional Foreign Investors			
11.	An identity card of authorized representative (liaison officer)	2 Set	English		a.	1	

12.	Timeline and work plan for injection of foreign investment (applicable for entity set-up)	2 Sets	English	Applicable only for Foreign Investor as Natural Person			
13.	Citizenship Certificate of Local Party or, a. Certificate of Incorporation, b. MOA and AOA if the Local Party is company (if foreign investor is investing in collaboration with local party of Nepal)	1 Set	English	1.			

SECTOR SPECIFIC INVESTMENT

10. Can an Indian investor invest in the banking and financial sector?

Yes. However, only Indian banks and financial institutions can invest in the financial sector of Nepal. Prior approval from NRB will be necessary.

11. Can an Indian investor establish an industry in a special economic zone?

Yes. However, the following are the criteria:

(a) Special Economic Zone Regulations, 2021 specifies the industries (a) producing cigarette, cigar, bidi, chewing tobacco and tobacco products, (b) producing brandy, cider, wine, beer and alcohol, (c) producing explosives, and (d) producing arms, ammunition, gunpowder, which cannot be established in Special Economic Zones (**"SEZ"**), and

(b) a minimum of at least 15% of production for the first 4 years of operation, and at least 30% in subsequent years need to be exported. Generally, most of the industries covered under the IEA are permitted to be set up in SEZs.

In addition to foreign investment approval from DOI and, where applicable, separate IBN approval under PPPIA, license from the SEZ Authority is also required to set up the industry. Prior NRB approval is not required for the foreign equity inflow.

LOAN INVESTMENT

12. What laws regulate foreign loan in Nepal?

The primary law that regulates foreign loan in Nepal are Foreign Investment and Foreign loan Management Bylaws, 2021 and FITTA.

13. Can an Indian investor provide loan to a local company?

Yes, Indian investors can provide loan to local companies in Nepal by obtaining approval primarily from NRB. Indian investor includes Indian BFIs, Indian Company and Indian shareholders.

14. What are the regulating bodies approving foreign loan in Nepal?

The regulating bodies approving foreign loan in Nepal are NRB, DOI and IBN. Generally, the approval of NRB would suffice. However, if a loan is being taken by industry/company with foreign investment from Indian Shareholders for the purpose of fulfilling its objective then the recommendation DOI/IBN will also be required in addition to the approval of NRB.(parent loan)

15. Are there any criteria for a local borrower to obtain loan from an Indian investor?

Yes. They will have to demonstrate the reason for obtaining loan from foreign countries. Generally, this is done by demonstrating that the required loan could not be obtained from the local lenders in the interest rate it could obtain from foreign country.

16. Are there any restrictions to provide loan to certain kind of industries or businesses?

Yes, the loan cannot be provided to industries that are provided in the Negative List of FITTA to obtain loan from foreign source.

17. What is the interest rate and ceiling applicable to Indian loan investments?

The interest rate and ceiling depend on the nature of lender. Interest rate ceiling for different nature of lenders has been shown in table below:

S. N.	Nature of Borrower	Nature of Indian Lender	Interest Rate
1.	Firm, company, industry or institution	Indian BFIs or institutions licensed to provide loan	1 Year Marginal Cost of funds-based Lending Rate (MCLR) +2% p.a. or 1 Year Benchmark Interest Rate + 6% p.a.
2.	Firm, company, industry or institution	Indian companies (not licensed to provide loan)	1 Year MCLR or 1 Year Benchmark Interest Rate + 2% p.a.
3.	Industry/company	Indian Shareholders	1 Year MCLR or 1 Year Benchmark Interest Rate + 3.5% p.a.
4.	BFIs of 'A', 'B', 'C' and 'D' class and Infrastructure Development Bank	Indian BFIs	1 Year MCLR + 0.5% p.a. or 1 Year Benchmark + 4.5%

Note: 1. Interest rate

18. Can loan be denominated Nepalese currency given?

Yes, NPR denominated loan can be given with the loan being remitted in foreign currency and the forex risk is being borne by the borrower. Under the NRB Bylaws, the maximum interest rate for such loan is linked to the weighted average lending rate published by NRB. For foreign loan in commercial agriculture, manufacturing, infrastructure, tourism and energy industries, or green debt/green bond, an additional two percentage points may be added to the specified rate.

19. Can loan be provided in fixed interest rate?

Yes, loan can be given in a fixed interest rate. However, such fixed interest rate is effective only for 2 years and such fixed interest rate should be revised in every 2 years and approval of NRB should be obtained for the same. For NPR-denominated foreign loans, the fixed-interest period may be up to 10 years at a time.

20. What is the ceiling in the fees?

All the cost of borrowing except tax should be within the interest rate ceiling as discussed above. However, if the lender is an institution licensed to provide loan, then the lender can impose the following fees beyond the interest rate ceiling: (i) Penal interest at maximum rate of 2% p.a. of defaulted principal and interest amount, (ii) prepayment fee up to a maximum of 0.25% of the prepaid amount; (iii) commitment fee of a lumpsum up to a maximum of 0.25% and (iv) where the proposed loan does not materialize, administrative fee up to USD 5,000 per year per borrower, subject to the NRB Bylaws.

21. What are the documents required to be attached for obtaining approval from NRB?

The following documents are required to be attached for obtaining approval from NRB: Documents for Lender:

S.No.	List of Document
1.	Notarized copy of an agreement between lender and borrower
2.	Letter committing that the loan will be received through banking system
3.	Documents that justify the need to take loan from foreign country only, and loan utilization plan
4.	Documents that set out the basis for repayment of the loan by also considering the foreign exchange risk
5.	Loan disbursement schedule and repayment (amortization) schedule
6.	Documents of Institutional Lender a. Notarized copy of registration certificate b. Notarized documents that identify the actual owner c. Notarized copy of board resolution with regard to providing loan. d. Notarized copy of latest audit report e. Notarized copy of documents related to source of foreign loan. Documents of Natural Person Lender a. Notarized copy of passport b. Notarized copy of documents related to source of foreign loan
7.	Documents of Institutional Borrower a. Copy of registration certificate b. Copy of business operation license, if any c. Copy of permanent account number certificate d. Copy of MOA and AOA (not required if listed company) e. Copy of board resolution with regard to obtaining loan f. Copy of latest audit report (not required if listed company) g. Copy of latest tax clearance certificate/submission certificate (not required if listed company) h. Evidence of not being blacklisted by Credit Information Bureau Documents of Natural Person Borrower a. Copy of citizenship certificate b. Evidence of not being blacklisted by Credit Information Bureau

TRANSFERRING TECHNOLOGY

22. What is technology transfer?

Technology transfer means any transfer of technology between an industry registered in Nepal and the foreign investor, through an agreement. Technology transfer generally includes the following:

(a) Patent, design, trademark, goodwill, technological specialization, formula, process;

(b) User's License, know-how sharing, franchise

(c) Acquiring management and technical services, information technology, marketing and market research, financial, accounting and auditing, engineering, outsourcing, human resource outsourcing, digital data processing and digital data migration, design services, or other technical skill or knowledge

(d) Reverse engineering.

Generally, the means of such transfer include licensing or assignment of rights, technical and management services, etc.

23. Is there any sector in which technology transfer is not permitted?

No. Technology transfer is allowed in all the industrial sectors and there is no concept of "negative list". Prior approval from the DOI is required for transfer of technology in the industrial sector. In the case of financial sectors like bank and insurance business, prior approval of the DOI is not required. However, prior approval from the concerned business regulator is required. For example, in case of technology transfer in a bank or financial institution, prior approval from NRB will be required.

As per the FITTA and DOI notice dated January 6, 2022, local firms/industries/companies taking services from the foreign service providers to ensure that service agreements that fall under "TTA" as provided in the FITTA get approved from DOI. TTA in general must be approved by the DOI.

24. Is there any limitation on the amount or percentage of the royalty or license fee that can be paid for the transfer of technology?

The payment of royalty and service fees arising from TTA has been capped on a per annum basis by the FITTR. Recommendation/approval for providing foreign exchange facility to make payment for service fees may only be issued if prior recommendation/approval has been obtained from the concerned regulatory authorities for taking services from the foreign entity. The consideration amount for obtaining approval has been prescribed by DOI and NRB as follows:

Pursuant to the notice published DOI dated 2078/09/22 Approval of DOI is required for the consideration amount exceeding INR 1,00,000 (in case of India) and USD 5000 (in case of other countries).

Approval of DOI is required for the consideration amount exceeding INR 3,00,000 up to 30,00,000. However, for consideration amount exceeding INR 30,00,000 having no regulatory body and failure to obtain approval from regulatory body, then approval shall be provided by NRB.

FITTR has prescribed a limit on the amount of royalty and other fees that can be repatriated as prescribed in Schedule 1 of the regulation. The limit of royalty and other fees as prescribed in Schedule is tabulated below:

Limit of Royalty or other fees for all types of Technology Transfer

Royalty	Local Sales	Export Sales
Total Sales amount	Up to 5% of total sales excluding VAT	Up to 10% of total sales excluding VAT
Royalty based on net profit	Up to 15% of net profit	Up to 20% of net profit

Limit of Royalty or other fees for Trademark

Local Sales	Export Sales
Up to 2% of total Sales excluding VAT for alcohol and tobacco industry	Up to 5% of total Sales excluding VAT for alcohol and tobacco industry
Up to 3% of total sales excluding VAT for other industries	Up to 6% of total sales excluding VAT for other industries

The NRB Bylaw provides the provision in relation to repatriation of the foreign investment in countries other than mentioned in Technology Transfer Agreement. The NRB Bylaw further provides the documents to be submitted at NRB while repatriating the investment in country other than mentioned in the Technology Transfer Agreement. Likewise, in case the Indian investor has entered into multiple agreements for royalty and technical and management fees, the ceiling for total royalty and fees that can be repatriated shall not exceed the amount mentioned in Schedule 1 of FITTR.

Chapter 3

REGISTERING AND COMMENCING BUSINESS

Nepalese laws provide different business vehicles for doing business in Nepal. These business vehicles include private-firm (sole proprietorship and partnership firm), limited liability company (private company (single shareholding and multiple shareholding) or, public company (listed and unlisted)) and cooperatives. However, the most commonly used business vehicle is a private company.

Branch Office of an Indian company can also be registered to undertake business activities in Nepal. Investment made by a head office in a branch operation is not currently considered as foreign investment by the DOI. Hence, no foreign investment approval from DOI and NRB will be required. However, an agreement with the Government agency or approval from concerned government authority will be required to register a Branch Office. A general government authority has not been prescribed for granting approval for branch registration. A Branch Office can carry out only those business activities that its head office in the foreign jurisdiction carries out.

A Liaison/Contact Office can also be registered in Nepal. However, a Liaison Office cannot undertake business activities in Nepal to generate revenue.

1. What are the most common options for an Indian investor to establish a business in Nepal?

The most common options for an Indian investor to establish business in Nepal are:

a) Establish a new company,

b) Invest in an existing company by purchasing or subscribing shares of the company, or

c) Register a Branch Office.

2. What is the process of registration of a company in Nepal? What are the documents required and government fee applicable?

An Indian investor can register either a joint venture company, or a fully owned subsidiary company in Nepal upon obtaining foreign investment approval. The process, requirement and government fee has been detailed below:

- ### Registration of Company

  For registration of company, the following key requirements need to be fulfilled:

a) **Name Reservation:** The Indian investor should apply for a name reservation at the online portal of the OCR https://camis.ocr.gov.np/login

b) **Submission of Documents:** Once the name of the proposed local company is approved, an application for incorporation will need to be submitted electronically and physically to OCR, along with following documents:

S. No.	List of Document	No. of Documents	Language
1.	Application in prescribed format	1 set (Original)	Nepali
2.	MOA of the local company	1 set (Original)	Nepali
3.	AOA of the local company	1 set (Original)	Nepali
4.	DOI/IBN certified Investment Agreement between the shareholders (if any)	1 set	Nepali / English
5.	Copy of prior approval of foreign investment (i.e., approval from DOI/IBN)	1 Copy (Notarized)	Nepali
6.	Copy of certificate of registration and other registration document of Indian investor (MOA, AOA, By-laws), if Indian investor is a corporate entity	1 Copy (Notarized)	Nepali / English
7.	Copy of passport of Indian investor or representative of Indian investor	1 Copy (Notarized)	Nepali / English
8.	Corporate resolution of Indian investor regarding incorporation of local company (if Indian investor is a corporate entity)	1 Copy (Notarized)	Nepali / English

c) **Government Fee:** The fees for registering a local company are set out below:

Registration Fee for Private Company		Registration Fee for Public Company	
Authorized Capital (NPR)	Fee (NPR)	Authorized Capital (NPR)	Fee (NPR)
Up to 0.1 million	1,000	For 10 million	15,000/-
0.1 million to 0.5 million	4,500	More than 10 million up to 100 million	40,000/-
0.5 million to 2.5 million	9,500	More than 100 million up to 200 million	70,000/-
2.5 million up to 10 million	16,000/-	More than 200 million up to 300 million	100,000/-
More than 10 million up to 20 million	19,000/-	More than 300 million up to 400 million	130,000/-
More than 20 million up to 30 million	22,000/-	More than 400 million up to 500 million	160,000/-
More than 30 million up to 40 million	25,000/-	More than 500 million	3000/- for every additional 10 million exceeding NPR 500 million
More than 40 million up to 50 million	28,000/-		
More than 50 million up to 60 million	31,000/-		
More than 60 million upto70 million	34,000/-		
More than 70 million upto 80 million	37,000/-		
More than 80 million upto 90 million	40,000/-		
More than 90 million upto 100 million	43,000/-		

More than 100 million	30/- for every additional 0.1 million exceeding 100 million		

d) **Timeline:** It generally takes about 3 to 10 days.

• Registration of Business with Local Ward Office

Every company is required to register their business in concerned local ward office to obtain Business Registration Certificate. It generally takes around 1-2 days. The following documents need to be submitted to the concerned local body for the registration of business:

S. No.	List of Document	No. of Documents	Language
1.	Standard application prescribed by concerned local body	1 Set (Original)	Nepali
2.	Copy of board resolution in relation to business registration	1 Set	Nepali
3.	Copy of power of attorney	2 Sets	Nepali
4.	Copy of House rent/lease agreement	1 Set (Notarized)	Nepali
5.	Copy of citizenship of landowner (in case lessor is natural person); company registration certificate, MOA, AOA and PAN certificate (in case landowner is Company)	2 Sets	Nepali
6.	Copy of landownership certificate/electricity bill/telephone bill of landowner	1 Set (Original)	Nepali
7.	Hand sketched location map of registered office	5 Set and 1 Set	Nepali
8.	Photographs of managing/executive director/representative signing the application	2 copies	
9.	Copy of MOA, AOA, PAN Registration Certificate, copy of passport of directors, an identity card of authorized representative (liaison officer), company seal	1 set	Nepali/ English

• Tax Registration

Every company is required to register for tax with the IRD to obtain Permanent Account Number (PAN). It generally takes around 1-2 days. The following documents need to be submitted to the IRD for tax registration:

S. No.	List of Document	No. of Documents	Language
1.	Application form in the standard format	1 Set (Original)	Nepali
2.	Registration Certificate, MOA, AOA of the local company	1 Set	Nepali
3.	Corporate Resolution of the local company to register for PAN	2 Sets	Nepali
4.	Copy of prior approval of foreign investment (i.e., approval from DOI/IBN)	1 Set (Notarized)	Nepali
5.	Copy of House or Premise Rent Agreement or land ownership document of the registered office/ industrial establishment of the Company.	2 Sets	Nepali
6.	Map of Business Location	1 Set (Original)	Nepali
7.	Photograph and passport of authorized representative	5 Set and 1 Set	Nepali

- ## Industry Registration

The local company also has to be registered as an industry with the DOI. It generally takes around 7-15 days. Following documents need to be submitted for industry registration along with the government fee of NPR 100:

S. No.	List of Document	No. of Documents	Language
1.	Application for the registration of the industry in the standard format	1 Set (Original)	Nepali
2.	Copy of prior approval of foreign investment (i.e., approval from DOI/IBN)	1 Set (Original)	Nepali
3.	Copy of certificate of registration and MOA and AOA of the local company	1 Set	Nepali
4.	Corporate resolution of the local company to register the company as an industry	1 Set	Nepali
5.	Project proposal	1 Set	English
6.	Tax registration certificate, business registration certificate	1 Set	Nepali
7.	Notarized copy of passport of directors	1 Set	English
8.	Recommendation letter to establish industry issued by local government authority	1 Set	Nepali/English
9.	Hand sketched location map of registered industry	1 Set	Nepali/English
10.	Copy of house rent/lease agreement	1 Set	Nepali/English
11.	An identity card of authorized representative, if any	1 Set	Nepali/English

Once the process of tax and industry registration is completed written information must be provided to NRB before the foreign investment is remitted, as discussed in Chapter 2; prior NRB approval is not required for the foreign equity inflow. The Indian investor can then transfer funds through proper banking channels to the local company. The foreign investment must be submitted for recording with NRB within six months after it is brought in. After the money is received by the local company, the money has to be capitalized and the shareholder register of the local company has to be recorded and certified at the OCR. However, in the case of investment in an existing company, change in shareholding has to be recorded and certified at the OCR. Certification of share register reflects the capitalization of the foreign investment.

3. What is the process of registering a Branch office in Nepal? What are the documents required and government fees applicable?

Indian companies can also register a Branch Office without incorporating a company or making investment in existing company. The branch registered in Nepal can carry out such business activities that the Indian company can carry out in the country of its incorporation. The process, requirement and government fee has been detailed below:

Submission of Documents: An application for registering a branch will need to be submitted electronically and physically to the OCR along with the following documents:

S. No.	List of Document	No. of Documents
1.	(a) Approval obtained from the competent authority by the Indian company to carry on its business or transaction in Nepal, or (b) agreement with the competent authority	1 Set (Original)
2.	Copy of the memorandum, articles of association and certificate of incorporation of the foreign company and its Nepali translation	2 Sets (Notarized)

3.	Full name, address of the main (head) office of the Indian company, principal place of transaction, date of incorporation, paid up capital and details of main objectives of the Indian company	1 Set (Notarized)
4.	The details of the citizenship, name and address of directors, manager, company secretary or chief officer of the Indian company	1 Set (Notarized)
5.	Name and address of the person located or residing within Nepal authorized by the Indian company to receive, on behalf of the foreign company, the notice, summons etc., issued in the name of the Indian company	1 Set (Notarized)
6.	The principal place within Nepal where the Indian company is to operate its branch office and the full address of the office of the Company located at such place	1 Set (Notarized)
7.	Details of the proposed investment and transaction if the company is to carry out any transaction or business	-
8.	The proposed date of commencement of business.	1 Set (Notarized)
9.	Declaration from the director/s or his/their representative on behalf of the Indian company that the particulars submitted by the Indian company are true	1 Set (Notarized)
10.	Board Resolution of the Indian company	1 Set (Notarized)

a) **Government Fee:** The fees for registering a branch office are set out in the table below:

Proposed Investment (NPR)	Fee (NPR)
Up to 10 million	15,000/-
More than 10 million up to 100 million	40,000/-
More than 100 million up to 200 million	70,000/-
More than 200 million up to 300 million	1,00,000/-
More than 300 million up to 400 million	1,30,000/-
More than 400 million up to 500 million	1,60,000/-
More than 500 million	3,000/- for every additional 10 million exceeding 500 million
If proposed investment is not clear	1,00,000/-

b) **Timeline:** It generally takes around 10 days.

