

# GENERAL AGREEMENT ON

RESTRICTED

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## TARIFFS AND TRADE

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### ACCESSION OF NEPAL

#### Questions and Replies to the Memorandum on Foreign Trade Régime (L/6637)

In a communication dated 16 May 1989 circulated as L/6507, the Government of Nepal applied for accession to the General Agreement pursuant to Article XXXVIII. At its meeting on 21-22 June 1989, the Council set up a Working Party to examine Nepal's application for accession. The terms of reference of the Working Party are reproduced in document L/6532/Rev.1. In GATT/AIR/2933 contracting parties were invited to submit questions in writing concerning the foreign trade régime of Nepal. The questions submitted by contracting parties in connection with Nepal's foreign trade régime and the replies thereto provided by the Nepalese authorities are given below.

Delegations wishing to raise additional questions concerning Nepal's foreign trade régime might inform the delegation of that country (with a copy to the secretariat) of such questions in advance of the meeting of the Working Party, so that considered replies can be made available by Nepal to members at the time of the Working Party meeting.

**QUESTIONS AND REPLIES**  
**CONCERNING THE FOREIGN TRADE REGIME OF NEPAL (L/6637)**

**GENERAL**

**Question 1**

With regard to paragraph 76(c) of L/6637, can Nepal be more specific about the period of time for which protection is provided against import competition?

**Question 2**

Paragraph 76(c): What is meant by the phrase "protection is provided against all foreign competition for only a reasonable period of time on the basis of comparative economic advantage"? Could Nepal elaborate on this and on the precise meaning of "a reasonable period of time"?

**Question 3**

Paragraph 76: What does the term "reasonable period of time" signify as regards the provision of protection for domestic industrial or agricultural products?

**Replies 1, 2 and 3**

Nepal is in the initial stages of the economic development process and so are the industrial and agricultural sectors in the country. Many domestic products, industrial products in particular, need protection against import competition as well as support measures for export. The current industrial policy does not stipulate any specific time framework for protection. The protection aspect including time framework are taken into consideration at the review of the industrial policy every five years.

The status of protection in a given industry or item is normally reviewed annually in the context of the tariff adjustments and budgetary provisions. The period of protection generally depends on the economic scenario as well as the competitiveness of the indigenous products in the domestic and international markets.

**Question 4**

Paragraph 76(e): Can Nepal confirm that administrative procedures and formalities relating to imports are (or will be) fully consistent with GATT rules including Articles III, XI and XIII?

**Reply**

The administrative procedures and formalities relating to imports are generally in line with the GATT rules. The Government shall endeavour to improve these procedures and formalities.

**Question 5**

Paragraph 74: How does Nepal intend to encourage the diversification of imports?

**Reply**

Nepal has pursued a non-discriminatory and liberal import policy. Accordingly, imports are encouraged from the cheaper sources irrespective of the country of origin.

**Question 6**

Can Nepal advise of the specific measures taken to encourage diversification of imports from cheaper suppliers (paragraph 74 of L/6637)? Do these arrangements discriminate between sources of supply?

**Reply**

Import procurement is made according to the principles mentioned in the reply to question 5. In the procurement process no discrimination is made on the basis of the sources of supply.

**TARIFF REGIME**

**Question 7**

Can the Government of Nepal provide more details of the schedule of tariff duties imposed on imports?

**Reply**

The detailed schedules of tariff duties on imports and exports are annexed (Annex III).

**Question 8**

What tariff bindings does Nepal envisage establishing?

**Reply**

Nepal's bindings will depend on the results of the tariff negotiations.

**Question 9**

What is the purpose of the additional customs duties levied on imports? Will these be consistent with Articles II and III? What is the method of customs valuation and does Nepal intend to join the Customs Valuation Code?

