

## 2024 USTR Annual Report to Congress on the Implementation of the Nepal Trade Preference Program (NTPP)

The Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) entered into force on February 24, 2016.<sup>1</sup> Section 915 of the TFTEA directed the President to establish a new country-specific preference program to grant Nepal duty-free treatment for a set of textile, apparel, and headgear products covered by 66 eight-digit tariff lines in the Harmonized Tariff Schedule (HTS), which otherwise were ineligible for duty-free treatment under the Generalized System of Preferences (GSP) program. The Nepal-specific program is referred to as the Nepal Trade Preference Program (NTPP). Following the determination that Nepal met certain eligibility requirements, the program was implemented by Presidential Proclamation on December 15, 2016. The NTPP provides Nepal non-reciprocal preferential trade benefits on the specified products through December 31, 2025. These preferences were provided to assist Nepal in its recovery from the devastating April 2015 earthquake and subsequent aftershocks. Due to changes in the U.S. Harmonized Tariff Schedule, the number of tariff lines for which Nepal is exempt from customs duties increased in July 2016 to 77 eight-digit tariff lines. In addition to the tariff preferences, the TFTEA directs the President to provide trade-related technical assistance to help Nepal implement the World Trade Organization (WTO) *Trade Facilitation Agreement*.

The TFTEA requires the President to present a report to Congress on the implementation of Section 915 of the TFTEA within one year of the enactment of the Act, and annually thereafter. The Office of the United States Trade Representative (USTR) submitted last year's report to the House Ways and Means and Senate Finance Committees on February 24, 2023, as required under the statute. This report includes overviews of the political, economic, labor, and trade conditions in Nepal; an assessment of Nepal's eligibility to receive preferential trade benefits; information on U.S. trade policy as it relates to Nepal; information related to Nepal's utilization of the trade preference program; and information on implementation of technical assistance.

**Political Economy:** Prime Minister Dahal from the United Communist Party Nepal – Maoist (Centrist) (UCPN-MC) leads a multi-party ruling coalition with the Nepali Congress Party as the senior partner. This coalition has been in place since January 2023, under an agreement that the Prime Ministership will reportedly be passed to Communist Party of Nepal-Unified Socialist (CPN-US) leader Madhav Nepal around December 2024 and then to Nepali Congress President Sher Bahadur Deuba around December 2025 until the next parliamentary elections in 2027. Corruption scandals and lackluster governance, including failure to pass needed legislation, and lack of improvement on economic conditions, have increased public disillusionment with the mainstream political parties. This has manifested itself in the surging popularity of new parties. A few political groups have also tried to coopt a nostalgic view of the legacy of the monarchy to play on dissatisfaction with current political parties' performance, but with limited uptake by the Nepali people.

**Economic Overview:** Economic growth has slowed following the post-COVID-19 rebound last year. During FY 2022/2023 (July 16-July 15), economic growth is estimated to have reached only 1.9 percent.<sup>2</sup> GDP growth is currently well below its pre-pandemic levels, which had hovered around 7 percent. Despite businesses now reopening, periodic COVID-19 lockdowns continue and the demand

<sup>1</sup> 19 U.S.C. § 4454; P.L. 114-125, 130 Stat. 122, 276-79 (Feb. 24, 2016).

<sup>2</sup> Asian Development Bank

for tourism, a sector that employs directly and indirectly more than one million people in Nepal, remains below pre-pandemic levels. Current political uncertainties, high inflation, lingering effects of Russia's war on Ukraine, and a prolonged lack of liquidity in the market will likely continue to reduce growth prospects and erode foreign investor interest in Nepal. The World Bank forecasts growth to rebound to 3.9 percent in FY 2023/2024 and the Asian Development Bank to a higher 4.3 percent. In addition, low productivity, reduced export competitiveness, outward migration, and a reliance on remittances are expected to continue restricting Nepal's medium-term rate of economic growth. Citing the heavy toll of the COVID-19 pandemic on Nepal's economy, in January 2022, the IMF approved a roughly \$400 million arrangement with Nepal under the Extended Credit Facility, with the primary objective of preserving macroeconomic and financial stability and foreign reserve adequacy.

**Trade Overview:** Nepal is a landlocked country with the Himalayan mountains to the north. As a result, Nepal's trade is heavily reliant on India through its more open southern border. Nepal's export costs are considered high with respect to air, rail, and truck cargo relative to other low-income countries, which limits export competitiveness. Nepali exports declined by 21.4 percent to reach \$1.18 billion in Nepali FY 2022/2023.<sup>3</sup> The majority (approximately 80 percent on average) of Nepali exports have been destined for India, followed by the United States (8 percent), Germany (2 percent), and the United Kingdom (1 percent). Nepal's leading exports have been soybean oil, palm oil, woven fabrics, carpets, and cardamom.