Once a Branch Office is registered, it also has to be registered at IRD for tax purpose.

4. What is the difference between a company and branch office?

The key differences between a company and Branch Office are as follows:

Category	Company	Branch Office
Requirement of regulatory approval for establishment	FDI approval from DOI /IBN. Prior NRB approval is not required for the foreign equity inflow; Prior NRB notification requirements apply.	Agreement with GON or approval from competent authority for registration of branch office. In present context DOI has not been granting approval for set up branch office in Nepal.
Legal Regulation	Governed primarily by FITTA, FERA and Companies Act	Governed primarily by the Companies Act and NRB Bylaws

Minimum Foreign Investment requirement	The Government of Nepal through a notice published on 14 November 2022, under the FITTA requires each foreign investor to invest at least NPR 20 million in every industry they invest in. The minimum threshold does not apply to specified information technology and digital industries through the Automatic Route.	Unclear as to whether the minimum foreign investment threshold of NPR 20 million is applicable to a Branch Office. In practice, OCR is registering branch office below investment threshold of NPR 20 million.
Operating Expenses Applicability	The local Company may use its share capital injection amount (and the arising profits) to mete out operating expenses.	The Branch Office may bring amount for operations and maintenance as well as for conducting related business transactions.
Foreign Investment Injection Timeline	Within one year of the date of receiving Foreign Investment Approval as follows a. For investment approval of NPR 20million - 25% b. For investment approval of NPR 20 to 250 million - 15% c. For investment approval of NPR 250 million to 1 billion - 10% d. Above NPR 1 billion - 5%. Further, before commencing commercial operation the Indian Investor is required to inject at least 70% of the approved investment amount, the remaining 30% within 2 years after the commencement of commercial operations.	Unclear whether the foreign investment timeline prescribed by the FITTA would be applicable to Branch Office. Practically, the timeline of investment provided in FITTA is not applicable for Branch Office.
Minimum and maximum ownership	Minimum number of shareholders is 1 whereas maximum is 101 for private limited companies. Some sectoral laws limit foreign shareholding ratio/percentage in sector specific companies as banks and financial institutions, telecommunications.	No concept of share capital structure in branch offices.
OCR Registration Applicability	Register with the OCR as a private limited company.	Register with the OCR as branch of foreign company as well.
Industry Registration Applicability	Register an industry under the IEA.	Register an industry under the IEA.
Right to Repatriation	Guaranteed specifically by FITTA, FERA and NRB Bylaws.	NRB Bylaws permits it.
Separate legal entity	Yes.	No.
Ability to own land and building	Yes.	Not clear.
Liability	Limited liability of the shareholders. The liability of the shareholders will be limited to its amount of investment made in Nepal.	Unlimited. If the assets of the branch office are not sufficient to settle all its liabilities in Nepal, then its head office will need to bear the liability.
Capacity to file a lawsuit	Yes.	Yes.
Compliance requirement	More as compared to the Branch Office.	Less as compared to a company.

5. If Indian investor intends to bid for and undertake projects in the host country, do they have to register a business entity?

No, Indian investors are not required to register a business entity in order to bid for a project. However, once such Indian investor wins the bidding process, it would have to incorporate an entity or register a Branch Office in Nepal to undertake the project.

6. How can a bank account be opened?

Indian investors are required to transfer their investment amount to the bank account of the local company. In order for the local company to open a bank account, a decision of the Board of Directors, along with signatories, will need to be submitted along with other documents such as certificate of registration of company, MOA, AOA, PAN certificate etc.

7. Is there a requirement to obtain license by the local company?

A private company can commence its business once it is registered. Only certain types of businesses require a business-specific license. For example, energy, telecommunication services, banking, insurance, travel etc. require license from the specified government agency or regulator. In addition to applicable licenses, a public limited company is required to obtain a certification of commencement of business from the OCR before starting the business.

Sector	License Authority
Hydropower	Department of Electricity Development and Investment Board Nepal
Banking and Financial Institutions	Nepal Rastra Bank
Information and Communication Technology	Nepal Telecommunication Authority
Transport	Department of Roads
Education	Department of Education
Health Care	Department of Health Services
Agriculture	Department of Agriculture
Tourism	Department of Tourism
Mines and Minerals	Department of Mines and Geology
Insurance	Nepal Insurance Authority

ENVIRONMENTAL CLEARANCE

8. Is environmental clearance compulsory for all industries?

No. Only those industries which intend to operate industries or carry businesses (projects) that may alter/change the existing environmental condition will have to obtain environmental clearance.

There are three types of environment studies:

i. Summary Environmental Study (**"SES"**),

ii. Initial Environmental Examination (the **"IEE"**), and

iii. Environmental Impact Assessment (**"EIA"**).

The Environmental Protection Rules, 2020 (2078) (**"EPR"**) has listed the projects which are required to conduct either of the three environmental studies - SES, IEE, or EIA - under Schedule 1, 2 and 3 respectively based on the scale or magnitude of projects. The complexity of the report increases from the SES to the EIA.

Around 11-12 sector-specific projects have been identified under Schedule 1, 2 and 3 of the EPR. These cover projects in sectors of (i) forest, (ii) health, (iii) education, (iv) tourism, (v) transportation, (vi)

energy, water resources and irrigation, (vii) drinking water, (viii) apartment, buildings and residential development and urban development, (ix) waste management, (x) industry, (xi) mining, and (xii) agriculture.

Types of Environment Studies	Need for different types of Environment Studies
Summary Environmental Study	Generally, SESs are conducted in projects such as business of hospitals, nursing home or medical business with 16 to 25 beds, construction, establishment and operation of hotel or resort with 25 to 50 beds, electricity transmission projects up to 66 KV capacity, which use forest areas, among others. Agriculture sector projects are not required to conduct SES but are required to conduct either an IEA or EIA as mentioned under Schedule 2 or Schedule 3 respectively.
Initial Environmental Examination	Likewise, projects such as business of hospitals, nursing home or medical business with 25 to 100 beds, construction, establishment, and operation of hotel or resort with 51 to 100 beds, electricity production projects up to 1 to 50 MW capacity, among others, are required to conduct IEE.
Environmental Impact Assessment	Further, projects such as business of hospitals, nursing home or medical business with more than 100 beds, construction, establishment, and operation of hotel or resort with more than 100 beds, electricity production projects that is larger than 50 MW capacity, among others, are required to conduct EIA.

9. What is the process of conducting SES, IEE or EIA?

The Environmental Protection Act, 2019 (2076) ("EPA") and the EPR envisages that the SES, IEE or EIA need to be conducted in two phases:

Phase 1: Preparation of and seeking approval of Scope Determination Report and Work Schedule prior to conducting the Environmental Study Report. For projects which require conducting the SES or the IEE, only a Work Schedule suffices. A Scope Determination Report will be necessary for those projects which require an EIA, in addition to the Work Schedule.

Phase 2: After Phase 1, the proponent has to conduct a Public Hearing and carry out either SES, IEE or EIA.

A recommendation letter from - (i) local level and (ii) concerned office governing the subject-matter - also needs to be submitted when submitting the Environmental Study Report with the approving bodies. However, an SES will not require the approval of the concerned office governing the subject-matter. For this an application will have to be submitted to the aforementioned two bodies.

10. Who are the approving bodies for the Scope Determination Report, Work Schedule and relevant Environmental Study Report?

The approving bodies for all relevant submissions are based on the type of projects as provided under the EPR:

Type of Project	Authority of Submission
Projects under Section 3(2)(a) of the EPA which include development projects falling under National Priority, projects whose investment has been approved by the Investment Board of Nepal, development activities falling under federal jurisdiction according to the prevailing law, projects which involve construction activities in one or more than one province or any project specified by GON.	Concerned Ministry of Government of Nepal
Projects under Section 3(2)(b) of the EPA which include development activities or projects falling under the jurisdiction of the provincial government.	Body prescribed by the Provincial Law
Projects under Section 3(2)(c) of the EPA which include development activities or projects falling under the jurisdiction of local level.	For EIA projects: Body prescribed by the Provincial Law For SES or IEE projects: Body prescribed by Local Law *(Only Work Schedule, SES & IEE)*.

For projects which have multiple objectives with more than one Ministry of the Government of Nepal or is related with more than one body, the proponent may prepare a unified Environmental Study Report along with the recommendation of the concerned stakeholder Ministries or bodies as well.

11. What are the compliances to be followed to prepare a Scope Determination Report and Work Schedule?

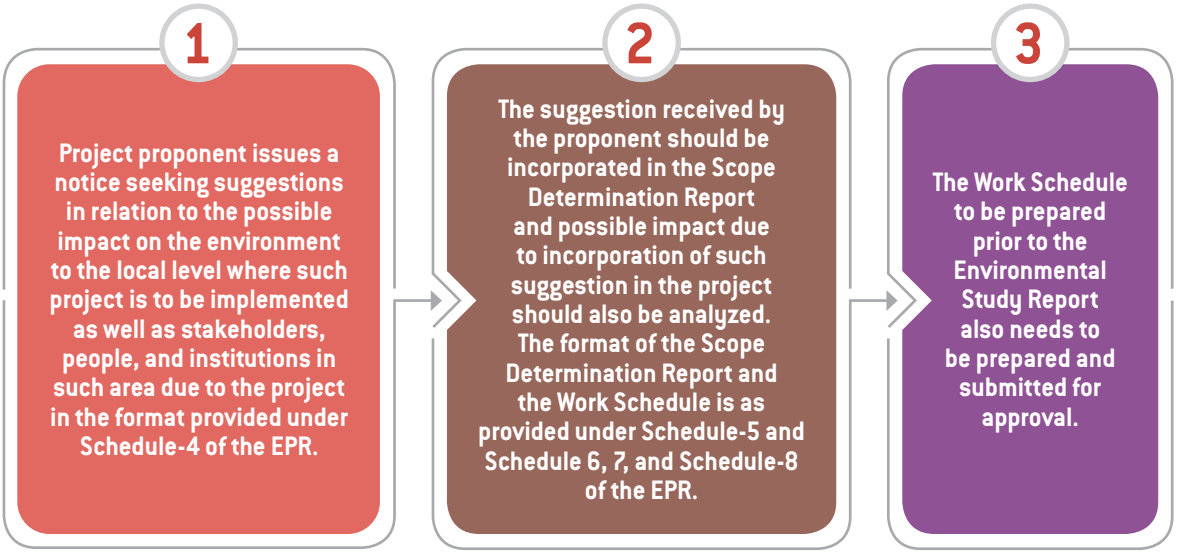


Figure: Compliances in relation to Scope Determination Report and Work Schedule

12. What are the compliances to be followed for the Environmental Study Report?

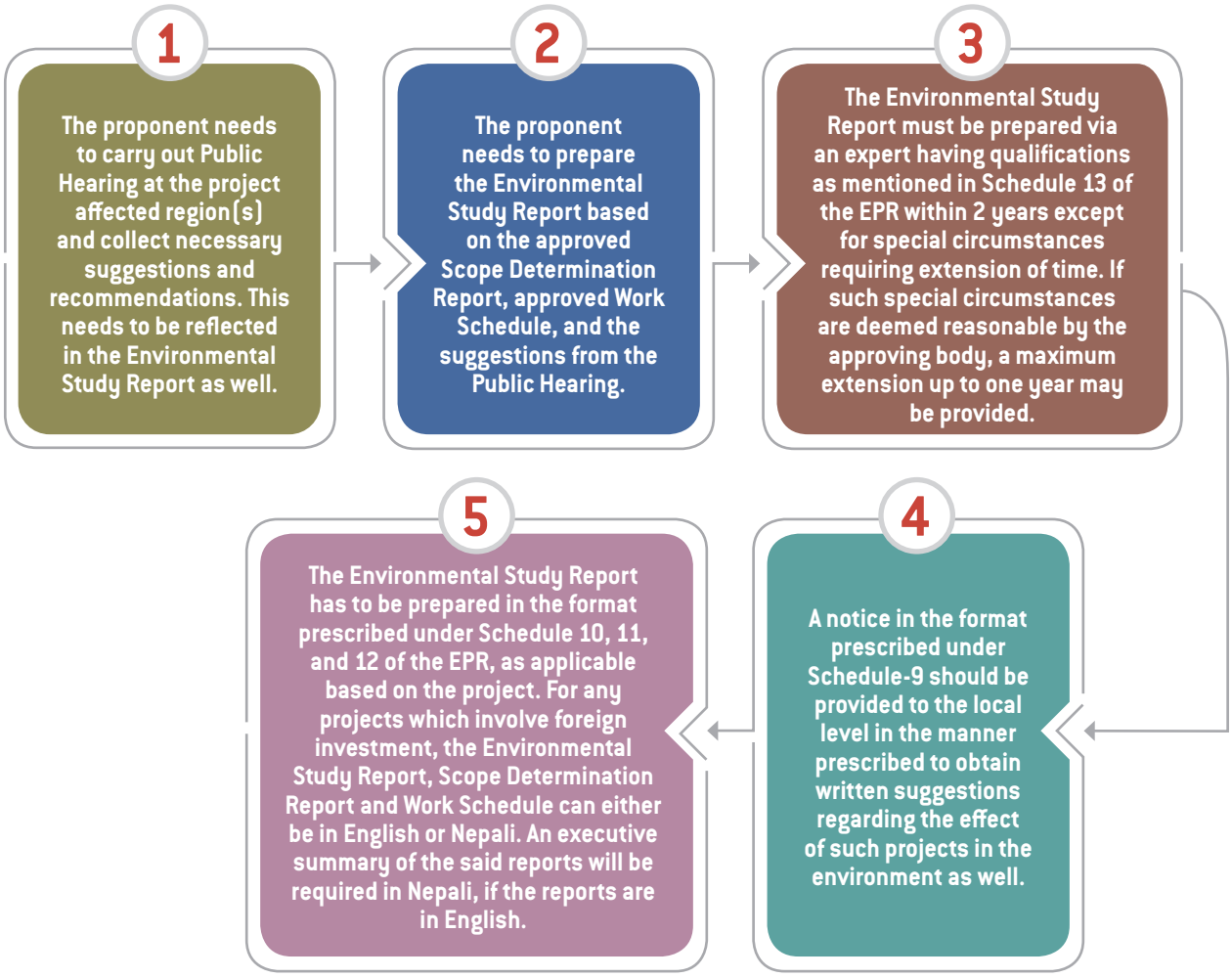


Figure: Compliances to be followed for the Environmental Study Report

13. When will a Supplementary Environmental Study Report be needed?

Any projects for which an Environmental Study Report has already been approved and which requires adjustment to its physical infrastructure, design or structure, transfer or alteration of structure, increment of forest area, or increment of the capacity of the project, will require preparation of a Supplementary Environmental Study Report. However, if it is deemed that a Supplementary Environment Study will not be required or if the capacity of the project is decreased or the number of trees to be cut down has also decreased, then instead of a Supplementary Environment Study Report, the environment management plans under the existing approved Environmental Study Report may be adjusted upon the consent of the concerned body.

This is done to ascertain whether or not the adjustments, alterations, or increments will negatively affect the environment and whether or not such negative affects can be mitigated or minimized.

This will require an application to be provided to the concerned body disclosing in a comparative tabular form, the reasons for alterations of various dimensions of the project and analysis of the environmental effects because of such alterations, along with necessary documents to confirm such details. Upon such application, an approval to conduct such Supplementary Environmental Study may be given by the concerned body if it deems the details reasonable upon necessary inquiries.

The concerned body may also itself order the proponent to submit a Supplementary Environmental Study Report as well.

The process of carrying out Supplementary Environmental Study Report will be similar to conducting the Environmental Study Report. The process of Scope Determination Report and Work Schedule is not required to be complied during the preparation of Supplementary Environmental Study Report.

14. Once the Environmental Study Report is approved, can the project be commenced at any time?

The EPR mandates that the concerned project needs to be commenced within three years of the approval of the Environmental Study Report, subject to the concerned body's permission to grant extension up to a maximum period of two year under special circumstances.

In the event that the project is not commenced within the specified duration, the environmental study for the project will have to be carried out again and the report submitted.

Chapter 4

PROPERTY LAWS

OWNING OR LEASING IMMOVABLE PROPERTY

1. What are the types of lands in Nepal?

Nepal has the following types of land ownership:

(i) private land,

(ii) trust land,

(iii) government land.

Private land is locally known as 'Raikar' land over which a private person has ownership. Land ownership certificates are issued to the individual or the company owning the land. Any land that is owned by a company registered in Nepal with foreign investment thus falls under this category.

Trust land, locally known as 'Guthi' land, is land held under a trust that is endowed by any philanthropist through relinquishment of their title to the immovable property to fund a trust for the operation of any social or religious cause.

Government land mainly comprises of roads, paths, but also railways, forests, shrub lands, jungles, rivers, streams and marshlands that do not belong to anyone. Furthermore, lakes, ponds and their banks, canals and channels, waste and uncultivated land, land located on sharp hillsides, paths and sand that is vacated by river, which are owned by the GON or declared as public land by the GON are also considered as Government land.

2. Are Indian investors allowed to own immovable property in Nepal?

Indian investors cannot directly own land in Nepal without the prior approval of the Government of Nepal (Council of Ministers). Further, a company registered in Nepal by an Indian investor is considered as a local company and thus can own land. Unlike the approval required for an Indian Investor, such company does not require approval of the Council of Ministers to own land in Nepal.

FITTA prohibits foreign investment in real estate business. Hence, investment is not allowed in real estate business, such as buying and selling of land in Nepal. Nevertheless, Indian investors can invest in the housing business. The housing business is considered as separate from real estate in Nepal, as

this includes activities such as construction of housing units/complexes.

3. Are Indian investors allowed to lease immovable property in Nepal?

As opposed to renting, the leasing of land is governed separately by Nepali law. Indian investors can take rent of house in their individual capacity but are restricted from leasing land for the purpose of developing or constructing buildings, or for agricultural purposes. In this context, Indian investors in their individual capacity can enter into house rent agreements, but cannot lease land in order to develop and derive benefit and profit there from.

The legal regime of Nepal allows Indian nationals to enter into house rent agreements and considers passports as identification from which the ability of the individual to enter into contract is derived. However, leasing of land is restricted to individuals who do not have the capacity to buy land in Nepal; thus restricting land lease in individual capacity. Companies with Indian investment are however exempt from this restriction as they are treated as local companies.