**Reply**

The present import tariff structure is based on two columns. The first column relates to general rates uniformly levied on imports from all countries of the world. The second column relates to additional duties which are applied to the value of the goods in addition to the general customs tariff. Such duties are levied on items imported from countries other than those with whom Nepal has preferential trading arrangements. For customs valuation, the Department of Customs uses c.i.f. Nepal border as the value for levying import duties. The Customs Valuation Committee, which is integrated by representatives of the Department of Commerce, Department of Customs, the Federation of Commerce and Industry as well as from Nepal Overseas Export and Import Association prepares the valuation schedule of the commodities based on international prices adjusted according to the exchange rates. The value of these items are normally valid for the next six months and every six months they are updated on the basis of the information the Committee receives regarding prices, exchange rates, etc. The valuation schedule is thus used as the minimum price on which import duties are levied. For those items which are not in the list, the invoice value is accepted for duty purposes. Nepal intends to join the Customs Valuation Code in due course.

**Question 10**

What criteria does the Government of Nepal rely on in order to draw up the list of goods on which additional duties have been fully exempted?

**Reply**

While selecting the list of goods on which additional duties are fully exempted a general consideration is not to affect the cost and price of essential goods, raw materials and other industrial imports, machinery and equipment, construction materials and mass transport equipment, etc.

**Question 11**

What is the legal status of individual products included in the list of goods exempted from additional duties and what would their status be after accession?

**Reply**

The Financial Acts 2046 and 2047 exempt from additional duties the items listed in Annex II-4 of document L/6637. Until a new act is promulgated these items are legally exempted from additional duties. After accession to the General Agreement, the list of goods subject to additional duties shall be re-examined.

**Question 12**

Paragraph 90: Nepal currently provides a 5 per cent rebate on the additional duty on goods imported from countries having m.f.n. trade agreements with Nepal. Will this duty concession be extended to all GATT contracting parties on accession?

**Question 13**

Does Nepal intend to terminate the 5 per cent rebate on the additional duty from countries having trade agreements?

**Reply**

Nepal will eliminate the 5 per cent rebate on the additional duty after accession.

**Question 14**

What value basis is used for imports in order to apply customs duties?

**Reply**

As mentioned earlier, for the purpose of levying customs duties, the Customs Valuation Committee prepares the valuation schedule on a biannual basis. The value of the items listed in the valuation schedule is accepted as the minimum value. The invoice value is accepted as the basis for customs duties for those items which are not included in the valuation schedule.

**Question 15**

Is the additional duty applied to the value of goods after the general customs tariff has been applied?

**Reply**

Yes.

**Question 16**

Is there no export duty for agricultural products?

**Reply**

There is 0.5 per cent export duty on agricultural products.

**Question 17**

Does Nepal intend to adopt the Harmonized Commodity Description and Coding System; if so, when?

**Reply**

Nepal shall endeavour to adopt the Harmonized Commodity Description and Coding System gradually.

**TAX SYSTEM**

**Question 18**

Can the Government of Nepal give details of the different rates of sales tax imposed within the range of 5 per cent to 20 per cent and the product groups on which the tax is levied?

**Reply**

The detailed schedule of sales tax rates is annexed (Annex IV).

**Question 19**

Are the rates of sales tax payable on imported goods equal to those payable on goods manufactured domestically?

**Reply**

The sales tax rate for imported goods and domestic products is the same.

**IMPORT REGULATIONS**

**Question 20**

Will the present policy in respect of non-tariff measures (sub-heading 2.5) be reviewed to reduce the scope of protectionist restrictions and to ensure compatibility in all cases with GATT rules?

**Reply**

The policy in respect of non-tariff measures will be reviewed.

**Question 21**

Paragraph 81: What criteria does the Government of Nepal rely on in order to classify goods whose import should be banned or subjected to quantitative restrictions (Annex II-5)?