Nepali imports declined by approximately 16 percent to \$12.1 billion in Nepali FY 2022/23.<sup>4</sup> Nepal's largest import categories in Nepali FY 2022/2023 were energy products (diesel, gasoline, liquified petroleum gas, and coal), iron and steel products, edible oils (crude soybean oil, sunflower oil, and palm oil), cereals (corn and rice), and mobile phones. India is the dominant supplier of goods to Nepal and on average accounts for approximately 60 percent of total Nepali imports. China is the second-largest import source and accounts on average for approximately 15 percent of total imports. The United States has been Nepal's sixth-largest import source, accounting for less than 2 percent of imports.

**Eligibility:** Nepal met the country eligibility criteria for 2023 for the Nepal Trade Preference Program under the GSP program and eligibility requirements referenced in the African Growth and Opportunity Act, as specified in the TFTEA.<sup>5</sup> This assessment was based on a review by the TPSC agencies, led by USTR, to examine whether Nepal met the eligibility criteria. The eligibility criteria include, among others, establishing or making continual progress toward establishing a market-based economy, the elimination of barriers to U.S. trade and investment, the rule of law, a system to combat corruption and bribery, and the protection of internationally recognized worker rights. Nepal is also required neither to engage in activities that undermine U.S. national security or foreign policy interests nor engage in gross violations of internationally recognized human rights.

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<sup>3</sup> Nepal Rastra Bank, Economic Research Department, "Current Macroeconomic and Financial Situation of Nepal, Annual Data of 2022/23." Currency conversion using Nepal Rastra Bank exchange rate of 1 U.S. Dollar to 133.05 Nepalese Rupees on January 24, 2024.

<sup>4</sup> Ibid.

<sup>5</sup> Although the authority to provide duty-free treatment under GSP lapsed on December 31, 2020 (19 U.S.C. § 2465), the GSP program's statutory eligibility criteria did not change and the NTTP still requires use of them as eligibility criteria for benefits under NTTP.

U.S. Government agencies monitored actions taken by the Nepali government during 2023 and considered information drawn from other interested stakeholders. Political uncertainty continued to slow the pace of economic reforms pursued by Nepal in 2023. While regulations to implement the Foreign Investment and Technology Transfer Act were finalized, there was less progress on amending Nepal's intellectual property (IP) laws. Nepal has been drafting legislation to amend and consolidate Nepali IP laws, but the reforms have not yet been introduced in Parliament.

In recent years, Nepal has intermittently banned imports of goods it considers to be “non-essential” or “luxury” to stabilize its foreign exchange reserves, which have been at risk of depleting precipitously in large part due to a loss of remittances because of the pandemic. In March 2020, Nepal temporarily banned imports of dry peas, betel nut, dried dates, black pepper, liquor, and vehicles valued over \$50,000. Nepal subsequently rescinded the import ban of most of these products. In April 2022, Nepal banned approximately a dozen products determined to be non-essential, including among others, liquor, large motorcycles, mobile phones priced above \$300, and diamonds. While the import ban on a number of these products was rescinded in December 2022, Nepal continues to restrict or ban imports of a number of products, including energy and soft drinks. Given the state of Nepal's trade deficit and recent concerns about depleting foreign exchange reserves, import restrictions on additional goods remain a possibility.

The Ministry of Industry, Commerce and Supplies (MOICS) utilized a provision in the Foreign Investment and Technology Transfer Act (FITTA) 2019 to make an amendment and allow foreign direct investment (FDI) in primary agriculture, but only if 75 percent of the products are exported. Nepal hopes that FDI will enable the modernization and mechanization of the agricultural sector. However, the matter remains sub judice at the Supreme Court.

Progress on tackling corruption and bribery was limited, and Nepal's ranking in Transparency International's 2022 Corruption Perceptions Index remained low as Nepal was ranked 110th out of 180 countries.

The NTPP and the underlying GSP program require that beneficiaries take steps to afford internationally recognized worker rights, including in the Special Economic Zones (SEZ). Nepal's labor law generally provides for freedom of association, the right to organize, and collective bargaining. However, in an apparent attempt to promote the competitiveness of Nepali firms, the SEZ Act of 2016 prohibits workers from striking in any SEZ. In Nepal, all forms of forced and compulsory labor are prohibited.

It is estimated that there are 1.1 million children engaged in child labor in Nepal, including 200,000 in hazardous child labor. Nepal's minimum age of 17 for hazardous work is not consistent with international standards and Nepal's hazardous work list for children is not comprehensive as it does not include brickmaking. The U.S. Department of Labor continues to report that forced and child labor is used to manufacture bricks, carpets, embellished textiles, and stones.