4. Are branch offices allowed to own real estate in Nepal?

The law is not clear as to whether branch offices of the Indian companies can own real estate property in Nepal.

5. Has Nepal implemented any land zoning laws?

The Land Usage Act, 2019 (2076) has envisaged categorization of land into following: (a) agricultural, (b) residential, (c) commercial, (d) industrial, (e) mines and minerals, (f) forests, (g) rivers, streams, lakes, wetlands, (h) public utilities, (i) cultural and archeological importance, and (j) other land as specified by the Government of Nepal.

If the land is to be used for purposes other than as categorized, the final decision in relation to the same is taken by the Federal Land Usage Council. For example: if a commercially used land is categorized as the agricultural land, an application can be filed to the Local Land Usage Council. The Local Land Usage Council then writes to the Province Land Usage Council if the land should be categorized as per such application. Similarly, if the Province Land Usage Council also finds that the land should be re-categorized as per the application, it will recommend the same to the Federal Land Usage Council, which will take the final decision on the same.

6. Is there a ceiling on land ownership?

Yes. Land ceilings are imposed depending on where the land is situated. Such a land ceiling is applicable to all industries, irrespective of whether such industries have foreign investment or not. The existing land ceiling is as follows:

S.No.	Geographic region	Land ceiling
1.	Terai region	10 Bigha (6.77 hectares)
2.	Kathmandu valley	25 Ropani (1.27 hectares)
3.	All hill areas other than Kathmandu valley	70 Ropani (3.56 hectares)

If land is required beyond the ceiling, the company is required to take specific approval from the Ministry of Land Management, Cooperative and Poverty Alleviation ("MOL") or the Council of Ministers.

According to Order Relating to Exemption of Land Ceiling, 2021 (2078), certain manufacturing, energy, farming, tourism, service and construction companies may apply and be approved for additional land. The MOL approves additional land area above the prescribed ceiling. If the additional land required exceeds the additional specified limit or the unprescribed industry requires land beyond the ceiling, approval from the Council of Ministers is required to own the excess land.

PROVIDING SECURITY AGAINST LOANS

7. What property can be provided as security against loans?

The matters related to the creation and enforcement of the security interests in favor of lenders are primarily governed by the Country Civil Code, 2017 (2074) ("Civil Code"), Secured Transaction Act, 2006 (2063) and the Finance Act of the relevant local level authority. Generally, there is no restriction on the type of property, whether moveable or immovable, that can be provided as security against loans. Security interest may be created on fixed assets, current assets, tangible and intangible assets.

8. Is it permissible for a local company to create security interest in favor of a foreigner?

Yes, security interest can be created on immovable property in favor of a foreigner with prior approval of the GON. Currently, such approval is granted by the GON in the form of decision of the Council of Ministers. Similarly, a prior approval from NRB is required to pledge shares and give security over offshore accounts in favor of the foreigner. Though not required by law, in practice, prior approval from DOI and NRB are obtained for creating security interest in favor of the foreigner as part of the approval of the foreign investment. For providing security interest in all kinds of assets, the approval of NRB is required.

9. Can security interests be created over land?

Yes. However, prior approval from the GON is required for the creation of security interests on land and fixed assets in favor of the foreigners.

However, the land beyond the prescribed ceiling as mentioned above cannot be given as security to the lender pursuant to the Order Relating to Exemption of Land Ceiling, 2021 (2078) and Industrial Enterprise Act, 2020 (2076).

The Civil Code requires the competent party to conclude a deed or agreement while creating security interest over the property. The deed so concluded is required to be registered at the relevant office for acquiring legal validity. The registration of such deed is done by the relevant Land Revenue Office ("LRO") having jurisdiction over the area in which the immovable property is situated. Registration with the LRO is a mandatory requirement for the perfection of the security interests over the immovable assets.

10. Can security interests be created over movable assets?

Yes. Any person may have their security over such moveable and intangible assets. Intangible property is classified as movable property other than goods, accounts, secured sales contract, deeds, instruments and cash, which create legal rights. Movable property is to be understood as follows:

a. Cash or cash equivalents or foreign currency,
b. Gold, silver, stones, jewelry made of gold, silver or other valuable stones,
c. Goods other than (a) and (b) above, that can be displaced from one place to another,
d. Bonds, securities, declaration, letter of credit or other negotiable instruments or benefits derived from it,
e. Intellectual property,
f. Security interest,
g. Goodwill or franchise,
h. All property other than immovable property.

A security interest is attached to a moveable and intangible asset when (i) a security agreement is concluded in writing, (ii) the value against the security is provided by the secured party (for example loan should be provided under the loan agreement) and (iii) the person giving the security has ownership over the security and has the power to grant it to the security holder.

SECURING INTELLECTUAL PROPERTY RIGHTS

11. What is the law that governs Intellectual Property?

Currently, Nepal only recognizes Industrial property (patent, design and trademark) and Copyright. The major law that governs the protection and enforcement of industrial property in Nepal is the Patent Design and Trademark Act, 1965 (2022) ("PDTA"). The regulatory body under the PDTA is Department of Industry ("DOI"), a quasi-judicial body that oversees litigation matters as well as administrative matters related to industrial property.

The major law that governs the protection and enforcement of copyrights in Nepal is the Copyright Act, 2002 (2059) ("Copyright Act"). It is supplemented by the Copyright Rules, 2004(2061). The regulatory authority under the Copyright Act is the Nepal Copyright Registrar's Office ("NCRO") for administrative functions and the District Court for judicial functions. Copyright cases are state party cases, thus are initiated through a First Information Report ("FIR") before the relevant Police office.

Nepal is also a signatory to multiple major international treaties for protection of intellectual property, like the Paris Convention for Protection of Industrial Property, 1883 ("Paris Convention"), Trade Related Aspects of Intellectual Property Rights, 1994 ("TRIPS Agreement"), Convention Establishing World Intellectual Property Organization, 1967 ("WIPO Convention"), Berne Convention for the Protection of Literary and Artistic Works, 1886 ("Berne Convention").

A Bill made to Amend and Unify Prevailing Laws relating to Intellectual Property, 2019 (2076) ("IP Bill") has been drafted and is waiting for legislative discussion and approval. This new law is made to bring Nepal's laws into compliance with global legal standards. The proposed legislation, which seeks to codify all intellectual property laws (especially industrial property) under a single law, seeks to make significant improvements to existing intellectual property law of Nepal.

12. What are the forms of intellectual property that are protected in Nepal?

The forms of intellectual property that are protected by the laws of Nepal are:

a. Copyright and the related rights: grants authors, artists and other creators protection for their literary and artistic creations, generally referred to as works.

b. Trademark: a word, or symbol, or picture or a combination thereof to be used by any firm, company or individual in its products or services to distinguish them with the product or services of others.

c. Patent: a useful invention relating to a new method or process of manufacture, operation or transmission of any material or a combination of materials, or that is based on a new theory or formula.

d. Industrial Design: a form or shape of any material manufactured in any manner that a manufacturing company or producer uses for its products.

13. How can a patent be protected in Nepal?

The procedure for a patent to be registered in Nepal begins by submitting an application to the DOI. The particulars that are to be submitted along with the application including but not limited to are as follows:

- Name, address and occupation of the inventor,
- If the applicant is not the inventor, document proving acquisition of title from the inventor,
- Process of manufacturing, operating or using the patent,
- Theory or formula on which the patent is based,
- Map and drawings along with particulars of the patent.

The DOI, upon receiving such application conducts a formalities examination to determine whether the application conforms with the necessary procedural and formal requirements. After completion of the formalities examination, the DOI then proceeds to conduct a substantive examination wherein they check whether the invention is novel, involves inventive step and has industrial applicability.

It then decides if the patent shall be registered and published. The time-period from filing to registration of patent is approximately 2 (two) years. A registered patent may be cancelled by DOI if it is found that;

(a) the patent is already registered in the name of any other person,

(b) if the applicant is neither the inventor and nor has acquired rights over the patent from the original inventor,

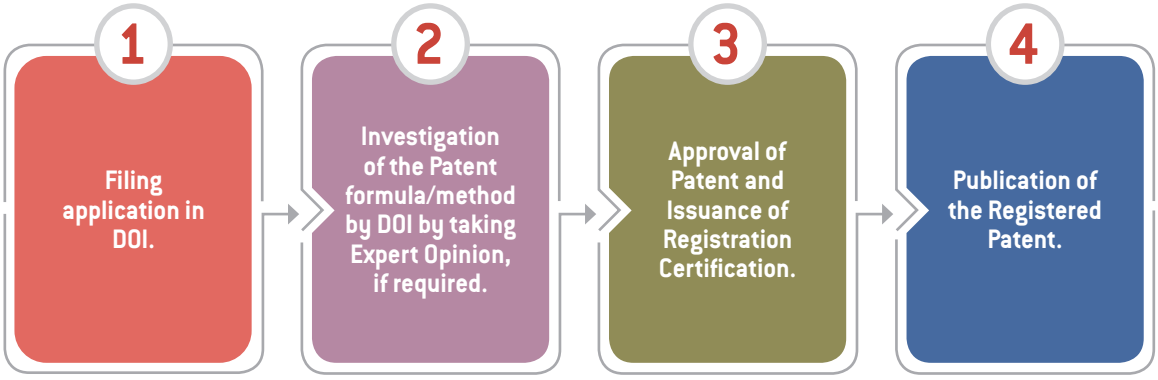
(c) if the patent is likely to cause adverse effect on the public health, conduct or morality or the national interest or,

(d) if the registration of patent contradicts with the prevailing laws of Nepal.

However, the DOI, before cancelling the registration of the patent, provides an opportunity to the patent owner to show reasons as to why the patent should not be cancelled.

In case a third party has objection to the registered patent once published, it shall file a complaint before the DOI within 35 (thirty-five) days from the date of seeing or copying the patent information from DOI after publication in Nepal Gazette.

Procedure for Registration of Patent



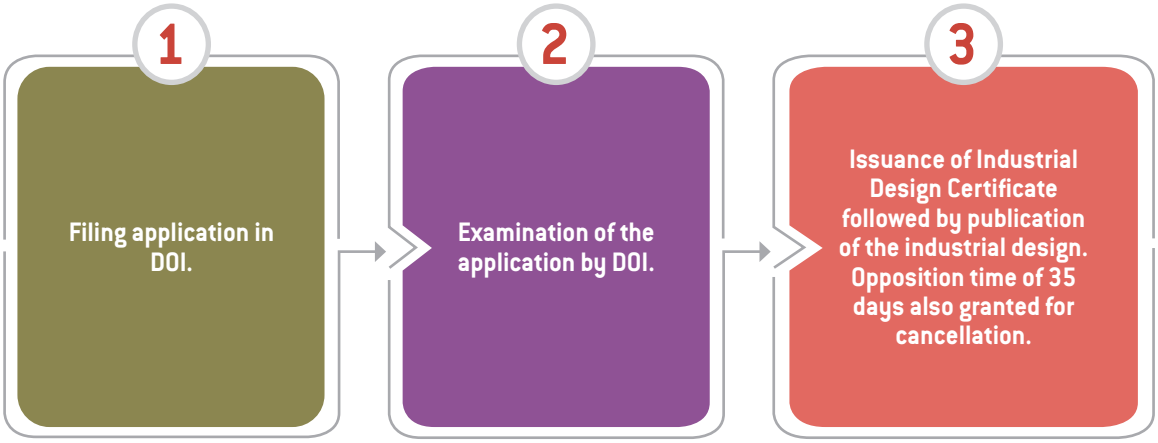
14. What is the term of protection of patent?

A patent is protected for 7 (seven) years when registered at the DOI. Further, the patent owner may renew the patent twice, for a period of 7 (seven) years at a time. After expiration, the patent may be renewed within 35 (thirty-five) days of such expiration.

15. How can industrial design be protected in Nepal?

The procedure to register industrial design begins by submitting an application for registration of the industrial design, along with four copies of the industrial design of the article manufactured or the product to be manufactured. The DOI on receiving the industrial design of the article shall examine the industrial design and check its eligibility for registration. If the industrial design of the article is not already protected in the name of another or does not hurt the prestige of any individual or institution or adversely affects the public conduct or morality, or undermines the national interest, DOI will issue a certificate for industrial design registration and publish the same in the Industrial Property Bulletin for information to the public. DOI may also cancel a registered industrial design if the aforementioned conditions are met. However, it shall first give the industrial design holder an opportunity to show cause before cancelling the registration of industrial design.

Procedure for Registration of Design



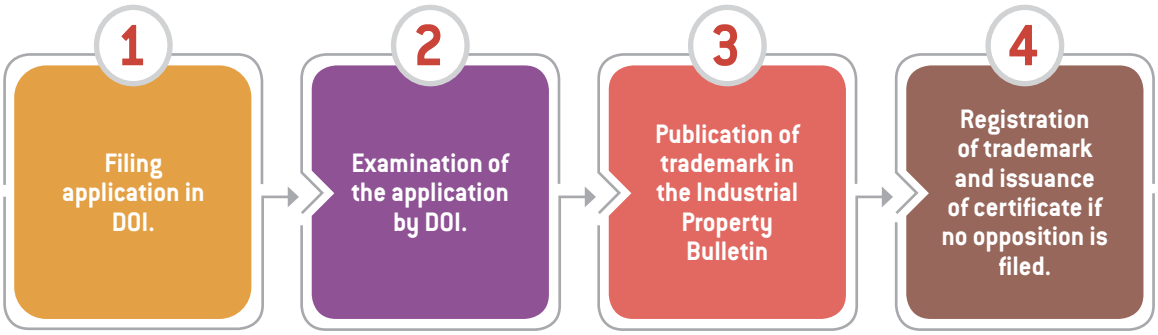
16. What is the term of protection of industrial design?

The term of industrial design is for a period of 5 (five) years, which is further subject to renewal twice for a period of 5 (five) years at a time and shall be applied for renewal within 35 (thirty-five) days of such expiration.

17. What is the procedure for filing a trademark?

The procedure of trademark registration begins by submitting an application for trademark registration at the DOI. The DOI upon receiving such application makes a preliminary and then substantial examination of the application including computer search to validate whether the proposed trademark could be registered or not pursuant to prevailing laws. The DOI then publishes the details of the proposed trademark in the Industrial Property Bulletin to collect any opposition against the applied trademark. If no opposition is filed, the proposed trademark will be registered, and a certificate of registration is issued. In case any opposition is filed, the registration of the disputed trademark will depend on the decision of the DOI, which is appealable in the High Court.

Procedure for Registration of Trademark



Since Nepal is a party to the Paris Convention and TRIPS Agreement, trademarks already registered in foreign countries can be registered in Nepal, but these trademarks are not protected independently. For protection of foreign trademark, it is required to be registered in Nepal.

Additionally, pursuant to Foreign Investment and Technology Transfer Act, 2019 (2075) ("FITTA"), the use of foreign trademark by local entity comes under the ambit of Technology Transfer. The FITTA states that approval of the DOI is required for technology transfer. In view of this provision, the permission for technology transfer has to be taken from the DOI for licensing of foreign trademark.

18. What is the timeline for registration of trademark?

The general time period required to register a trademark is about 12-16 months from the date of filing of application for the trademark. However, the timeline might extend if the trademark is opposed.

19. What is the term of protection of trademark?

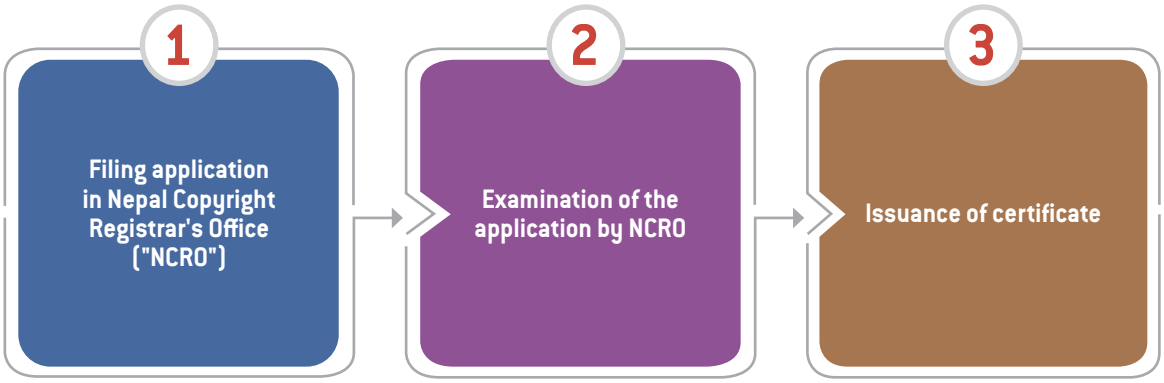
The term of trademark is for a period of 7 (seven) years, which is further subject to renewal indefinitely for a period of 7 (seven) years at a time and can be applied for renewal within 35 (thirty-five) days of expiry of the trademark which can be further extended by 6 months by paying late fees.

20. How can a copyright be protected in Nepal?

In Nepal, copyright registration is not mandatory, and copyright protection comes automatically with the creation under Copyright Act, 2002 (2059). However, copyright registration will protect against possible infringements of copyright. The protectable subject matter of copyright includes literary, artistic, dramatic and musical work. The non-protectable subject matter of copyright includes religion, news, method of operation, concept, principle, court judgement, administrative decision, folksong, folktale, proverb, and general data.

The procedure for registration of copyright begins by submitting an application with all evidence to NCRO according to Copyright Rules, 2004 (2061). The Registrar shall examine the application to determine the originality and fixation of work. Upon such examination, if it is found that all requirements are fulfilled, a certificate is issued within 35 (thirty-five) days by taking a charge of NPR 100 (one hundred) from the date of application as per Copyright Rules, 2004. However, if upon examination, it is found that the document given to the office is not copyrightable, the office is required to give the applicant a justification within 7 (seven) days.

Procedure for Registration of Copyright



21. What is the term of protection of copyright?

The Copyright Act provides several terms of protection for authors/creators' works which are given as follows,

- Economic & Moral Rights of a creator/author shall be protected throughout their life and additional 50 (fifty) years after their death. In case of a work of joint authorship, the term provided after the death of the author shall be calculated from the death of the last surviving author.
- Applied arts and photographic works are protected for 25 (twenty-five) years from the year of preparation of the work.
- The rights of sound recording shall be protected for 50 (fifty) years from the publication of such sound recording.
- The broadcasts of broadcasting organization shall be protected for 50 (fifty) years from the year of commencement of such broadcast.
- The performance of performer shall be protected for 50 (fifty) years from the year of performance.