**Reply**

The products which fall under the list of banned items are very limited and selective. In line with the GATT rules, the primary objectives are to protect public moral, national treasures, public health etc., as well as to safeguard essential security interests. A few industrial products such as cigarettes, matches and bidis also fall in this group. The basic objective in adopting quantitative restrictions is to adjust imports in conformity with the national requirements and the balance-of-payment situation. Such measures are subject to periodic review.

**Question 22**

Paragraph 82: Annex II-5 lists imports subject to non-tariff restrictions including outright bans. Does Nepal have any plans to liberalize the range of products subject to quantitative restrictions? What is the significance of the division of commodities in Annex II-5 into three groupings (a), (b) and (c)?

**Question 23**

What is the difference between the products in groups (a), (b) and (c) in Annex II-5?

**Question 24**

Paragraph 83: Has Nepal the intention of reducing or modifying the quantitative restrictions for those products?

**Replies 22, 23 and 24**

The Government does not intend to pursue any restrictive approach in its import policy. The issue of quantitative restrictions and the classification of products in different categories are subject to regular review which may lead to a revision of the product lists or groups depending upon the foreign exchange factor and changing economic requirements.

The grouping of products under three different categories (a), (b) and (c) for import licensing purposes is to give due weight to different categories of products on the basis of needs and requirements. Construction materials, industrial raw materials and agricultural inputs and other essential materials are listed in group (a), general consumption goods are listed in group (b) while non-essential products are in group (c).

**Question 25**

Paragraph 83: What are Nepal's intentions as regards their conformity with GATT provisions?

**Reply**

In the light of its least-developed country status, Nepal shall follow the GATT provisions.

**Question 26**

Paragraph 82(a), Annex II-5: Could Nepal justify including beef in the banned imports?

**Reply**

In Nepal there is a statutory provision based on the socio-cultural tradition to prohibit the slaughter of cows and the consumption of beef.

**Question 27**

Given the reference in paragraph 83 of L/6637 to quantitative restrictions for foreign exchange reasons, does Nepal intend to seek coverage of these under Article XVIII of the GATT

**Reply**

Nepal would like to explore and pursue such an approach in view of its development stage and disadvantageous geographic situation.

**IMPORT LICENSING**

**Question 28**

Paragraph 53: What do the licensing procedures consist of?

**Reply**

All the products of Nepalese origin excluding items subject to export prohibitions and quantitative restrictions are free of license. Export licences are issued by the Department of Commerce on the request of registered trading and other authorized firms/companies. Such requests are processed on a-first-come-first-served basis.

**Question 29**

Paragraphs 58, 65 and 76(e) of L/6637 refer to an import licence auction system. Can Nepal provide more information on the way in which this system operates and the products to which it applies?

**Reply**

The import licence auction system has a set procedure and time schedule. Sealed applications from the registered firms are invited through public notifications generally at an interval of two months (six



times a year). The applicants or bidders are required to quote the premium amount (in terms of a percentage of the value of the import) for any particular items listed in a group. The bids are ranked in the descending order according to the premium quoted for a particular item. The cut-off point among the bidders is determined on the basis of the foreign exchange allocation to a particular item and group. The premium for each individual item is determined on the basis of the premium quoted by the marginal and above the marginal bidder. In case the total bids for any particular item exceed the allocated limit, the premium is set by the marginal successful bidder. The amount to be allocated for each item is determined by the Government before the bids are processed. The products groupings as well as the products therein are subject to regular review. Further details appear in Annex I.

**Question 30**

Paragraph 58: Does the Government of Nepal intend to continue the practice of auctioning import licences?

**Reply**

The import licence auction system is currently under review. There is no indication at present of the possibility of discontinuing the system.

**Question 31**

Paragraph 58: Is the level of fees charged for import licences under this system consistent with the provisions of Article V of the General Agreement.

**Reply**

The import licence fees levied in Nepal are not related to the freedom of transit under Article V of the General Agreement.

**Question 32**

Paragraph 65: What are the provisions concerning the import of raw materials and essential goods under the OGL system?