Nepal's labor laws extend labor protections to workers in both the formal and informal sectors. However, law enforcement by Nepal's labor inspectorate remains weak. During the 2022-2023 fiscal year, it is reported that the Ministry of Labor's inspectorate funding was \$15,720 and 2,544 labor inspections were conducted. There are only 15 labor inspector positions in Nepal, but only 11 of these positions are currently filled, which is much lower than recommended by the International Labor Organization. Following the creation of a federal system in Nepal, the federal government is still in the process of determining labor inspection responsibilities at the federal, provincial, and local levels. The lack of human resources, capacity, and training on its labor

laws inhibits robust monitoring to ensure full compliance with the labor laws, and limits Nepal's ability to take meaningful actions against perpetrators of child labor and its worst forms.

Nepal's constitution and law prohibits discrimination, including in employment, for women and members of some vulnerable groups. However, there are no provisions in the constitution, law, or regulations prohibiting discrimination based on color, age, sexual orientation or gender identity, refugee status, national origin or citizenship, HIV or AIDS-positive status, or other communicable diseases. Nepal has made little progress in reforming its anti-discrimination laws and in implementing anti-discrimination legal provisions to extend employment opportunities for vulnerable groups, including for lower castes.

The United States will continue to closely monitor developments related to worker rights in Nepal as well as intensify engagement to ensure that Nepal is taking steps to enhance labor protections.

**U.S. Trade and Investment Policy with Respect to Nepal:** U.S. trade and investment policy with respect to Nepal focuses on increasing bilateral trade to promote economic development in both countries. The primary vehicle for implementing this policy is the United States-Nepal Trade and Investment Framework Agreement (TIFA) Council. The sixth TIFA Council meeting was held in Kathmandu, Nepal, on May 19, 2023, and covered a wide range of economic issues. The two sides discussed ways to increase utilization of the NTPP; implement the WTO Trade Facilitation Agreement; improve protection of worker rights; develop science-based sanitary and phytosanitary measures; and increase market access for certain agricultural products, e-commerce and digital trade; and also discussed new draft laws that have the potential to reform Nepal's intellectual property and foreign investment regimes. The next TIFA Council meeting is scheduled to be held in Washington, DC, in 2024.

**U.S. Imports from Nepal under Preference Programs:** During 2023, U.S. imports from Nepal totaled \$134 million (see Table 1), increasing by approximately 1 percent compared to 2022. Nepali exports to the United States are concentrated in a few major products, including carpets and other textile floor coverings (\$43 million), pet food (\$23 million), and certain other textile articles (\$10 million). Certain products from Nepal receive preferential duty-free access to the U.S. market through both the GSP program and the NTPP. Even though the GSP program expired at the end of 2020, importers claimed GSP preferences on \$11.3 million worth of trade from Nepal in 2023 in the event that Congress reauthorizes GSP benefits retroactively.

The NTPP provides duty-free access to a total of 77 tariff lines, including 40 tariff lines of travel goods, handbags and other leather articles (HTS chapter 42); 13 tariff lines of carpets and floor coverings (chapter 57); 13 tariff lines of headgear (chapter 65), 9 tariff lines of apparel (chapters 61 and 62) and 2 tariff lines of made-up articles (chapter 63). The average Most-Favored-Nation (MFN) duty for the products covered by the NTPP has been 9.7 percent, with duties ranging from 1.2 percent to 20 percent. Of the 77 NTPP tariff lines, 31 tariff lines receive duty-free treatment under the GSP program. Many of these products were not GSP-eligible at the time TFTEA was passed in 2015, but became GSP-eligible in June 2016.

During 2023, the seventh full year the NTPP has been in place, total imports under the program were \$3.9 million and accounted for 2.9 percent of total U.S. imports from Nepal. The largest import categories were container bags and boxes (\$1.7 million), handbags (\$745,000), and hats and other headgear (\$649,000) (table 2).

**Table 1: U.S. Imports from Nepal by Program (\$1,000)**

Import Program	2019	2020	2021	2022	2023
Imports For Consumption (No program claimed)	74,973	73,755	85,597	115,218	118,716
GSP	12,643	10,089	18,049	12,665	11,295
Nepal Preference	3,180	2,500	4,070	4,7010	3,907
Total	90,796	86,344	107,715	132,593	133,919

Utilization of the NTPP in 2023 declined slightly, but there was an additional \$4.4 million in U.S. imports of products potentially eligible to enter duty-free under the NTPP that did not use the program. In addition to being within the NTPP scope of product coverage, goods must also satisfy the preference rule of origin in order to be duty-free. In 2023, of the 77 total eligible lines, there were imports under 52 lines where the importer did not file a preference claim, resulting in tariffs being paid. It might be that these goods did not meet the rule of origin, or it might be that the importer simply failed to file the claim for duty-free treatment. Shawls and scarves (\$2.0 million) and carpets (\$1.1 million) were the products most commonly imported without a preference claim. The U.S. Embassy in Kathmandu continues to promote the NTPP by conducting media outreach and publishing a dual-language NTPP manual to help small businesses understand the steps required to export to the United States. During the 2020 and 2023 TIFA Council meetings, USTR and Nepal discussed how to promote the program to traders.