Chapter 5

HUMAN RESOURCE

1. What are the governing laws and authorities to regulate employment in Nepal?

The matter relating to employment in Nepal is primarily governed by

i. The Labor Act 2017, (2074) ("Labor Act") and

ii. The Labor Rules 2018, (2075) ("Labor Rules") in Nepal

iii. The Contribution Based Social Security Act, 2017 (2074) ("Social Security Act")

iv. The Contribution Based Social Security Rules, 2018 (2075) ("Social Security Rules")

v. The Social Security Schemes Operational Directives, 2018 (2075) ("Social Security Directives")

vi. The Trade Union Act, 1992 (2049) ("Trade Union Act")

vii. The Trade Union Rules, 1994 (2050) ("Trade Union Rules")

viii. The Bonus Act, 1973 (2030) ("Bonus Act")

ix. The Bonus Rules, 1982 (2039) ("Bonus Rules")

x. The Foreign Employment Act, 2007 (2064) ("Foreign Employment Act")

xi. The Child Labor (Prohibition and Regulation) Act, 2000 (2056) ("Child Labor Prohibition Act")

xii. The Right to Employment Act, 2018 (2075) ("Employment Act")

xiii. The Right to Safe Motherhood and Reproductive Health Act, 2018 (2075) ("Safe Motherhood Act")

xiv. The Sexual Harassment at Workplace Prevention Act, 2015 (2072) ("Sexual Harassment at Workplace Act")

(The Labor Act, The Labor Rules, The Social Security Act, The Social Security Rules, The Social Security Directives, The Trade Union Act, The Trade Union Rules, The Bonus Act, The Bonus Rules, The Foreign Employment Act, The Child Labor (Prohibition and Regulation) Act, The Right to Employment Act, The Right to Safe Motherhood and Reproductive Health Act, The Sexual Harassment at Workplace Prevention Act collectively "Labor Laws"). The Department of Labor (the "DOL") and Labor Office are the authorities to regulate matters relating to employment.

2. What is the applicability of the Labor Act?

The Labor Act is applicable to any company, private firm, partnership firm, cooperatives, association or other organization in operation or established, incorporated, registered or formed under prevailing laws regardless of its objective to earn profit or not. The Labor Act also applies to liaison and branch offices of foreign entities. Further, an employee engaged by a foreign entity carrying out activities in Nepal, including promotion of business, sale of its products or other work, may file a claim before the competent labor authority in relation to the employment agreement.

HIRING

3. What are the modes of hiring employees?

The employees in any entity can be hired in different ways which includes (a) Regular Employment, (b) Work Based Employment, (c) Time Bound Employment, (d) Casual Employment and (e) Part- time Employment.

4. When can a company hire foreign national?

The Labor Act restricts any foreign nationals to work in Nepal without obtaining work permit. The foreign nationals (a) having diplomatic immunity, or (b) who are not required to obtain work permit under a treaty or agreement entered into with the Government of Nepal ("GON") are however exempted from the work permit requirement. The hiring process of foreign nationals varies based on the work or nature of the local entity. The foreign nationals may be hired (a) if local skill set is not available, or (b) by the foreign investment company up to certain numbers, or (c) for short term technical work.

5. Are Indian nationals required to obtain a work permit in Nepal?

The Indo-Nepal Peace and Friendship Treaty 1950* ("1950 Treaty") provides privileges of participation in trade and commerce to the national of one country to another. The 1950 Treaty also provides national treatment in participation in industrial and economic development on reciprocity basis, to the national of one country to another. In view of the 1950 Treaty and Labor Act provisions, Indian nationals are exempted from obtaining work permit to work in Nepal.

However, where a foreign national is exempt from obtaining a work permit, the Labor Rules require such foreign national to be registered with the Department of Labor. Therefore, the Indian nationals should be registered with the Department of Labor even if they do not require work permit in Nepal.

6. Is employment agreement mandatory?

The Labor Act requires the employer to provide written employment agreement to all employees. However, the written employment agreement is not mandatory for casual employees (working for seven days or less in a month). Furthermore, the Labor Rules provide that a written employment agreement must include, (a) nature of employment, (b) the core responsibilities and designation of the employee, (c) employment handbook to be an integral part of it, (d) the place, date and commencement date of employment agreement, and (e) any other conditions as per service and work of the employee.

*The original text of the treaty is not available and is based on the text in secondary sources such as websites.

7. How can employees be appointed through an outsourcing entity?

Outsourced employees can be appointed through licensed outsourcing companies. The Labor Act restricts the employer to engage outsourced employees in any of its core work. Core work is defined

as the work which is specified at the time of establishment of business and other works directly related to such specified work.

Accordingly, the GON has specified the works subject to outsourcing through Gazette notification dated October 05, 2018. The works include:

S.No.	Category of Services	List of Works
1	Security Services	(a) Security employees
2	Facilitating Services	(a) Employees required for management of all types of sanitation and waste management, (b) Gardener for management of garden including agricultural employees, (c) Office assistant (for preparing tea and lunch or messenger service) (d) Employees for canteen and catering.
3	Business Support Services	(a) Driver, conductor, (b) Employees required for loading-unloading, transportation of goods and store management, (c) Employees required for repair and maintenance and technical support and consultancy, (d) Construction employees including plumber, electrician, builder, carpenter.
4	Domestic Help Services	(a) Domestic employees including house maid, care giver

8. What is the maximum probation period?

The Labor Act allows an employer to hire employees on probation for the maximum period of six (6) months. The probation period cannot be extended beyond six (6) months. The service of an employee may be terminated during the probation period if his/her service is not found satisfactory.

REMUNERATION AND WORKING HOURS

9. What is the maximum working hour?

The Labor Act allows the employer to engage the employee in work for eight (8) hours a day and forty-eight (48) hours a week. Employees are entitled to 30 minutes break for every consecutive work of five (5) hours which is included in the working hours.

10. Is there any provision for overtime?

Yes, the working period beyond eight (8) hours a day during workdays (except Saturdays and public holidays) constitutes overtime. The employee may be engaged in overtime not exceeding four (4) hours a day and twenty-four (24) hours a week. Employees should be paid for overtime service at the rate of 1.5 times his/her basic remuneration.

11. What is the minimum remuneration that employees are entitled to?

The Ministry of Labor, Employment and Social Security (the "Ministry of Labor") fixes the minimum remuneration for every two years. As per the Gazette notification dated July 21, 2025 (2082-04-05) the current minimum remuneration is as follows:

S.No.	Minimum Remuneration/ Wage	Basic Remuneration	Dearness Allowances	Total
1	Monthly	NPR 12,170/-	NPR 7,380/-	NPR 19,550/-
2	Daily	NPR 470/-	NPR 284/-	NPR 754/-
3	Hourly	NPR 63/-	NPR 38/-	NPR 101/-

12. Is there any mandatory requirement of remuneration increment?

Yes. The Labor Act mandatorily requires for the annual increment in remuneration of the employee. Such increment should not be less than a half day's basic remuneration of the concerned employee.

BENEFITS AND LEAVE

13. What are the leave and holidays that employees are entitled to?

The Labor Act provides for holidays and leave to be provided to employees. The leave and holidays that the employees are entitled to are as follows:

S.No.	Holiday/ Leave	Number of Days	Paid/ Unpaid	Remarks
1	Weekly Off	One (1) day in a week	Fully paid	-
2	Public Holiday	13 days annually including May Day	Fully paid	Female employees are entitled to 14 days public holiday (including May Day and International Women's Day)
3	Home Leave	18 days annually (at 1 day leave for each 20 days worked)	Fully paid	Up to 90 days of home leave can be accumulated and should be en-cashed at the time of termination of employment. The unused home leave, if any, exceeding 90 days can be en-cashed in the concerned year.
4	Sick Leave	12 days annually	Fully paid	Employees working for less than 1 year are entitled to Sick Leave on pro rata basis. Up to 45 days of sick leave can be accumulated and should be en-cashed at the time of termination of employment. The unused sick leave, if any, exceeding 45 days can be en-cashed in the concerned year.
5	Maternity Leave	98 days	60 days Fully paid	Such leave can be extended for up to 1 year without pay if required as per the recommendation of the doctor.
6	Paternity Leave	15 days	Fully Paid	Paternity leave is provided to the male employee whose wife is expecting a baby.
7	Bereavement Leave	13 days	Fully paid	This leave is provided in case of death of (a) spouse and/or parents, (b) In laws in case of married women. The leave is also provided if the employee observes the mourning rituals as a matter of custom.
8	Compensatory Leave	Entitled for work done on weekly off or public holiday		The compensatory leave should be provided within 21 days from the date of engagement in such work. If compensatory leave is not provided within 21 days, then the work performed during weekly off or public holiday shall be treated as overtime and paid at 1.5 times the employee's basic remuneration.

14. What are the social security benefits that employees are entitled to under labor and social security laws?

Each employee is entitled to social security benefits, including provident fund and gratuity benefits, through enrollment with the Social Security Fund ("SSF"). The employer is required to contribute 31% of the employee's basic remuneration to the SSF, comprising both the employer's (20%) and employee's (11%) contributions, as prescribed under the applicable laws.

a. Provident fund

The employer is required to deduct 10% from the basic remuneration of the employee and add an equal amount to it and deposit the same to the SSF (upon enrollment with SSF) as provident fund every month.

b. Gratuity

The employer is required to deposit gratuity at the rate of 8.33% of basic remuneration of the employee every month to the SSF.

15. What are the insurance requirements for employees?

Each employee is entitled to accidental insurance of at least NPR 700,000 (Seven Hundred Thousand) covering all types of accidents and annual medical insurance of at least NPR 100,000 (One Hundred Thousand). The premium for annual medical insurance is to be shared equally by the employee and the entity whereas the premium for accidental insurance is to be fully paid by the entity itself.

However, where such insurance coverage is provided through the SSF, no separate insurance arrangement is required from the employer.

16. What are the Social Security Schemes covered under the Social Security System in Nepal?

The Social Security Act, Social Security Rules and the Social Security Directives cover the social security systems. The Social Security Laws require the employer to be registered with the SSF and thereafter register its employees with the SSF. The SSF has recently introduced the following schemes in Nepal:

S.N.	Social Security Schemes
1	Medical Treatment, Health and Maternity Scheme
2	Accident and Disability Scheme
3	Dependent Family Scheme
4	Old Age Scheme

The Social Security Schemes ("SSS") are mandatory for the employers.

MISCONDUCT AND CESSATION

17. What are the misconducts and disciplinary actions prescribed by the labor laws?

The Labor Act provides the list of misconducts and corresponding disciplinary actions for such misconducts. The disciplinary actions include (a) Reprimand/written warning, (b) Deduction of One Day Salary, (c) Withholding Annual Increment or Promotion, and (d) Dismissal. The type of sanctions/ disciplinary action depends on the severity of the misconduct. The Labor Act provides the procedures for disciplinary actions such as hearing opportunity, timeline, authority to take actions, etc.

18. What are the other grounds for termination of employment?

The Labor Act provides grounds for termination of the employment in addition to dismissal for misconduct. The other grounds includes: (a) Compulsory Retirement, (b) Voluntary Resignation, (c) Natural Expiry of Contract (For time-bound employees), (d) Completion of Work (For work-based employee), (d) Bad Health, and (e) Unsatisfactory Performance.

19. What is the notice requirement under the labor laws?

The employer or employee must provide due notice or salary in lieu of notice for the termination of employment except termination due to misconduct. The prescribed notice period under the existing laws are as follows:

Period of Employment	Notice Period
For up to 4 weeks	1 day
4 weeks to one year	7 days
Exceeding 1 year	30 days

MISCELLANEOUS

20. What is the mechanism for transfer of employee?

The Labor Laws have prescribed for transfer of employees in two ways (a) within the entity, (b) from one entity to another entity. The consent of the employee is required for the transfer (a) to a different entity and (b) with changes in the terms, conditions and position of the employee.

21. Are employees eligible to form trade union at any entity?

The formation, function and power of trade union is regulated by the Trade Union Act. The Act restricts managerial level employees including the employee working in the capacity as head of branch, unit or department to be a part of a trade union.

22. Is there any requirement of Labor Audit?

The Labor Act requires every entity to conduct the labor audit as per the standards prescribed by the Ministry of Labor, Employment and Social Security ("Ministry of Labor"). The labor audit report so conducted needs to be submitted to the relevant Labor Office or supervisor if asked or during inspection of the entity.

The Labor Rules require the entity to conduct labor audit by the end of Nepali Month of Poush (Mid-January) every year as per the criteria defined by the Ministry of Labor. The Ministry of Labor has issued the Labor Audit Standard 2018 effective from November 22, 2018. An entity may conduct its labor audit by a management level employee working in the same entity or hire an external expert

working in the field of employment. The standard so published mainly covers the (a) Scope of labor audit, (b) Eligibility of labor auditor, (c) Procedure of labor audit, (d) Responsibilities of entity, and (e) Sanctions thereof.

23. What are the compliances regarding formation of different committees under Labor Laws?

The Labor Act requires any entity to form different committees based on the total head count. An entity having 10 or more employees is required to form a Labor Relation Committee. Similarly, an entity having 20 or more employees is required to form a health and safety committee pursuant to the prevailing laws of Nepal.

24. What is the mechanism for settlement of disputes?

The Labor Act provides for the dispute settlement mechanism for both (a) Individual dispute and (b) Collective dispute. The dispute settlement mechanisms differ as per the nature of dispute and the entity.

25. What are the requirements for health and safety arrangement?

The Labor Act requires each entity to formulate a health and safety policy which should be registered at the relevant Labor Office.

26. What are the consequences of major non-compliance of Labor Laws?

The Labor Act prescribes different sanctions for the non-compliance of the provisions of the Labor Laws which mainly includes:

(a) Appropriate order by the Labor office or Department of Labor,

(b) Indemnification of the number of benefits,

(c) Imposing fine for various non-compliances up to NPR 500,000/- (Nepalese Rupees Five hundred Thousand Only)

27. Is there any requirement for the distribution of bonus?

The Bonus Act is the primary legislation dealing with the distribution of bonus to employees. Each profit-making entity is required to allocate 10% of its profit (profit before tax) of one fiscal year for the purpose of distributing the bonus. Each employee who has worked for at least half of any fiscal year is entitled to receive bonus. The Bonus Act has prescribed the ceiling for the distribution of bonus to each employee. Seventy percent (70%) of the amount remaining after distribution of bonus is required to be deposited in the Employee Welfare Fund of the concerned entity and the remaining thirty percent (30%) is required to be deposited in the National Level Welfare Fund.

Chapter 6

IMPORT AND EXPORT OF GOODS

1. What are the relevant laws and authorities relating to import and export?

The relevant laws dealing with matters related to import and export are:

a) Export and Import Control Act 1957 ("Export and Import Control Act"),

b) Customs Act, 2007 (the "Customs Act")

c) Customs Rules, 2007 (the "Customs Rules"),

d) Notices issued by the Ministry of Commerce, Industry and Supplies,

e) Circulars issued by NRB from time to time,

f) Annual Finance Act (which is based on the annual budget speech of the Finance Minister) enacted by the GON.

g) Exim Code Procedure, 2021

Department of Customs and NRB are the main regulatory bodies with regard to import and export.

2. Do companies need to obtain any code for import and export of goods?

Yes. If the goods to be imported at a time values more than NPR 10,000 (Nepalese Rupees Ten Thousand) or if goods to be exported exceeds NPR 10,00,000 (Nepalese Rupees Ten Lakh) then the local company has to obtain export import code ("EXIM Code") from the Department of Customs.

To obtain the EXIM Code, the local company should submit the following documents to the Customs Office through a computerized software system:

S.No.	Documents
a.	Application available on the Department of Custom's website.
b.	Entity registration certificate from Department of Commerce (with objective to import/export) Note: This will not be applicable to the local company because foreign invested companies are prohibited from doing business of import/export.
c.	License as per the Direct Sales of Goods (Management and Regulation) Act 2018 Note: This may not be applicable to the local company because foreign invested companies are prohibited from doing business of retailing.

d.	Industry Registration Certificate issued by Department of Industry
e.	Recommendation from Department of Industry
f.	Shareholders Register showing paid up capital of NPR 10 Lakhs
g.	Permanent Account Number (PAN) Certificate
h.	Value Added Tax (VAT) Registration (if goods to be imported require VAT registration)
i.	Proof showing that no dues are payable to the GON
j.	Bank Guarantee of NPR. 300,000 from a Commercial "A" category Bank (the validity period must be a minimum of 1 year)
k.	Recommendation from local company's bank

3. When will the EXIM Code not be required?

The EXIM Code would not be required for bringing personal goods of travellers, for import of goods of up to NPR 10,000 (at one time) and for export of goods up to NPR 10,00,000 (at one time).

4. Is there any prohibition or restriction for import and export of goods in Nepal?

Yes, export and import of certain goods are prohibited and restricted. GON, Ministry of Commerce, Industry and Supplies by publishing a notice in the Nepal Gazette, specifies the list of restricted, prohibited and permitted goods. Further, circulars issued by the NRB also prescribe lists of goods that are restricted. Certain goods are prescribed with quantitative restriction while for others approval is required to be obtained on the recommendation of concerned authority. The table below illustrates examples of such prohibition, restriction and approval requirement, and is not exhaustive.

IMPORT		EXPORT		
Prohibited	Require approval/ recommendation	Prohibited	Quantitative restriction	Require approval/ recommendation
Ganja, Charas, Afim	Weapons, on recommendation of Home Ministry	foreign and local coins	paddy, rice, wheat, sugar,	Yarshagumba on approval of Department of Forests
Incandescent light bulbs	Radio equipment on recommendation of the Ministry of Information and Communication	statue of deities	lentils	Imported raw material for industry which were not used, on recommendation of concerned department
Beverage with more than 60% alcohol content		explosives materials and fuse or materials needed there for; materials used in production of arms and ammunition.		
		palm leaf inscription (Tad Patra), Plant leaf inscription (Bhoj Patra; scroll (Thanka paintings)		
		Industry/Raw Materials: Raw hide (including dry salted); raw wool; all imported raw materials, parts and capital goods.		
		Narcotics Drugs and Psychotropic Substance		

		Conserved wildlife and Related Articles: wild animals, bile and any part of wild animals, musk; snake skin, lizard skin		
		Conserved bio-diversity and environmental protection related forest products: marsh orchid (Dactylorhiza hatagirea); okhar (juglans regia); lichen; different types of timbers; unprocessed asphaltum.		
		Other products: imported petroleum and oil products; extracted sand, gravel, and boulders.		

Except for the goods restricted for export and import under the Export Control Act and Export Control Regulation and notice published by the GON, other goods can be freely exported and imported from and to Nepal provided that the other existing laws are complied with.