**Reply**

All enterprises registered in the Department of Commerce are entitled to import both essential goods and raw materials which are in the OGL list except some POL products and coal. POL products such as petroleum, diesel, kerosene, aviation fuel and coal are allowed to be imported by Nepal Oil Corporation and Nepal Coal Ltd., respectively. Industries can also import POL products and coal to meet industrial requirements.

**Question 33**

Paragraph 65: Is there a definitive list of these products or is it subject to administrative review?

**Reply**

The list of goods to be imported under the OGL system is definitive and made public. The list is prepared on the basis of the national requirements as well as the foreign exchange resource availability. The products are subject to regular administrative review.

**Question 34**

Paragraph 65: What exactly is the passbook system?

**Reply**

The passbook contains the information regarding the amount of foreign exchange allotted to a certain industry for the importation of raw materials and the actual use thereof on the basis of certification by the concerned agencies. The major objective is to minimize administrative procedures, facilitate the procurement of raw materials by the industries and to monitor the use of raw materials by the industries concerned. Passbooks are issued by the Department of Industries and the Department of Cottage and Village Industries to those industries that use convertible foreign currency for the importation of raw materials.

**UNFAIR TRADE REGULATIONS**

**Question 35**

Does Nepal operate systems to protect domestic industry from dumped or subsidized imports? Can details be provided? Does Nepal intend to accede to the GATT Anti-Dumping and Customs Valuation Codes?

**Reply**

Anti-dumping measures are not currently applied. Accession to the Anti-Dumping and Customs Valuation Codes are likely to be considered in due course.

**EXPORT REGULATIONS**

**Question 36**

What criteria does the Government of Nepal rely on in order to classify goods whose export should be banned or subjected to quantitative restrictions (Annex II-6)?

**Reply**

The products whose exports are banned are very limited in number. Most of the products included in this group are those products which are generally restricted in international trade in terms of the GATT rules. A few basic raw materials as well as agricultural products are also included in this group in order to cover local industrial requirements and/or domestic consumption. All products which are under quantitative restrictions are subject to regular review.

**EXPORT INCENTIVES**

**Question 37**

The various tax incentives referred to in paragraphs 71 and 72 of document L/6637 could be considered as export incentives. Can Nepal provide more information on their operation? Does Nepal intend to accede to the GATT Subsidies Code?

**Reply**

In order to provide more information on the various tax incentives available for the export oriented industries, a copy of the new Industrial Policy Act 1987 is annexed (Annex II). The issue of accession to the Subsidies Code is not currently under consideration.

**Question 38**

Paragraph 131: Can the Government of Nepal give further details of the incentives for export-oriented industries established under the Industrial Enterprises Act 1987 and the Foreign Investment and Technology Act 2038 (1981)?

**Reply**

In terms of the above-mentioned Acts, the export oriented industries are eligible for the following incentives:

- (a) Exemption from customs duty, excise duty and sales tax on raw materials used either through bonded warehouse or through reimbursement of such taxes and duties. Premiums (if levied) on the import of raw materials are also refunded.
- (b) Exemption from income tax for 100 per cent exporting industries.
- (c) Cash incentive on export of designated industrial products.

**Question 39**

When will the cash subsidies on selected products be terminated (paragraph 126 of L/6637 refers)?

Reply

The cash incentives are normally given in exceptional circumstances. At present the cash incentive system is under review.

Question 40

Can Nepal clarify whether the waiving of the premium for wool applies to all raw wool or only raw wool for use in the manufacture of exportable carpets (paragraph 127(vi) and pages 56-57 of L/6637 refers)?

Reply

The import of raw wool is totally free. It can be imported by all firms either for industrial use or for commercial activities. The premium on raw wool has been abolished for all purposes.

Question 41

Paragraph 72: Does the Government of Nepal intend to bring its programme of export promotion and development of export-oriented industries into conformity with relevant GATT provisions, notably Article XVI?