Nepal continues to assert that many of the currently eligible products are not feasible for Nepal to export, but expressed interest in continuing to discuss ways to expand the use of the program. Nepal also presented a “Concept Paper” for how to increase utilization of the program, which informed the U.S. Agency for International Development’s (USAID) Trade and Competitiveness program that is now underway.

**Table 2: U.S. Imports under the Nepal Trade Preference Program (\$1,000)**

HTSUS Number	Product Description	2023
4202.92	CONTAINER BAGS, BOXES, CASES AND SATCHELS NESOI, WITH OUTER SURFACE OF SHEETING OF PLASTICS OR OF TEXTILE MATERIALS	1,658
4202.22	HANDBAGS, WHETHER OR NOT WITH SHOULDER STRAP OR HANDLES, WITH OUTER SURFACE OF PLASTIC SHEETING OR OF TEXTILE MATERIALS	745
6505.00	HATS AND OTHER HEADGEAR, KNITTED OR CROCHETED, OR MADE UP FROM LACE, FELT OR OTHER TEXTILE FABRIC, IN THE PIECE (BUT NOT IN STRIPS); HAIRNETS	649

6214.20	SHAWLS, SCARVES, MUFFLERS, MANTILLAS, VEILS AND THE LIKE OF WOOL OR FINE ANIMAL HAIR, NOT KNITTED OR CROCHETED	328
4202.32	ARTICLES NORMALLY CARRIED IN THE POCKET OR HANDBAG, WITH OUTER SURFACE OF SHEETING OF PLASTICS OR OF TEXTILE MATERIALS	130
4202.12	TRUNKS, SUITCASES, VANITY CASES AND SIMILAR CONTAINERS, WITH OUTER SURFACE OF PLASTICS OR OF TEXTILE MATERIALS	96
6214.90	SHAWLS, SCARVES, MUFFLERS, MANTILLAS, VEILS AND THE LIKE OF TEXTILE FIBERS NESOI, NOT KNITTED OR CROCHETED	68
5701.10	CARPETS AND OTHER TEXTILE FLOOR COVERINGS, KNOTTED (WHETHER OR NOT MADE-UP), OF WOOL OR FINE ANIMAL HAIR	59
6216.00	GLOVES, MITTENS AND MITTS, NOT KNITTED OR CROCHETED	47
6217.10	MADE-UP CLOTHING ACCESSORIES NESOI	31
All other		96
Total		3,907

Source: U.S. International Trade Commission, Dataweb

**Technical Assistance:** The TFTEA directs the President to provide trade-related technical assistance to Nepal, a function which was delegated in part to USAID, in consultation with the State Department and USTR. In January 2022, USAID launched a five-year, \$18.9 million activity called USAID Trade and Competitiveness to increase the competitiveness of Nepal’s private sector and unlock new sources of financing and investment for sustainable and inclusive economic growth. Since then, USAID Trade and Competitiveness has been strengthening enterprises in targeted sectors with high potential for growth and employment creation, including agro-processing, digital services, and tourism, while also supporting the private sector to recover from the impacts of COVID-19. USAID is on track to increase the competitiveness and sales of 1,500 high-growth Nepali firms through greater access to finance and catalyze \$175 million in new investment over the life of the activity. USAID Trade and Competitiveness is improving management practices, adoption of standards and technology, and inclusive human capital practices while supporting an investment climate and business enabling environment that is conducive to market entry and trade. Over the past year, as planned, the activity completed several in-depth sectoral assessments. For the purposes of supporting companies effected by COVID-19, especially those in the tourism sector, the activity issued small grants for businesses to upgrade their facilities. Four hundred eighty-five enterprises in the targeted agro-processing, digital services, and tourism sectors received assistance to improve their business performance through training, technical assistance, and business development services. USAID further partnered with the U.S. International Development Finance

Corporation (DFC) to leverage the new \$45 million loan and \$2.5 million loan guarantee to a local bank used to then lend to agribusinesses. USAID and DFC are in the process of further expanding financial instruments to other growth sectors, some with the potential to increase trade.

The U.S. Department of Commerce's Commercial Law Development Program (CLDP) has been working with the Office of the Investment Board of Nepal (OIBN) since 2019 to develop and improve processes related to infrastructure projects. In 2021, CLDP and OIBN decided to focus on technical assistance related to investment promotion, including project preparation, project due diligence, project evaluation, and methods for attracting investors. In addition, the United States Patent Trademarks Office (USPTO) office has been working closely with the office of the Ministry of Industries, Commerce, and Supplies along with their IP unit on technical assistance related to office administration and substantive patent and trademark examination.