5. What is the procedure to export and import goods from/to Nepal?

The local company needs to submit the following documents along with the Declaration Form to the concerned Customs Office:

S.N.	Import from any other country except India	S.N.	Import from India
1.	Banking documents related to payment process such as letter of credit	1.	Authority Letter of Customs Agent
2.	Invoice	2.	Delivery order of Terminal Management Company (TMC) in case of inland clearance depots (ICDs) at Biratnagar, Birgunj, and Bhairahawa
3.	Packing list	3.	Invoice
4.	Bill of lading or Airway Bill	4.	Nepalese Customs Declaration
5.	Certificate of origin	5.	Packing list
6.	Duly completed Foreign Exchange Control Form	6.	Additional documents for specific cargo such as plant quarantine/health/phytosanitary certificates for plants, lab test report for food products, analysis report for chemicals, health certificate for raw wool, a veterinary certificate for animals, etc. where applicable
7.	If any goods are to be imported using India as transit, then documents related to such transit		
8.	Delivery order of the concerned airlines company if the goods are imported by air		
9.	Permit/License/Recommendation from the concerned Government agency if required under the existing laws		

S.No.	Export from Nepal		
1.	Business Registration Certificate		
2.	PAN with VAT registration		
3.	EXIM Code		
4.	Single Administration Documents (SAD)- Pragypan Patra or The Yellow Form		
5.	Certificate of Origin (COO) and Generalized System of Preferences (GSP) Form A wherever applicable		
6.	Packaging list		
7.	Commercial Invoice		
8.	Payment Certificate- Letter of Credit (L/C) or certificate if advance payment		

If the goods are being exported/ imported by any company or firm for the first time, then the registration certification and tax registration certification are also required to be submitted to the Customs Office.

6. Is test marketing permissible for importing goods in Nepal?

Yes. Test marketing by a company with foreign investment is permissible for only a certain period of time. The Industrial Enterprises Act, 2020 regulates the matter relating to testing marketing and permits test marketing within prescribed terms and conditions set out in the Industrial Enterprises Regulation 2022. The foreign invested company must give an application to the DOI for obtaining import permission. These conditions may be imposed by DOI while granting import permission: (a) Imported goods shall not have been imported and sold in Nepali market through any other person, firm or company, (b) no more than 50% of the approved scheme can be imported while providing approval for import for trial and (c) Imported goods can be sold only as a trial.

7. What is the custom duty applicable on the goods imported to Nepal?

The custom duty of any goods shall be determined according to the tariff (rate of duty) prevailing on the date on which the Declaration Form of such goods is registered at the Customs Office. Nepal uses the Harmonized commodity Description and Coding System to classify products and duty. The rates for 2026/27 can be accessed in https://giwmscdnone.gov.np/media/files/Customs%20Tariff%202026.27%20Final%205_26_olewrcw.pdf

8. How are imported goods paid for?

Imports from India are normally paid in Indian Rupees. However, the Nepal government allows imports of some products from India with payment in hard foreign currency.

Chapter 7

DRY PORTS/ICDS AND ICPS IN NEPAL

1. What are the laws regulating the multimodal transportation of goods in Nepal?

The laws regulating multimodal transportation of goods in Nepal are mainly covered by the Multimodal Transportation of Goods Act, 2063 BS (2006 AD), and the Multimodal Transportation of Goods Rules, 2066 BS (2009 AD).

2. What could be the mechanism for import and export of goods from and to third country from a landlocked country like Nepal?

Nepal is a landlocked country, surrounded in the East, South and West by India, and in the North by the Tibet Autonomous Region of People's Republic of China. Nepal's access to international trade markets depends on transport infrastructure, logistics services and transit facilities to and from these neighboring countries.

The border between Nepal and India are inter-connected by 27 agreed routes, subject to timely review as per trade treaty between the two countries. Nepal bound third country consignments are ferried to and from seaports of India in containers through trucks and trains. The same routes are used in case of bilateral trade between Nepal and India as well.

3. Is there the possibility of moving goods via air to Nepal for third country trade other than road or rail links?

Yes, Nepal is internationally connected through Tribhuvan International Airport in Kathmandu. As of June 2023, there are additional two international airports viz, Gautam Buddha International Airport at Bhairahawa and Pokhara International Airport, however, these are yet to be in full operation.

4. Which are the major Customs points between Nepal and India for the purpose of bilateral and third country trade?

At present, there are 12 major customs points between the Nepal-India border in the East and South of Nepal, and 2 major customs points between the Nepal-China border in the North. The major custom points include a) Birgunj-Raxaul (in central Nepal) ,b) Biratnagar-Jogbani (in Eastern Nepal), c) Bhairahawa-Nautanawa (in Western Nepal), d) Mechi-Panitanki (in the far Eastern Nepal), and e)

Nepalgunj/Nepalgunj Road (far Western Nepal) and f) Tribhuvan International Airport (in Kathmandu). Over 90% of bilateral and international trade are covered by the custom points mentioned above.

Due to topographical conditions in the Northern border of Nepal, imports from different provinces in China are ferried in practice from Kolkata or Visakhapatnam ports to Nepal. As of June 2023, there are additional two international airports viz, Gautam Buddha International Airport at Bhairahawa and Pokhara International Airport, however, these are yet to be in full operation.

5. What is the status of trade related infrastructures in major customs points between Nepal and India for both bilateral and third country trade from the ports of India?

There are several dry ports in Nepal for inbound and outbound cargo. The first dry port of Nepal is at Birgunj, Sirsiya which has been in operation since 16th July, 2004. The consignments are ferried by trucks from Raxaul to Birgunj, where Birgunj Dry Port is connected to Indian railway services and 1586 containers can be managed at a time.

Similarly, Nepal also has dry ports in Biratnagar and Mechi Customs in the Eastern region as well. Apart from dry ports, there are Integrated Check Posts (ICP) in Birgunj and Biratnagar as well. Of which, the Biratnagar Check Post is also now connected with the Indian railway.

6. How many Integrated Check Posts and Inland Container Depots are there in Nepal?

There are 6 operational Inland Container Depots (ICD) and 2 under-construction ICDs, and 4 Integrated Check Posts (ICP) in various customs points. The status of the entire ICD and ICPs in Nepal has been illustrated in the following table as in June, 2023.

Name of Project	Project Location	Site Area	Facilities Available	Access (Train/ Truck)	Current Status
Kakarvitta ICD	Koshi Pradesh Jhapa District Customs Point: Kakarvitta/Naxalbari	7.5 Hectare	Basic infrastructure	Truck	Operation
Biratnagar ICP	Koshi Pradesh Morang District Customs Point: Biratnagar/ Jogbani	78.38 Hectare	Basic infrastructure with Immigration	Truck/Train	Operation
Birgunj Dry Port (ICD)	Madhesh Pradesh Birgunj Metropolitan Customs Point: Birgunj/ Raxaul	38 Hectare	Basic infrastructure	Train	Operation
Birgunj ICP	Madhesh Pradesh Birgunj Metropolitan Customs Point: Birgunj/ Raxaul	78.88 Hectare	Basic infrastructure	Truck	Operation
Bhairahawa Dry Port (ICD)	Lumbini Pradesh Rupandehi District Customs Point: Bhairahawa/Nautanawa	3.6 Hectare	Basic infrastructure	Truck	Operation
Bhairahawa ICP	Lumbini Pradesh Rupandehi District Customs Point: Bhairahawa/Nautanawa	35.11 Hectare	Basic infrastructure with Immigration	Truck	Stone laid on June 1, 2023

Nepalgunj ICP	Lumbini Pradesh Banke District Customs Point: Nepalgunj/Nepalgunj Road	44.36 Hectare	Basic infrastructure with Immigration	Truck	Inaugurated on June 1, 2023
Dodhara Chandani ICP (Under-construction)	Far Western Pradesh Kanchanpur District	63 Hectare	Basic infrastructure with Immigration	Truck	MoU Signed in 2023 June for construction
Chovar Dry Port (ICD)	Bagmati Pradesh Kathmandu District	11.19 Hectare	Basic infrastructure	Truck	Operation
Tatopani Dryport (ICD)	Bagmati Pradesh Sindhupalchowk District	4.2 Hectare	Basic infrastructure	Truck	Operation
Timure Dry Port (ICD) (Under-construction)	Bagmati Pradesh Rasuwa District	8.5 Hectare	Basic infrastructure	Truck	Construction going on

Note: Basic Infrastructure means Admin Building, Customs, Quarantine, Warehouse, Parking, Bank, Canteen, Security, Inspection Shed, Weighbridge.

7. What sea ports are available in Nepal?

The Haldia and Kolkata ports are available for Nepal for third country trade. Additionally, Visakhapatnam Port is also available for Nepal bound cargo from 24th June, 2016, which has so far proved more comfortable, hassle-free and mother vessels (big ships) can carry consignments in bulk. If massive unseen cost is cut down and made it hassle-free, Kolkata still can be cost effective.

8. How safe are the consignments from pilferage and damage during transporting by train and truck from seaport to Nepal Border and vices versa?

The goods are covered with insurance for transit movements in general. Special provisions of sealed CTD with bullet sealed for containers and special seal and lock system for truck shipment are prevalent.

9. Where are the Customs check points for bilateral and international trade of Nepal with India and third countries for imports and export?

Birgunj/Raxaul, Biratnagar/Jogbani, Kakarvitta/Panitanki (Rayagung), Bhairahawa/Nautanawa (Sunauli), Nepalgunj/Nepalgunj Road are major customs border points within Nepal.

10. What are the documentation formalities required for Nepal to export to India?

Letter of Credit (L/C), Telegraphic Transfer (TT) or Advance payment, Proforma Invoice, Proper Contract Between Buyer and Seller with Terms of Payment and Liability up-to Points of Delivery, Packaging List, Commercial Invoice, Necessary Permit from the Department of Commerce, Supplies and Consumer Protection (CoCSCP), Certificate of Origin, Authority Letters for Custom Clearing Purpose , Proof of Transport like Road Consignment Note (Bilti) if by road, Rail Consignment Note (RR) if by rail or AWB (air shipment).

In the receiving end in India all documents mentioned above will be required, with the addition of any import license or permit etc., where required.

11. What are the documentation formalities for Nepal's import trade with India?

The documentation formalities required for Nepal's import trade with India are the same as that needed for export to India.

12. What are the documentation formalities for Nepal's export trade with third countries via India?

The documentation formalities required for Nepal's export trade with third countries via India are the same as all the documents mentioned above, with the addition of CTD and a bill of lading. Furthermore, please refer to Chapter 6 as well for documentation requirement surrounding import and export.

13. What are the documentation formalities for Nepal's import trade with third countries via India?

All documents mentioned above with addition of transport documents based on mode of shipment, will be required for Nepal's import trade with third countries via India. There may also be an extra requirements of a special clearance, from the Consulate General of Nepal (CGN) office, Kolkata, with the authority by buyer (Nepalese) to an Indian clearing agent endorsed by importer's bank.

14. How are the goods distributed within Nepal from the border customs points?

The goods are distributed using Nepalese trucks normally. If the goods need to be delivered in ship container, the container is moved in trailer trucks. At times Indian trucks also deliver goods as there is provision to enter Nepal and return to the border point within 72 hours.

Chapter 8

SPECIAL ECONOMIC ZONE (SEZ)

1. What is the law governing SEZ in Nepal?

The primary laws governing SEZ in Nepal are Special Economic Zone Act, 2016 (2073 B.S.) (the "SEZ Act") and the Special Economic Zone Regulation, 2017 (2074) (the "SEZ Rules").

2. What kind of Industries are permitted to be established in SEZ?

Industries permitted to be established in SEZ include all industries except those listed in Annexure 3 of the SEZ Rules. The restricted industries for establishment in SEZ are as follows:

1. Cigarettes, bidi, khaini, cigars, and tobacco products producing industry.
2. Brandy, cider, wine, beer, and whiskey producing industry.

3. Explosive materials producing industry.

4. Weapons, bullets, gunpowder producing industry.

4. Is there a requirement to obtain a special approval to operate an industry in SEZ in Nepal?

An Indian investor who wishes to operate an industry within a SEZ in Nepal must obtain (a) License from SEZA to establish industry in a SEZ, and (b) Lease agreement with the SEZA.

5. What is the procedure for establishing industry in SEZ?

Steps	Procedure
1st	SEZA calls for application SEZA must publish a notice in a national-level newspaper to invite applications from investors interested in establishing an industry in the SEZ. Such notice shall include (a) nature of eligible industry, (b) available infrastructure, (c) minimum lease amount, (d) address and date for submission of application, and (e) last date for application submission.
2nd	Indian Investor must make application for obtaining License The investors must submit an application in the prescribed format under Schedule-4 of the SEZ Rules to obtain a license to establish and operate industry within the SEZ.

3rd	SEZA approves application for License After performing the required evaluation of the application, the SEZA is required to grant license within seven days of receiving application as per the SEZ Rules. The investor must pay a fee of NPR 25,000 to obtain the license. Rejection of Application If SEZA determines that an application is not suitable for approval, it will be rejected. However, the applicant should be notified of the decision along with the reason for rejection within 7 (seven) days of the decision made by SEZA. Evaluation of the application In the event multiple industries of the same nature apply for a license and the SEZA is unable to grant license to all of them, the license will be granted based on the following priorities as stated in the SEZ Rules: a. Investor having higher fixed capital, b. High quantity of export c. Create high rate of employment d. Use of local raw materials or materials and having high value addition e. Industry having higher capacity, f. Provision relating to usage of new technology The SEZA may request other details and documents as it deems necessary.
4th	SEZA issues License Although the SEZA is required to issue License within seven (7) days, in practice, the SEZA issues license within thirty (30) days of obtaining application for establishing an industry in SEZ.
5th	Indian investor must apply for FDI Approval The foreign investor is required to submit an FDI application to the Foreign Investment Approving Body within seven (7) days from obtaining the License.
6th	Indian investor to incorporate company Upon obtaining foreign investment approval, the investor must register the company in the OCR.
7th	Indian investor to register industry After incorporation of company, the industry must be registered at the DOI.
8th	Agreement for establishment and operation of industry in SEZ The industry and the SEZA must execute an agreement within 15 days from registration of Industry.

6. What are the basic provisions that must be incorporated in an agreement for establishment and operation of industry in the SEZ?

For the purpose of establishing and operating an industry in the SEZ, the industry is required to execute an agreement with SEZA (the "SEZ Agreement"). Such agreement should include matter like:

(a) the amount of rent or lease for using the house, land, and other facilities, among other items (electricity, water, sewage, waste management, etc.);

(b) the date of incorporation and operation of the company;

(c) the quantity of goods to be exported;

(d) technology transfer;

(e) name and address of the industry;

(f) investment plan;

(g) privilege and facility to be obtained by the license holder for operation of the industry;

(h) tenure and renewal of license;

(i) insurance of the industry;

(j) fees to be submitted to the SEZA and payment process;

(k) conditions of breach of agreement and annulment of agreement;

(l) conditions and standards to be followed while establishing, operating and managing the industry;

(m) If the industry has non-Nepali worker or employee, work plan relating to making Nepali citizen skilled and replacing non-Nepali workers;

(n) transfer of industry outside the SEZ; and

(o) any other matters deemed necessary.

7. What is the Term of the SEZ License and can it be renewed?

Depending on the nature of the business, the license will last up to 30 years which can be extended for another 10 (ten) years at a time if an industry is operating at more than 30 (thirty) percent of total capacity (compared to the registered capacity).

The investor must submit an application within 35 days prior the license's expiration. However, if there is a delay, the investor may still apply within 15 days after the license expires, subject to the payment of a penalty.

If the investor fails to renew the license within the specified time period, the SEZ can revoke the license.

8. How many SEZ are there in Nepal?

Most SEZ of Nepal have been designed to promote manufacturing output of Nepal. The following are the list of present and proposed SEZ in Nepal:

Name and Location of Project	Potential Industries	Current Status
1. Bhairahawa SEZ Lumbini Province, Rohini Gaupalika	Worn readymade Garment, Cement Block, Cement Electrical, Hume pipe Cement Precast, Steel wires and wires product, Medical Herbal extract, Cosmetic herbal extract, beverage, Ginger Processing Industry, Instant noodles, Mineral water and bottles, Electric Vehicle Assembly & Cosmetic Industry, Instant noodles, Footwear, Herbals, fruit and vegetables, etc.	In operation
2. Simara Garment Processing Zone Madhesh Province, Gadhimai Municipality of Bara district	Worn readymade Garment etc.	Construction work started at Block A & seeking private sectors investment in Block B, C, D & E
3. Panchkhal SEZ Bagmati Province, Panchkhal Municipality	Milk and Milk products, Natural and Herbal Medicines, Natural vegetable dyes, Noodles and pasta, Vegetables, Ghee, juice, jam etc.	Construction Ongoing
4. Biratnagar SEZ Barju Gaupalika	Food Products, Handicraft, Leather goods, Herbs Processing, Incense Sticks, Automobile Spare parts, etc.	DPR completed
5. Nuwakot SEZ Bidur Municipality	Forestry, Agro and Livestock, Electronics, Metal based and Manufacturing.	Completed Feasibility Study
6. Nepalgunj SEZ Rapti Sonari Gaupalika	Natural and herbal medicine, Agarbatti, Paper Industry, Fruits and Juice Industry etc.	Completed Feasibility Study
7. Rautahat SEZ Yamunamai Gaupalika	Leather Industries, Noodles Industries, Dairy Product, Baby Food Industries, Sugar and Distillery Industries, etc.	DPR ongoing
8. Gorkha SEZ Gorkha Municipality	Copper or aluminum utensils, Decorative Goods, Electrical Goods, Fruit Juice, Garment, handmade dress materials, Herbs, Hide and skins, Incense sticks and candles etc.	Completed Feasibility Study
9. Talban SEZ Talban Temporary Sibir	Garment Factory, Food Products, Tobacco and beverages, Plastic bags, Packaging material and carton box factory, Chocolate and candle etc	Completed Feasibility Study
10. Siraha SEZ Lahana Municipality	Diamond and gems cutting, Electronic goods (TV, computer, Recorders, Air Conditioners, Refrigeration equipments), Telecom and Accessories (Wire, Poles, Cabinet boxes), Silver Jewellery, Copper/Bronze/Brass Products, Iron and steel products etc.	DPR completed

11. Dhangadhi SEZ Godavari Gaupalika	Diamond and gems cutting, Electronic goods (TV, computer, Recorders, Air Conditioners, Refrigeration equipments), Telecom and Accessories.	Completed Feasibility Study
12. Dhanusha SEZ Dhanushadham Municipality	Copper or aluminum utensils, Decorative Goods, Electrical Goods, Fruit Juice, Garment, Handmade Dress Materials, etc.	Completed Feasibility Study
13. Jumla SEZ Kanaka Sundhar Gaupalika	Leather Processing, Pashmina Industry, Medicinal and Aromatic Plants,Honey Processing, Apple Processing, Local Paddy etc.	DPR Completed
14. Jhapa SEZ Kamal Gaupalika	Agro-Forestry Industries	Feasibility Study ongoing

9. Can Industry located outside SEZ be relocated into SEZ?

Yes, relocation is possible.

10. What is the export requirement for industry established in SEZ?

An industry established in an SEZ must export at least 15% of its production for the first 4 years of operation, and at least 30% in subsequent years.