Reply

Incentives are extended to selected export oriented industries to make their products more competitive in the international market. In view of the landlocked character of the nation and its least-developed economy, Nepal may need to continue such measures for some time.

STATE-TRADING

Question 42

Do any of the institutions listed in paragraph 130 of L/6637 have powers or functions which would be covered by the State-trading provisions of Article XVII of GATT?

Reply

None of these institutions enjoy exclusive or special privileges covered in Article XVII of the GATT.

Question 43

Can Nepal provide more information on the operation of the State-trading enterprises referred to in paragraph 75 of L/6637, particularly in relation to coal?

**Reply**

The State-trading enterprises in Nepal do not enjoy any exclusive rights different from the private sector except for the importation of coal, petroleum, diesel, kerosene and aviation fuel which are carried out through the designated agencies. In respect of other POL products permissions are given as well for imports by the private sector.

**Question 44**

Paragraph 75: Does the Government of Nepal intend to notify to the CONTRACTING PARTIES the operations of those State-trading enterprises established in Nepal for trade in coal, fertilizer and petroleum products, as required under GATT Article XVII?

**Question 45**

Paragraph 75: Can the Government confirm that these State-trading enterprises operate in a manner consistent with the provisions of that Article?

**Replies 44 and 45**

The import and the distribution of fertilizers are not carried out through State-trading enterprises. In respect of coal and POL products and in the light of its least-developed country status, the Government shall comply with the GATT rules.

**Question 46**

Paragraph 75: What are the import procedures for trade in wax, fertilizer and petroleum products which are controlled by State-trading industries?

**Reply**

The private sector firms are all entitled to import both wax and fertilizers under the import license auction system. The procedures in this regard are described in the reply to question No. 29. The Agricultural Input Corporation, a State-trading enterprise, is also engaged in the import of fertilizers. The Nepal Oil Corporation, another State-trading enterprise, is an authorized agency for the importation of POL products which are marketed basically through the private sector. The industries in Nepal are also allowed to import POL products to meet their own requirements. Procurements are made generally through tenders, quotations, etc. and finalized on the basis of a contract between buyer and seller.

## TRADING ARRANGEMENTS

### Question 47

Paragraph 66 and 68: Under which provisions of the General Agreement will Nepal justify its preferential trading arrangements with neighbouring countries?

### Reply

Nepal has preferential trading arrangements with one adjacent neighbouring country only. This arrangement basically seeks to promote mutual trade between the two contiguous countries with free and open borders and has been in practice since time immemorial. The GATT provisions applicable in this regard have to be examined following further discussion.

### Question 48

Can Nepal provide details on the likely coverage and provisions of the proposed draft treaty of trade with India (paragraph 66 of L/6637 refers)? Will it be consistent with Article XXIV of the GATT?

### Reply

In June 1990 the two countries agreed to restore the status quo ante as of 1 April 1987, in trade and transit relations between the two countries. Accordingly, the two Governments have also agreed to take all necessary steps to restore the provisions commensurate with the Treaty of Trade signed in 1978. The main provisions of the Treaty have been highlighted in paragraph 67 of chapter II of the Memorandum on the Foreign Trade Régime of Nepal. These arrangements are compatible with the general GATT rules.

### Question 49

In relation to the comment regarding trade cooperation with SAARC members (paragraph 69 of L/6637), can Nepal clarify whether there are any arrangements under SAARC which provide for preferential market access for trade between SAARC members?

### Reply

SAARC programmes and activities do not cover the trade sector.

ANNEXES<sup>1</sup>

- Annex I Product groupings for import licence auction system
- Annex II Industrial Policy and Industrial Enterprises Act 2044 (1987)
- Annex III Customs Tariff 1988/89, 1989/90, 1990/91
- Annex IV Sales Tax Tariff 1990/91

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<sup>1</sup>Available in the secretariat (Development Division, Room 2010) for consultation.