Industries are permitted to sell their produced goods or services in Nepal's domestic market for up to the first 3 years of operation. If export becomes impossible due to force majeure events, the industry can sell in the local market for that period with prior approval from the SEZ Authority.

11. What are the concession and benefits granted to the industries established within SEZ?

Industries established within SEZ are accorded various fiscal and non-fiscal concession and benefits, which are tabulated below. These benefits would only be accorded subject to the established industries under SEZ meeting the threshold of minimum 60% export of goods or service.

I. Fiscal Incentives		
A. Income Tax		
1.	To SEZ established under Mountain District or Government of Nepal specified Hilly District	• 100% exemption for first 10 years after operation and thereafter 50% exemption for the remaining period.
2.	Other regions besides Mountain or Government of Nepal specified Hilly District	• 100% exemption for first 5 years after operation and thereafter 50% exemption for the remaining period.
3.	On the income generated via royalty and foreign technology or management service fee by a foreign investor established in a SEZ.	• 50% exemption
4.	On dividend earned by industries in SEZ	100% exemption for first 5 years after operation, 50% exemption for subsequent 3 years.
B. Customs		
1.	On the recommendation of SEZ Authority, for import of 1 bus to be used for transport of employees and 2 transport vehicles for transportation of goods, for once.	Only 1% customs duty
2.	Import of plant and machinery, tools & spare parts, packaging, raw materials and auxiliary parts.	On bank guarantee
3.	On sale of goods/raw materials to industry inside SEZ.	Duty refund

C. Value Added Tax ("VAT")		
1.	On raw material and products sold to industry inside SEZ.	0% VAT
II. Non-Fiscal Incentives		
A. Visa Facilitation		
1.	Non-Tourist Visa • For 6 months to the investor to conduct feasibility study. • For 5 years (maximum) to foreign employee. • For 7 years to highly (special) skilled employee upon logical justification. • Additional number of years for foreign employee critically important for the business and related to the use of State-of-the-Art technology.	
2.	Business Visa • Foreign investors and their family members, OR • Authorized Representative of the company and their family members - Till the period of foreign investment.	
3.	Residential Visa Investors who invest USD 10 million or equivalent in convertible currency at once will get the visa for their family members as well till the period of foreign investment.	
B. Repatriation		
1.	Employee: 70% of the net income in convertible currency allowed.	
2.	Investor: - Amount received from the sale of some or all shares of foreign investment, - Amount received in lieu of dividends from such foreign investment, - Amount in lieu of payment of foreign capital loan or interest, - The investor shall take the amount in the currency prescribed in the agreement.	
C. Others		
1.	Non-nationalization of any industry established and operational within SEZ.	
2.	Facility of One Stop Service Centre to aid investors and industries established within the SEZ.	
3.	Utilization of bonded warehouse, sub-contracting between industries, deduction of depreciation in an accelerated rate.	
4.	Workers are not permitted to carry out lock outs or strikes causing to create negative impact on the industry or its production.	

Chapter 9

INDUSTRIAL PARK, INDUSTRIAL AREA AND INDUSTRIAL DISTRICT

1. What are the laws governing Industrial Park, Industrial Area or Industrial District and who regulates them?

As per Section 55 of the IEA, the GON has the power to declare any part or place of the country with ample potentialities and opportunities for industrial development as an industrial village, industrial cluster, industrial zone, special economic zone or industrial corridor. The Industrial Area Operation and Management Regulation ("IAOM Regulation"), 2071 under Rule 3 provides for Industrial Area which are under operation and managed by Industry District Management Limited (herein referred as "IDML").

Although the laws of Nepal do not define Industrial Park and Industrial District, in practice, they are being dealt by the IDML. Although there is an absence of a legislation dedicated to Industrial Park, a bill is being prepared to govern it.

2. What does IDML do?

IDML manages industrial estates and provides developed land, buildings, electricity, water, access roads, and other necessary industrial infrastructure to industries established in the industrial districts. Further, the control of ownership and protection of the Industrial Area/ District is vested upon IDML. IDML may lease building or land in the Industrial Area/ District as per the procedure in IAOM Regulation.

IDML is in process to operate Damak Clean Industrial Park, which shall be the first privately owned Industrial Park to be established in Nepal.

3. How many Industrial District/Area are operated and managed by the IDML?

In total there are fourteen (14) Industrial area which is as follows.

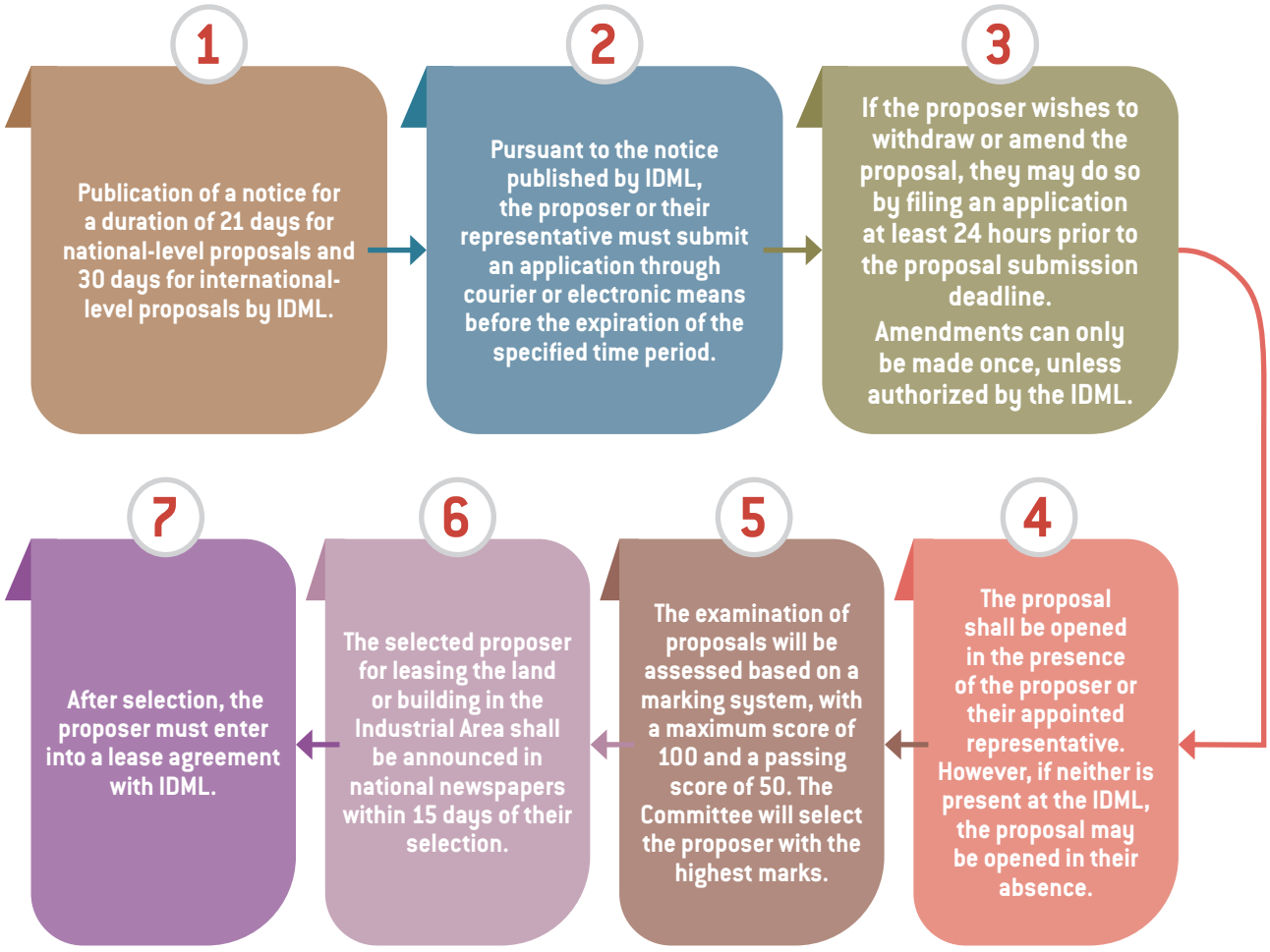
S.N.	Industrial Area/ District
1.	Balaju
2.	Patan
3.	Hetauda
4.	Dharan

5.	Nepalgunj
6.	Pokhara
7.	Butwal
8.	Bhaktapur
9.	Birendranagar
10.	Naubasta
11.	Mayurdhap
12.	Daiji Chhela
13.	Motipur
14.	Gajendranarayan Singh

Apart from that, IDML may buy or acquire any land within the area of Nepal in accordance with the prior approval of MOICS. Likewise, IDML may involve public and private sector or acquire investment by private sector for operation of the Industrial Area/District.

5. What is the procedure for leasing land or building in Industrial Area?

In reference to Chapter 3 of IAOM Regulation, the procedure for leasing land or building in Industrial Area is as follows:



6. What are the basic provisions that must be incorporated in an agreement for leasing of land or buildings in the Industrial Area/ District?

For the purpose of leasing the land in the Industrial Area/ District, the concerned industry is required to execute a lease agreement with IDML. The provisions to be included in such agreement are as follows:

a. Map along with area of the land or building,
b. Lease amount,
c. Purpose of use of the leased land,
d. Provision on sublet of land or building,
e. Compliance with the approved standard for building,
f. Approval for change in structure of the building or warehouse,
g. Updating information relating to operation, closing and other details as demanded by IDML,
h. Provision relating to Tax,
i. Sale of the building or other infrastructure built in the industrial area/ district,
j. Management of waste,
k. Dispute resolution,
l. Confiscation of the property of industry for any due payment,
m. Extension of time period for operation of work,
n. Termination of agreement,
o. Breach of contract,
p. Control of ownership in name of IDML for land which are not in full operation,
q. General maintenance of the building except for constructional change shall be done by Industry,
r. Dispute resolution as per the prevailing law.

7. What are the service and facilities available for industries established in the Industrial Area?

The industry shall be provided with the required infrastructure, water and electricity services for operation of industry in IDML. Apart from that, industry can acquire loan from Banks and Financial Institution (BFIs) by creating securities over the building built for the operation such industry.

8. What are the conditions for clearance of loan against the building leased by the Industry in the Industrial Area?

The clearance of loan by BFIs can be done only against the building built by the borrower industry in their own expenses. The conditions which shall be complied by the BFIs for clearing the dues of the borrower are as follows:

a. BFIs are required to obtain approval from IDML for the seizure of property held by the industry.
b. Upon seizure of property by BFIs, BFIs are responsible for paying the applicable bills related to the leased property to IDML .
c. The BFI must auction the property except for the leased property/ land confiscated from the industry as soon as practicable.
d. If BFIs fail to do so, IDML will conduct the auction to recover the expenses.
e. The building and property constructed by the industry will be sold to the industry based on the priority as specified in the IAOM Regulation.

9. What is the tenure of the lease in the Industrial Area and its renewal procedure?

The maximum period of leasing the land or building in the Industrial Area is forty (40) years and it can be further renewed for forty (40) years.

The IDML shall provide a notice to industry three months prior to the expiry of the lease agreement. Likewise, the industry is required to submit an application to IDML for the renewal of the lease agreement prior to two months before its expiry.

The industry failing to submit an application for renewal of the agreement within the time specified by IDML shall not have their agreement renewed.

10. For what purposes must an industry take pre-consent from the IDML?

The conditions for which industry is required to obtain prior consent from IDML are as follows.

a. Name change of the industry;

b. Change in legal structure of industry;

c. Amendment on the Objective of the Industry; and

d. Merger of the Industry

11. Who shall be responsible for insurance of the building in the Industrial Area?

The user of the building is required to obtain insurance for the building in accordance with the current insurance laws. Such user may be the lessee industry.

Chapter 10

LICENSING OF HYDROPOWER PROJECTS

1. Background

Nepal follows a two-step licensing framework for construction of hydropower projects. In general, a developer is first required to obtain a survey license, and upon completion of the requisite studies and prescribed process, a developer can obtain a generation license.

The survey license gives the developer the right to carry out technical, environmental, and other feasibility studies within the specified project coordinates. In practice, this allows the developer to assess the technical and commercial viability of the proposed project and to progress preparatory work required for generation license. As a general rule, the same project area is not licensed to more than one developer at the same time for survey purposes.

Upon completion of the survey phase, the developer can apply for a generation license. The generation license gives the developer the legal right to construct, operate, and generate electricity from the project. Water rights are also provided through generation license. Accordingly, the survey license secures the right to investigate the project, while the generation license secures the right to implement it.

The process for obtaining these licenses is not uniform. It varies depending on the size of the project, the route through which the project is awarded or developed, and the authority having jurisdiction under the Electricity Act and the Public Private Partnership and Investment Act, 2019.

Means of Obtaining Licenses for Power Projects
Obtaining License through MOEWRI
Obtaining License through Investment Board of Nepal

Jurisdiction of Authorities	
Project Capacity	**Authority**
Up to 1 MW	Relevant local bodies (Village Municipalities, Municipalities, Sub-Metro Municipalities and Metropolitan Municipalities)
Above 1 MW and up to 200 MW	MOEWRI through DOED
Above 200 MW	IBN

2. Obtaining License through Ministry of Energy (Up to 200 MW)

2,1. For projects up to 200 MW, the licensing route generally falls under the jurisdiction of the Ministry of Energy, Water Resources and Irrigation (MOEWRI), acting through the Department of Electricity Development (DOED). In practice, two principal routes can be followed for obtaining project rights and the associated licenses.

2,2. **Directly applying for survey license**

A developer may directly apply for a survey license and, upon completion of the survey phase, subsequently apply for a generation license through DOED. This is the ordinary licensing route for projects within the jurisdictional threshold of MOEWRI. Projects above 200 MW do not follow this route and are required to proceed through the Investment Board of Nepal (IBN).

2.3. **Through Agreement with GON**

The Government of Nepal (GON) may award a project to a developer through an agreement based route. This approach has been used only in a limited number of projects. Under this model, GON enters into a PDA with the developer, typically following a bidding process. However, the PDA does not replace the statutory licensing process. The developer is still required to obtain the survey license and generation license from DOED in accordance with the terms of the PDA. This agreement based route has generally been used for projects in the government basket, namely projects reserved by GON for implementation through a government led allocation process. In such cases, private developers cannot directly apply for licenses over those projects on their own initiative.

3. Obtaining License through Investment Board of Nepal (More than 200 MW)

3.1. For projects above 200 MW, the licensing route falls under the jurisdiction of the Investment Board of Nepal (IBN). Projects under the IBN framework may proceed either as solicited projects or as unsolicited projects.

3.2. **Solicited Projects**

In the case of solicited projects, the relevant government authority identifies a project for implementation under the public private partnership framework and invites bids from potential developers. In the energy sector, such identification is likely to be made by the Ministry of Energy, Water Resources and Irrigation (MOEWRI). Once a developer is selected through the bidding process, IBN generally enters into a memorandum of understanding (MOU) with the developer, followed by a PDA. The developer is then required to obtain the relevant licenses in accordance with the terms of the MOU and or PDA.

3.3. **Unsolicited Projects**

In the case of unsolicited projects, a private sector developer may itself identify and propose a project to IBN for implementation. Such project should not already have been identified by the Government. Where the project is accepted, IBN generally enters into an MOU with the developer, followed by a PDA, and the developer proceeds to obtain the necessary licenses in accordance with the agreed project framework. In practice, the survey license is typically obtained after execution of the MOU, while the generation license is generally obtained after execution of the PDA.

4. Term of License

4.1. The term of survey license and generation license differ depending on the applicable legal route and the nature of the project. In practice, a survey license is generally issued for two years and may thereafter be extended on a yearly basis, subject to a maximum total period of five years. Such extension must be applied for before expiry of the prevailing survey license period.

4.2. For projects licensed through DOED, generation license terms have generally been aligned with the Hydropower Development Policy, 2001. In practice, export oriented projects have generally been granted a generation license for a term of 30 years, while other projects have generally been granted a term of 35 years. In the case of storage and pumped storage projects, the Licensing Directive of DOED permits grant of a generation license for a term of up to 45 years. Although the prevailing laws allow extension of the generation license term up to 50 years, this position does not appear to have been tested in practice.

4.3. For projects under the IBN framework, the Public Private Partnership Regulation provides that the maximum term of a generation license is 30 years. A longer term is permitted only in limited circumstances. The said Regulation allows for higher license terms only in either of following circumstances:

A. The term of license can be up to a total of 50 years on recommendation of Government of Nepal for the purpose of making a project feasible from perspective of investment and construction.

B. The term of license can be extended by up to 5 additional years if the license holder applies to IBN by stating special circumstances and reason for extending term of license.

Survey License	Generation License
5 years	50 years (In practice, 35 years, or 30 years)

5. Eligibility for Obtaining Survey License for Generation through DOED

5.1. **Commercial Presence:** The survey license must be applied through a limited liability company. Such company can either be private limited or public limited company.

5.2. **Desk Study Report:** Preparation of information, documents and desk study report that needs to be submitted to government authorities verified by qualified consultant which includes map of project site (indicating proposed powerhouse, dam, reservoir, tunnel, transmission line, distribution area, village, city, historical sites, roads, and other important matters), area and quality of water resources, project cost and completion timelines, proposed installation capacity, hydrological analysis. (The comprehensive list of information and documents to be submitted to DOED is prescribed under the prevailing laws and the directives of DOED.)

5.3. **Payment of License Fees:** The survey license fees should be paid. The fee ranges from NPR 1,000,000 to NPR 5,000,000 annually depending on the size of the project. (The applicable fee slabs are prescribed under the prevailing laws.)

5.4. **Net-worth eligibility:** The applicant must satisfy the net worth requirement. In general, the applicant is required to demonstrate a net worth of at least NPR 1 million per MW of proposed installed capacity. For example, an applicant for a 50 MW project would be required to demonstrate a net worth of NPR 50 million. The net worth certificate must be certified by a chartered accountant. In practice, this requirement may be difficult for newly incorporated project companies to satisfy. DOED has, in some cases, taken into account the net worth of parent companies, and in certain instances has also allowed a certain limited period for compliance with the requirement.

5.5. **Technical Qualification:** The applicant must demonstrate adequate technical qualification. This may be satisfied either by employing qualified technical personnel directly or by entering into an arrangement with technical consultants. Where consultants are engaged, the Licensing Directive requires submission of the relevant consultancy agreement, together with the consultants' PAN, constitutional documents, and tax clearance certificates. Where the consultant is a foreign entity, the Directive further requires collaboration with a domestic technical consultant under a separate agreement. Alternatively, if the technical experts are engaged as employees of the applicant, their biodata must be submitted to DOED.

5.6. **Consent of other authorities:** If the project is located within a national park, wildlife reserve, or conservation area, prior approval of Ministry of Forest is necessary to obtain survey license. Government authority may provide a time of 6 months after providing the survey license to obtain such approval.

6. Eligibility for Obtaining Survey License for Generation through IBN

6.1. Unlike the regulatory framework applicable to DOED projects, the PPPIA and the Public Private Partnership and Investment Regulation do not prescribe detailed eligibility criteria for obtaining a survey license through the Investment Board of Nepal (IBN). In practice, the applicable process and requirements are generally set out in the memorandum of understanding (MOU) entered into with IBN, and may vary depending on the nature and circumstances of the project. The process has generally included:

6.2. **Payment of fees:**

A. Payment of NPR 250,000 while applying at IBN for the project to be implemented as a Public Private Partnership Project;

B. Payment of a performance bond of 0.5% of the total estimated project cost prior to obtaining the survey license; and

C. Payment of survey license fees prescribed under the prevailing laws (Annexure 5 of PPPR).

6.3. **Details and documents:** Preparation of documents and information required to obtain approval from IBN to implement the project in Public Private Partnership model that includes details of project, technical and financial capability of project implementing entity, preliminary feasibility report (if available), business model, information on technology to be used in project, benefits to be obtained from the project.

6.4. **Corporate presence:** The project company must be incorporated as a company in Nepal.

7. Conditions of Compliance after Obtaining Survey License through DOED

7.1. A survey license issued through the Department of Electricity Development (DOED) is subject to a number of continuing compliance requirements which are stated in the survey license.

A. If the project is located within a national park, wildlife reserve, or conservation area, prior approval of Ministry of Forest is necessary to obtain survey license. Government authority may provide a time of 6 months after providing the survey license to obtain such approval. The survey license can be terminated if the project fails to obtain such approval from the Ministry of Forest.

B. Approval of DOED should be obtained prior to sale or transfer of license.

C. The project company should submit survey report within 30 days of completing survey activities.

D. Validity period for survey license should be renewed prior to expiry of the survey license.

E. Survey report should be prepared in accordance with 'Guidelines for Study of Hydropower Project 2003'.

F. The project company should complete topographical mapping, surface geological mapping, geophysical survey, construction material survey, hydrological studies, sediment sampling and analysis, geotechnical investigation within 2 years and should further make substantial progress in environmental studies and submit the reports to DOED.

G. The project company should start survey activities within 3 months of obtaining survey license and should submit progress report to DOED every 6 months.

8. Eligibility for Obtaining Generation License through DOED

8.1. **Submission of Application:** Application to obtain generation license should be submitted within the validity period of survey license.

8.2. **Documents and information:** Preparation of information, documents and reports that need to be submitted to government authorities. (The comprehensive list of technical information and documents to be submitted to DOED is prescribed under the prevailing laws and the directives of DOED.)

Following documents and information should also be submitted to DOED while applying for a generation license:

- disclosure of debt-to-equity ratio
- commitment letter from board of directors to make required equity investment
- agreement entered with lenders or commitment letter from probable lender to provide loan for the project
- details of land necessary to be acquired or leased for the project
- company incorporation certificate, PAN certificate, shareholder register, tax clearance certificate, and industry registration certificate (if available), and foreign investment approval letter (if relevant)
- topography map, construction schedule, feasibility study report or detailed engineering design
- financial credibility certificate demonstrating ability of shareholders to invest equity requirements for the project.

8.3. **License fees:** Payment of license fees as prescribed under the prevailing laws.

8.2. **Environmental Study Report:** Submission of approved environmental study report prepared in accordance with 'Procedure for EIA and IEE of Electricity Generation and Transmission Projects 2073'. However, if the project company has already applied for approval of environmental study report in Ministry of Forest and Environment, such approved environmental study report can be submitted within 1 year of obtaining license.

8.3. **Certainty of PPA:** the applicant must demonstrate certainty of power offtake arrangements. This is typically satisfied through submission of an executed power purchase agreement, a connection agreement, or a letter of intent from the Nepal Electricity Authority (NEA) to enter into a power purchase agreement. In the case of an export oriented project, the applicant is also required to obtain the relevant transmission agreement or letter of intent, foreign power purchase agreement or letter of intent, and approval from the Electricity Regulatory Commission.

8.4. **License through a subsidiary:** As a general rule, only the entity that obtained the survey license for a project is eligible to obtain the generation license for that project. However, the survey license holder may incorporate a subsidiary company for this purpose, provided that it retains at least ten percent shareholding in that subsidiary.

8.5. **Peaking capacity:** In the case of a peaking run of river project, the project must demonstrate a minimum peaking capacity of at least two hours at the time of application for the generation license.

9. Conditions of Compliance after Obtaining Generation License through DOED

General Compliance:

9.1. If the project company has not obtained industry registration certificate, such certificate should be obtained within 1 year of obtaining the generation license.

9.2. Construction of project should be started within 6 months of signing PPA and achieving financial closure.

9.3. Project company should handover the project in operating state to government free of cost after the expiry of term of generation license.

9.4. The project should be constructed and operated without negatively impacting other upstream and downstream projects.

9.5. The project company should issue 10% shares of equity portion to people of project affected locality.

9.6. The project company should compensate any downstream project if any damage is caused to such downstream project due to shut down of the project except in situation of force majeure.

9.7. The project should comply with 'Operation and Maintenance Guidelines for Hydropower Plants, sub-stations, and Transmission Lines' prepared by DOED.

9.8. The project company should acquire, and transfer ownership of private lands required for the project and inform about the same to DOED.

9.9. The project company should sign power purchase agreement within 2 years of obtaining the generation license.

(The deadline can be extended by a total of 5 years (counting earlier provided deadline). Up to 3 years (counting earlier provided deadline) based on necessity and justification. Can further be increased by up to 2 years depending on efforts made to achieve such deadlines and by making payment of capacity royalty of NPR 100 per kilowatt.)

9.10. The project company should comply with design in Detailed Project Report.

9.11. The project company should provide compensation if construction of project causes any damage to any physical infrastructure, person, or land.

Financial:

9.12. The project company should achieve financial closure within 2 years of obtaining the generation license.

(The deadline can be extended by a total of 5 years (counting earlier provided deadline). Up to 3 years (counting earlier provided deadline) based on necessity and justification. Can further be increased by up to 2 years depending on efforts made to achieve such deadlines and by making payment of capacity royalty of NPR 100 per kilowatt.)

Environmental:

9.13. If the project company has already applied for approval of environmental study report in Ministry of Forest and Environment, such approved environmental study report can be submitted within 1 year of obtaining generation license.

(The deadline can be extended by a total of 5 years (counting earlier provided deadline). Up to 3 years (counting earlier provided deadline) based on necessity and justification + further by up to 2 years depending on efforts made to achieve such deadlines and by making payment of capacity royalty of NPR 100 per kilowatt.)

9.14. Project company should implement mitigation measures stated in the environmental study report.

9.15. The construction agreement should be submitted to DOED within 1 month of entering into such agreement. Such agreement should provide for obligation on the contractor to comply with environmental study report and further should provide for consequences on failure to comply with environmental study report.

9.16. The project company should allocate at least 0.75% of project cost for community support program and such cost and program should be included in the environmental study report.

Notification Requirements:

9.17. DOED should be notified within 30 days of change in name, shareholders or share proportion in project company.

9.18. The project company should inform DOED prior to completion of construction of major project infrastructures that include weir and intake, settling basin, headrace pipe, headrace tunnel, surge shaft, penstock pipe, powerhouse, tailrace canal, and transmission line.

9.19. The project company should submit progress report every six months until completion of construction of project.

9.20. The project company should submit a copy of project completion report and as-built drawings to DOED within 3 months of commercial operation of the project.

Approval Requirements:

9.21. Approval of DOED should be obtained prior to sale or transfer of generation license.

9.22. Prior approval of DOED should be obtained to make substantial changes in major project infrastructures like add, reduce, or relocate project infrastructures, optimize project, or resize project capacity.

9.23. Project company should obtain approval of DOED for change in shareholding structure by up to 5% and should obtain approval of ERC for change in shareholding structure by more than 5%.

10. Eligibility for Obtaining Generation License through IBN

10.1. Unlike the framework applicable to DOED projects, the PPPIA and the Public Private Partnership and Investment Regulation do not prescribe detailed eligibility criteria for obtaining a generation license through the Investment Board of Nepal (IBN). In practice, the applicable requirements are generally governed by the PDA and may vary depending on the project. The PDA itself has also generally not prescribed extensive standalone eligibility criteria for grant of the generation license.

10.2. The process generally includes execution of the PDA with IBN, payment of the applicable license fees in the manner determined under the PDA, and compliance with any project specific conditions set out in the PDA. In some IBN projects, the PDA has also required the generation license to be obtained prior to achievement of financial closure.

Chapter 11

TAXATION

1. What are the applicable laws governing taxation in Nepal?

The Income Tax Act 2002 (2058) ("ITA") and the Income Tax Rules 2003 (2059) ("ITR") deal with the matters related to Direct Tax in Nepal. The laws dealing with matters related to Indirect Tax are as below:

(a) Value Added Tax Act, 1995 (2052) ("VAT Act") and the Value Added Tax Rules, 1996 (2053) ("VAT Rules"),

(b) Excise Duty Act, 2002 (2058) ("Excise Duty Act") and Excise Duty Rules, 2002 (2059) ("Excise Duty Rules").

(c) The Customs Act and Customs Rules also impose customs duty applicable to the import and export of goods to and from Nepal.

The VAT Act and VAT Rules deal with the VAT applicable on the goods and services in Nepal. The VAT Act defines the goods and services that are subject to VAT. The VAT Act has listed certain goods and services in its Annexure-1 as VAT exempt whereas certain goods and service listed in Annexure-2 are subject to VAT at the rate of 0%. The VAT Act prescribes a uniform rate of thirteen (13) percent VAT for all type of transactions, except where a reduced rate applies under the VAT Act, including five (5) percent VAT on transportation and delivery services provided through ride-sharing platforms and on electricity consumption above 50 units. In addition, the Government of Nepal can impose different VAT rate not exceeding 13% for specific goods and services.

2. Are there any local taxes applicable?

The local taxes are collected by the municipalities. The local tax includes business registration tax, property tax, rent tax, vehicle tax, advertisement/promotion tax among others.

3. What are the incomes subject to taxation?

The Income Tax applies to the person as well as entities having taxable income i.e. total income less admissible deductions, benefits and concessions in Nepal. Pursuant to ITA the income derived from (a) employment, (b) business, (c) investment or (d) windfall gain, are subject to taxation.

4. What are the prevailing tax rates applicable to business entities?

Broadly, the Income Tax Rates applicable to Business Entities are as follows:

Industries	Prevailing Tax Rates
General Corporate Tax	25%
Cooperatives registered under the Cooperatives Act, 2074 (2017), carrying out transactions other than tax-exempt transactions	Municipality: 5%; Sub-Metropolitan City: 7%; Metropolitan City: 10%. Savings and Credit Cooperatives: 10%, 15% and 20%, respectively
Industries relating to Cigarette, Tobacco, Cigar, Liquor, Beer, Banks, Financial Institutions, General Insurance Business, Petroleum and businesses relating to Telecommunication and Internet Service, Money Transfer, Capital Market, Stock Exchange, Merchant Banking, Commodity Future Market, Stock Exchange and Commodity Broker Business.	30%
Certain other industries and businesses are eligible for tax exemptions and concessions under Section 11 of the Income Tax Act, 2058, subject to the conditions specified in the Act.	

5. What are the rates of tax applicable to natural persons?

The resident natural persons are subject to income tax at the rate of 1% to29% based on his/her annual income.

6. What are the withholding taxes applicable to businesses?

The withholding tax/tax deducted at source (TDS) applicable to businesses is as follows:

Income Head	Rate of TDS
Service Charge / Fees	15% Companies registered in VAT are subject to TDS at 1.5%.
Interest	15%. (In case of the interest is paid by Nepalese banks to the foreign financial institutions, interest is 5%)
Royalties	15%
Dividends	5%
Repatriation of income by permanent establishment	5%

Withholding of Capital Gain Tax on Shares

Nature of Entity	Nature of Seller	Gain from Saleof Shares to be Withheld by Entity
Listed Company	Resident Natural Person holding shares for less than 365 days	5%
	Resident natural person holding shares for more than 365 days	3.75%
	Resident Company	10%
	Non Resident NaturalPerson/Company	25%
Unlisted/Private Company	Resident Natural Person	10%
	Resident Company	15%
	Non Resident NaturalPerson/Company	25%

The TDS on dividend is considered as final withholding tax. Similarly, the payments made to non-resident persons after deducting the applicable taxes on royalties or interest are considered final withholding tax. The tax withheld on gain from disposal of shares is also considered final withholding tax for a resident natural person or non-resident person who does not wish to file an income return. Therefore, no additional tax is payable in Nepal if such withholding is considered final.

7. What are the tax incentives available to entities?

The ITA has provided tax incentives on different criteria. The tax incentives are provided on the basis of (a) nature of industry, (b) number of employees, (c) location of industry, and (d) business vehicle such as listed company or non-listed company etc.

Following is the list of incentives provided under ITA. If a person who is in a position to have more than one exemption in respect of the same income under Sec 11 of ITA, such person is entitled to enjoy only one exemption chosen by him/her. The incentives noted below are subject to amendment by the Finance Act each year.

The following are the major incentives provided under the ITA and should not be treated as exhaustive.

A. Nature of Industries:

Industries	Incentives
Persons commencing commercial operation or production of mines and exploration of petroleum, natural gases and fuel by April 12, 2024 A.D.	100% exemption on income tax up to first 7 years of commercial operation of business and 50% income tax for the period of 3 years thereafter
Person or entity having license commercially generates, transmits or distributes electricity generated by hydropower, solar, wind or bio- materials by April 12, 2028 A.D.	100% exemptions on income tax for the first 10 years and 50% exemptions for the next 5 years.
Income derived by a reservoir or semi reservoir-based hydropower projects generating above 40 MW of energy and managing financial closure by April 13, 2029, A.D., and downstream riparian hydropower projects operated in tandem with such projects	100% exemptions on income tax for 15 years and 50% for the next 6 years
Tourism Industries or the airlines company operating international flights established with the investment of above NRs 1 billion	100% exemption on income tax up to first 5 years of operation of business and 50% income tax for the period of 3 years thereafter.
Tourism Industries or the airlines company operating international flights established with the investment of above NRs 3 billion	100% exemption on income tax up to first 10 years of operation of business and 50% income tax for the period of 5 years thereafter.
Tourism Industries or the airlines company operating international flights established with the investment of above NRs 5 billion	100% exemption on income tax up to first 15 years of operation of business.
Industries producing and processing local tea, Dairy Industries and Textile Industries	50% exemption in the rate of tax in the income earned through selling of their manufactured products
Micro Enterprise	100% exemption on income tax up to first 7 years of operation of business. 100% exemption for additional 3 years in case such industry is operated by women industrialists.
Income earned from export of goods manufactured by manufacturing industries	20% exemption on the income tax

B. Number of Employees:

Sectors	Entities	Incentives
Hotel, Resort Special Industry, and IT Industry providing direct employment to	100 or more Nepalese nationals throughout the year	The tax is applicable only 90% of the applicable rate in such income year
	300 or more Nepalese nationals throughout the year	The tax is applicable only 80% of the applicable rate in such income year
	500 or more Nepalese nationals throughout the year	The tax is applicable only 75% of the applicable rate in such income year
	1000 or more Nepalese nationals throughout the year	The tax is applicable only 70% of the applicable rate in such income year
	100 or more Nepalese nationals throughout the year including 33% women, Dalits or handicapped	Additional 10% exemption in applicable rate

C. Location of Industry:

Location	Exemption/Concessions
Special Economic Zone	100% tax exemption on dividend distributed for the first 5 years from the commencement of the business and 50% exemption for the next 3 years
	50% of income tax on income generated through service charge or royalty for technology transfer or management services provided by a foreign investor
Special Economic Zone in Himali or any Hilly Districts notified by GON (No such districts are notified as of now)	100% of income tax for the first 10 years from the date of commencement of the business and 50% exemption for the following years.
Established in other than those in Himali and Hilly Districts notified by the GON	100% of income tax for the first 5 years from the date of commencement of the business and 50% exemption for the following years.
Special Industries established in Least Developed, Undeveloped and Under Developed Regions	The tax is applicable at 10%, 20% and 30% of the applicable rate respectively for up to 10 years from the date of commercial operation.
Special Industries located in Karnali province or hilly district of Far western province providingemployment to more than 100 Nepalese nationals	100% tax exemption for 15 years
Fruit based brandy, cider and wine industries established in Least Developed and Undeveloped Regions	40% and 25% income tax exemption respectively for the first 10 years from commercial operation
Zoological, Geological and Biotech Parks specified in the Nepal Gazette; and Industries relating to software development, data processing and cyber cafe, digital mapping established inside Technology Park, Biotech Park and IT Park specified in Nepal Gazette.	75% exemption in applicable tax rate in the income of such industries
Cinema halls established in areas other than Metropolitan Cities and Sub-Metropolitan Cities	100% tax exemption for 10 years

D. Listed/Non-Listed Companies:

Industries	Incentives
Manufacturing, tourism service, hydropower production, distribution and transmitting industries listed in the stock exchange	Additional 15% exemption on applicable tax.
Private Company having paid up capital of 500 million or more, if it converts into Public Company	10% exemption in applicable tax for 3 years from the date of such conversion

Note: Special Industry refers to a manufacturing industry, industry based on agriculture and forest products and minerals industry as classified in Section 17(2) of the IEA, except for industries producing cigarette, bidi, cigar, tobacco, khaini, liquors or manufacturing other products of the same nature involving tobacco as the main raw materials, liquors, beer and products of similar kind.

8. What is the tax administration mechanism under the prevailing laws?

The tax system of Nepal is Self-Assessment system whereby the taxpayers themselves assess their income and pay the applicable taxes. The tax authority can reassess the income of the taxpayer within 3 years from the date of submission of income return except in the case of fraud for which no time limitation is applicable. The tax authority may impose fine, fee and interest and include the same in income tax obligation payable by the taxpayer. The taxpayer may challenge the reassessment made by the tax authority by submitting a petition for administrative review before IRD. The IRD reviews the petition as well as the reassessment and decides on the matter. The decision of IRD can further be challenged through appeal before Revenue Tribunal. The decision of the Revenue Tribunal may be appealed before Supreme Court which is subject to leave for appeal granted by the Supreme Court.

9. What are the anti-tax avoidance mechanisms under prevailing laws?

The ITA and VAT Act prohibit tax avoidance mechanisms in Nepal. Both the ITA and VAT Act provide general rules against tax avoidance. These legislations allow the Inland Revenue Department ("IRD") to re-characterize the tax arrangements in order to determine the Tax Liability.

10. When is the VAT registration required in Nepal?

The VAT Rules provide the threshold of the transaction that triggers VAT registration. Pursuant to the VAT Act and VAT Rules the threshold of VAT registration is as follows:

Nature of Business	Annual Transaction
In case of a person that transacts goods	Above NRs 5,000,000 (Nepalese Rupees Five Million)
In case of a person that provides services	Above NRs 3,000,000 (Nepalese Rupees Three Million)
In case of a person that transacts both goods and services	Above NRs 3,000,000 (Nepalese Rupees Three Million)

However, the firm or company whose transaction volume does not trigger the said threshold can also choose to get registered at VAT.

11. Does Nepal have Double Taxation Treaty with India?

The GON and Government of the Republic of India have entered into a Double Tax Avoidance Treaty ("DTAA"). The current DTAA, the Agreement Between the GON and the Government of the Republic of India for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income 2011, was entered into on Nov. 27, 2011 and was effective to Nepal from July 16, 2012. The DTAA sets out mechanisms for avoidance of double taxation and fiscal evasion. The DTAA allocates taxing rights between Nepal and India in respect of different categories of income, including business profits, investment income (such as dividends, interest and royalties), employment income and capital gains. The major head of income, rate of tax and taxing authority under the DTAA is briefly provided in the following table.

S.N.	Heads	Rate (up to)	Applicable Jurisdiction
1	Dividends	• 5% if the beneficial owner is a Company holding at least 10% of the shares of the Nepali Entity • 10% in all other cases	Both
2	Interest	10% if the beneficial owner of the interest is the resident of the other contracting state	Both
3	Royalties	Cannot exceed 15% of the gross amount of royalties if the beneficial owner of the royalties is the resident of the other contracting state	Both
4	Permanent Establishment	5% in case of the repatriation of the profit. 25% or 30% depending upon the nature of industry.	Country where PE is established.
5	Capital Gains	Domestic tax rates apply depending on asset type	Depends on nature of asset under Article 13

Chapter 12

REPATRIATION OF INVESTMENT AND RETURNS

1. What earnings can an Indian investor repatriate?

An Indian investor is allowed to repatriate ; (i) earnings through dividend or through sale, proceeds against investment in shares ,(ii) amount of profit or dividend received from foreign investment, (iii) in the event of dissolution or liquidation of industry or company, residual amount after payment of all liabilities, (iv) amount in respect of royalty received under technology transfer (provided that, amount of royalty or net profit in respect of use of trademark under technology transfer in a liquor industry, other than a liquor industry exporting 100% of liquor, shall not be more than five percent of the gross sales revenue excluding prevailing tax, (v) Amount of lease rent under the lease investment, (vi) Amount received as damages or compensation, if any, received from the final settlement of a law suit, arbitration or any other legal process in Nepal (vii) Amount that can be repatriated in accordance with the prevailing law.

2. Can an Indian investor repatriate cent percent return or investment?

Yes. There is no capping on the amount or percentage that an Indian investor can repatriate in terms of sale proceeds, dividend, principal and interest. However, an investor must pay all the taxes as may be leviable before repatriating such amount.

3. Is government approval required for repatriation?

A prior approval from DOI required for repatriation. Based on the sector specific industries such as hydropower project or non-industrial sectors such as Banks and Financial Institutions, Insurance, Telecommunication sector approval from the concerned authority for repatriation of investment is required.

4. What are the key requirements to be fulfilled for repatriation?

Following are the key requirements that need to be satisfied for repatriation:

(a) **Lock-in-period:** Generally, a lock-in-period of one year is applicable to investment made in the form of shares. This means that the Indian Investor will not be able to sell its shares within 1 year from the date when Indian investor becomes a shareholder of Nepalese company. In the case of listed companies, the lock-in period applicable to the promoter or other category of shares

(except public shares) is prescribed as three (3) years, contrary to the 1-year lock-in period specified in the commitment letter for approval.

(b) **Valuation requirement:** In the case of a listed company, only listed price of the shares can be repatriated. However, for unlisted shares, fair value amount of the shares of the company is required to be determined by a Chartered Accountant. Such valuation is required to be conducted in accordance with the Nepal Financial Reporting Standards.

(c) **Payment of tax:** For all forms of repatriation, applicable tax is required to be paid and the tax payment slip will need to be submitted to NRB.

(d) S**ubmission of documents:** An application for repatriation will need to be submitted to NRB along with all the documents prescribed in the NRB Bylaw. The Bylaw provides the document which must be submitted to commercial banks for foreign exchange on repatriation of the earnings or amount sent to Branch Office.

(e) **Government approval:** Recommendation from the DOI will be required. Commercial Banks will process repatriation only if prior investment was duly recorded as foreign investment with NRB.

Repatriation is not subject to any governmental fees.

Chapter 13

EXITING FROM BUSINESS

1. How can an Indian investor divest its investment?

The manner in which an Indian investor can divest its investment in a company is dependent on the nature of the company (i.e., listed company or unlisted company) that has been invested in. Divestment of shares is widely done through two separate routes: (i) divestment of shares of listed companies and (ii) divestment of shares of unlisted companies.

Divestment of shares of listed public companies, meaning public companies listed in the stock exchange, involves the sale of securities through Nepal Stock Exchange ("NEPSE")

Shares of unlisted public companies and private companies are generally divested by selling the shares that the investor owns in the company. The sale of shares of unlisted public companies is done through the Over the Counter ("OTC") market where transactions occur between individuals through a broker.

2. What are the requirements to be fulfilled for divestment in an unlisted company?

The requirements applicable to repatriate investment have to be fulfilled in order for an Indian investor to exit. Please refer to the Chapter on Repatriation for the requirements to be fulfilled.

3. What are the general procedures for sale of the shares by the Indian investors?

The general procedures for sale of the shares by the Indian investors are as given below:

a. Divestment of shares of a private company

A private company is not allowed to sell its shares and debentures publicly. Generally, memorandum of association or articles of association of the private companies provide for right of first refusal to be given to the existing shareholders before approaching to the third party buyer. Transfer of shares of a private company is subject to an approval of the Board of Directors. Approvals from DOI and NRB, along with the concerned sectoral regulatory bodies in many instances, are also required to sell shares of private companies with foreign investment.

The process of divestment of shares in private companies is pictured as follows:



Figure: Process of divestment of shares in Private Company

b. Divestment of shares of unlisted public companies

i. **Divestment of Shares through OTC market**

Shares of the unlisted public companies can be transferred through the OTC market in the following manner:

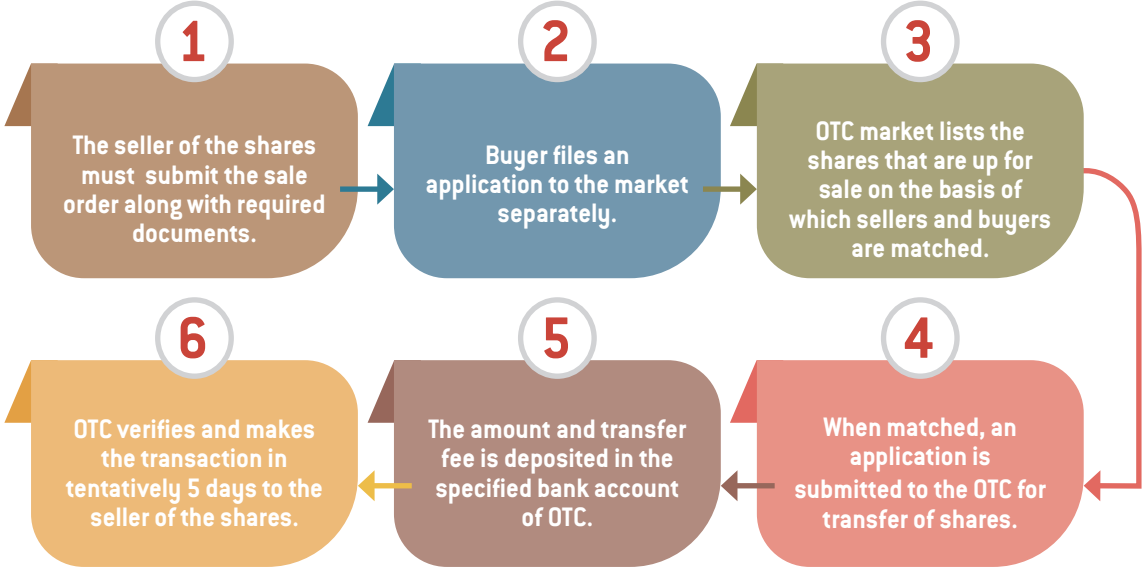


Figure: Process of sale of shares through OTC market

Transfer of shares of unlisted public companies is also subject to DOI and NRB approval as with divestment of shares of private companies. The transfer has to then be recorded with OCR.

ii. **Transfer through put option**

If the shareholders agreement or other relevant agreement provide for put option rights, the shareholder of an unlisted company may also exercise put option against the identified shareholders to sell their shares at a specified price within a specified time. The price of the shares when exercising put option is required to be consistent with the valuation of shares during transaction.

c. Divestment of shares of public listed companies

Indian investors can exit from their investment in public listed companies in two ways: (i) by selling shares through the securities market i.e., NEPSE and (ii) through bulk transfer of shares.

i. **Selling shares through the securities market**

Indian investors can exit by selling their shares through NEPSE. Shares through NEPSE are sold at a specified listed price, and the buyer is assigned at random amongst those interested to buy shares. Both the buyer and seller need to appoint stock brokers. Neither the company nor the shareholder has a choice on who buys the shares. Approval from DOI and NRB is required to sell shares held by the Indian investor.

ii. **Bulk transfer**

The bulk share means at least one (1) percent of the paid-up capital of the company or holding shares worth over NPR 50,000,000/- (Nepalese Rupees Fifty Million Only) - whichever is the higher amount. The Indian investor can sell bulk shares by issuing offer document with the approval of the Securities Board of Nepal. Such a transfer of shares allows for the seller to determine the selling price and the buyer of those shares.

4. Can redeemable preference shares be redeemed and investment be paid back to Indian investors?

Yes, investors who have participated in the share capital of the company by means of preferred equity, can redeem their preferred shares at the end of the redemption period. The conditions of issue will need to specify the redemption at the time of issuance of the preferred shares. Such redemption can only be paid back out of-(i) the amount available as distributable profits, or (ii) amount collected in the redemption account through fresh issue of securities.

5. Is buy-back of shares permitted?

Yes, but subject to satisfying legal and financial criteria.

Buy-back of shares refers to the repurchasing of the shares of a company that had issued the same to its shareholders earlier. While it is generally prohibited, buyback can be undertaken under certain specified preconditions.

In order to buy back shares, the subscribed capital of the company has to be fully paid and is permitted only if there are amounts available as distributable profits. Additionally, corporate approval in the form of special resolution of the shareholders permitting buy back from the general meeting is also required. It has to be ensured that the ratio of total debt to the sum total of the paid up capital and free reserves will not exceed 2:1 after the buyback of shares.

Generally, the full buy-back of shares held by particular shareholder will not be feasible given the requirement that the Company cannot buy back entire issued shares and buy-back of shares will need to be done proportionately.

Chapter 14

DISPUTE RESOLUTION AND GOVERNING LAW

1. What are the laws governing dispute resolution in Nepal?

Generally, disputes are resolved in two ways: (a) Courts and Tribunals or (b) Arbitration. The Constitution of Nepal, the Administration of Justice Act, 2016 (2073), the Supreme Court Act, 2016 (2073), the Supreme Court Regulations, 1992 (2049), the High Court Regulations, 2016 (2073), District Court Regulations, 2016 (2073), Country Civil Procedure Code, 2017 (2074), Country Criminal Code, 2017 (2074), Country Criminal Procedure Code, 2017 (2074) deal with judicial proceedings in regular courts. The matters relating to arbitration is primarily governed by the Arbitration Act 1998 (Arbitration Act) and Arbitration (Court Procedures) Rules 2002 in Nepal.

2. What is the court system in Nepal?

a. The Constitution of Nepal provides for three tiers of courts in Nepal (a) Supreme Court, (b) High Court, and (c) District Court. There are currently seven (7) High Courts and Seventy-Seven (77) District Courts such that each province has one High Court and each district has one District Court.

b. The District Court acts primarily as the court of first instance. It also hears habeas corpus petition and injunctive petitions within its territorial jurisdiction.

c. The High Court hears appeals against the order or final judgment given by the District Court within its territorial jurisdiction. The High Court also acts as the court of first instance on certain matters. For example, the Commercial Bench formed in the High Court tries certain matters under the Companies Act, 2006 (2063), Insolvency Act, 2006 (2063), Secured Transaction Act, 2006 (2063) etc. as court of first instance.

d. The Supreme Court is the highest court in Nepal which is also the court of record. The High Court and Supreme Court also hear writs of habeas corpus, mandamus, certiorari, prohibition, and injunction and quo warranto.

e. There are specialized courts, judicial bodies and tribunals that try specific types of cases in Nepal. The specialized courts include (a) Special Court, (b) Administrative Court, (c) Revenue Tribunal, (d) Labor Court, etc. There are certain other quasi-judicial bodies that also exercise judicial powers in Nepal. Such quasi-judicial bodies include (a) District Administration Office (DAO), (b) Land Revenue Office (LRO), (c) Department of Industry (DOI), (d) Insurance Authority etc.

f. Generally, it takes 6 months to 1 (one) year to settle any dispute in the District Court, 1 (one) to 1.5 (one and half) years in the High Court and two (2) to four (4) years in the Supreme Court.

3. What is the Appeal Mechanism in Nepal?

a. Generally, the district court being a court of first instance has the power to try and settle all the cases within the relevant district. However, it holds the power to hear appeal against the decision or final order made by certain quasi-judicial bodies within its territorial jurisdiction. High Court hears the appeal in the cases including but not limited to (a) cases tried and settled by District Court under its territorial jurisdiction, (b) cases decided by certain quasi-judicial bodies such as the DOI on industrial property matters, Insurance Board on insurance claim matters within its territory.

b. Supreme Court has the power to hear appeal in the cases including but not limited to (a) cases tried and settled by High Court as court of first instance, (b) cases in which punishment of imprisonment imposed is ten (10) years or more, (c) the decision of the lower court reversed in full or part by the High Court if it meets certain threshold of sanctions or amount in dispute and (d) other cases in which appeal can be filed before Supreme Court pursuant to the federal laws. The cases which are not subject to appeal can be appealed to the Supreme Court subject to the leave for appeal granted by the Supreme Court. The Supreme Court also reviews its own decision on certain circumstances as per the petition filed by the litigating party.

4. Where can the case be filed?

The court in which the case can be filed depends on the nature of the dispute. Generally, the case can be filed as follows:

S.N.	Nature of Dispute	Court	Remarks
1	Immovable property	Relevant District Court where the property is located.	-
2	Other dispute except for immovable properties.	Either in the district court where the transaction was executed or where the defendant is residing.	In case the number of defendant is more, the place where the majority is residing.
3	Transaction entered into third district (not in the residence of the plaintiff or the defendant)	Either in the District Court where the transaction was made or where defendant is residing.	-

For instance:

a. If a Company registered in Kathmandu has a dispute relating to a property situated in Bhaktapur, then the case should be filed at the Bhaktapur District Court (location of the property).

b. If a Company registered in Kathmandu has a contractual dispute with a Company registered at Lalitpur, then the case should be filed at either Lalitpur District Court (Location of the party) or the District Court where the contract was executed.

5. What types of disputes can be referred to arbitration?

The disputes that are commercial in nature can be referred to arbitration for settlement. If there has been any arbitration agreement between the parties in dispute, then the dispute should be referred to the arbitration. The Arbitration Act provides for the arbitration proceedings. The courts of Nepal do not hear any commercial disputes so far as there has been an arbitration agreement.

6. How is the dispute related to foreign investment settled?

a. FITTA provides for the mechanism to settle disputes relating to foreign investment. Disputes arising between a foreign investor and local investor are required to be settled by mutual consultations in the presence of the DOI. If such dispute could not be resolved within 45 days from the date of origin of dispute, the dispute will be solved as per joint investment or dispute resolution agreement, if any. If such disputes cannot be settled in DOI or If there is no arrangement to resolve dispute in the agreement between parties, the dispute will be resolved through arbitration as per Nepalese law related to the arbitration. The dispute will be resolved through arbitration as per Nepalese law related to arbitration, they may be settled by arbitration in accordance with the prevailing UNCITRAL Rules. The arbitration is held in Kathmandu and the laws of Nepal apply to the arbitration. If the party to the dispute fails to resolve dispute or agreement is felt insufficient, parties may make agreement to solve the dispute even after dispute arises and such agreement made should be informed to the body registering industries.

b. The dispute related to public procurement is settled pursuant to the Public Procurement Act, 2007. Any dispute arising between the public entity and the construction entrepreneur, supplier, service provider or consultant in connection with the procurement contract is to be settled amicably. A procurement contract may provide arbitration if the dispute cannot be settled amicably.

7. What is the mechanism for the recognition and enforcement of foreign arbitral award?

a. The foreign arbitral award is enforced in Nepal in two conditions, viz. (a) if Nepal is party to any treaty related to enforcement of foreign arbitral award, and (b) the award is rendered in the territory of the party to that treaty subject to the conditions set out at the time of being party to that treaty.

b. Nepal is a party to the New York Convention on the Recognition and Enforcement of Foreign Arbitration Award 1957 ("New York Convention"). Nepal has ratified the New York Convention with such declarations that it enforces the foreign arbitral award (a) on the basis of reciprocity and (b) given on disputes commercial in nature under the law of Nepal. The Arbitration Act sets out the conditions to be satisfied for the enforcement of foreign arbitral award in Nepal. Upon the satisfaction of such conditions the foreign arbitral award can be enforced in Nepal.

c. The petition for enforcement of foreign arbitral award should be submitted to the High Court. The High Court can forward the foreign arbitral award to the District Court if it is enforceable.

d. **Indian Perspective:**

Both India and Nepal are signatory to the New York Convention which obliges the countries to recognize the foreign arbitral award on the basis of reciprocity. In the context of India, we understand that only 48 countries have been notified by the Central Government of India as reciprocating countries, which does not include Nepal. Therefore, Nepal is not obliged to enforce the Indian arbitral award on the basis of reciprocity.

8. Is there any restriction to the enforcement of foreign arbitral award?

Yes, the Arbitration Act provides the situations in which the enforcement of foreign arbitral award is rejected even if the award satisfies other criteria. The situations include:

a) The award is rendered in a matter which is not subject to arbitration under the laws of Nepal.

b) In case the enforcement of the award is detrimental to public policy.

9. How is a domestic arbitral award enforced?

a. The parties are required to enforce the arbitral award within 45 days from the date of receiving the copy of the award. If the party does not implement the award, the other party may file an application to the concerned District Court for the enforcement of the arbitral award. The application should be filed within 30 days from the date of expiry of the initial 45 days. The arbitral award can be challenged before the High Court. The Arbitration Act provides few grounds which permit the party to challenge the arbitral award before the High Court. The High Court may either set aside the award or pass an order for re-arbitration.

b. The petition to challenge the award may be filed before the High Court within thirty-five (35) days from the date of the receipt of the award or the notice received thereof. The parties not satisfied with the decision of the High Court may again file a writ petition to the Supreme Court.

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