

2020 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, 2016.¹ 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 8-digit tariff lines in the Harmonized Tariff Schedule (HTS), which otherwise were ineligible for duty-free treatment under the Generalized System of Preferences. This 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. It 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 8-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 22, 2019, and presents this report to the Committees as required under the statute. This report includes overviews of the political, economic, and trade conditions in Nepal; an assessment of Nepal's eligibility to receive the benefits; information on U.S. trade policy as it relates to Nepal; information related to Nepal's utilization of the preference program; and information on implementation of technical assistance.

Political Economy: Following the adoption of the new constitution and elections held at the local, provincial, and national levels in 2017, Nepal formed a new government in February 2018, with KP Sharma Oli appointed as Prime Minister, and is experiencing a period of relative political stability. With the new government, Nepal has made the historic move from a post-conflict era to a federal democratic republic grounded in a constitution promulgated in 2015. The government's stated priorities are implementing the new constitution fully, prioritizing economic growth including through attracting investment for economic development, ensuring good governance and fighting corruption. Progress on these priorities, however, continued to be hindered in 2019 by pervasive corruption, patronage, influence of politically-connected cartels, the decentralization process of federalism, and capacity constraints within both government and civil society.

Economic Overview: Nepal's economy grew 7.1 percent in the Nepali 2018/19 fiscal year (July 16-July 15). Per capita gross domestic product was \$1,034 in 2018, one of the lowest in Asia. For many years, economic reform took a backseat to political considerations related to drafting the constitution and holding elections, but Nepal is now beginning to communicate a clearer economic vision. Implementation of that vision, however, has been spotty, raising questions about the new government's commitment and ability to deliver on it. Foreign direct investment declined by 31 percent to \$115.5 million during Nepali fiscal year 2018/2019 compared to the previous fiscal year, demonstrating

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

continued interest by investors tempered by an eroding confidence in the government's commitment to improving Nepal's business climate. The retail and tourism sectors remain the primary drivers of the investment growth. However, low productivity, reduced export competitiveness, as well as outward migration and a reliance on remittances are expected to continue restricting Nepal's rate of economic growth.

Trade Overview: Nepal is a landlocked country with the Himalayan mountain range to the north. As a result, Nepal's trade is heavily reliant on India through its border to the south. 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. Nepal exported over \$852 million worth of goods in Nepali FY 2018/2019, up 19 percent from FY 2017/2018.² The majority of Nepali exports (65 percent) were destined for India, followed by the United States (11 percent), the European Union (10 percent), and China (2 percent). In Nepali FY 2018/2019, Nepal's leading exports were refined palm oil (\$91 million), carpets (\$65 million), and yarns (\$58 million).

Nepali imports reached an all-time high of \$12.4 billion in Nepali FY 2018/19.³ Nepal's largest import categories in Nepali FY 2018/19 were energy products (petroleum oils other than crude, liquefied hydrocarbons, coal), semi-finished iron products, gold, and rice. India is the dominant supplier of goods to Nepal, and accounted for 65 percent (\$8.0 billion) of total Nepali imports in Nepali FY 2018/2019. China is the second largest import source and accounted for 14 percent of total imports. The United States is Nepal's 8th largest import source, accounting for approximately one percent of imports. Notably, Nepali imports of U.S. soybeans grew from \$403,712 in 2018 to \$44 million in 2019, as Nepali livestock producers replaced products previously imported from India with lower priced U.S. soybeans. Soybeans now represent 82 percent of U.S. agricultural exports to the country.

Eligibility: President Trump determined that Nepal met the country eligibility criteria for 2019 under the Generalized System of Preferences (GSP) and African Growth and Opportunity Act, as specified in the TFTEA. This assessment was based on an interagency review, chaired by USTR, to examine whether Nepal met the eligibility criteria. The eligibility criteria include, among others, establishing or making continual progress in 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 workers' rights. Nepal is also required not to engage in activities that undermine U.S. national security or foreign policy interests nor engage in gross violations of internationally recognized human rights.

U.S. Government agencies monitored actions taken by the Nepali government during 2019 and took into account information drawn from other interested stakeholders. In 2019, Nepal continued to review economic policies reportedly intended to eliminate barriers to trade and investment, including by amending the Foreign Investment and Technology Transfer Act and the Public Private Partnership and Investment Act, and drafting legislation to amend and consolidate Nepali intellectual property laws. Nepal has also addressed U.S. concerns related to certain technical barriers to trade, such as regulations and standards related to toys and alcoholic beverages. However, new trade concerns emerged in 2019 with Nepal restricting or banning imports of certain products, including energy drinks and sodas.

² Government of Nepal, Ministry of Finance, Department of Customs "Nepal Foreign Trade Statistics Fiscal Year 2018/19". Currency conversion using Nepal Rastra Bank exchange rate of 1 U.S. Dollar to 113.93 Nepalese Rupee on February 10, 2020.

³ Government of Nepal, Ministry of Finance, Department of Customs "Nepal Foreign Trade Statistics Fiscal Year 2018/19".

Regarding worker rights, Nepal passed the new Labour Law Act in 2017 and has made progress to eliminate the worst forms of child labor. Although the labor law extends labor protections to workers in both the formal and informal sectors, enforcement of the law remains weak. The implementation of the law is further hindered by a lack of awareness about the protections the law affords and poor implementation at the provincial level.

Under Nepal’s newly created federal system, enforcement mechanisms, including regulations and capacity building of the labor inspectorate, are required to effectively implement the labor law at the local levels. Nepal’s minimum age of 17 for hazardous work is not consistent with international standards and there are reports of forced child labor in the production of carpets, embellished textiles (zari), and in the production of bricks and breaking stones. In addition, the Special Economic Zone (SEZ) Act of 2016 prohibits workers from striking in any SEZ.

The Administration will continue to monitor closely any relevant developments as they relate to eligibility.

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 in order to promote economic development in both countries. The primary venue for implementing this policy is through the United States-Nepal Trade and Investment Framework Agreement (TIFA) Council. The fourth TIFA Council meeting was held in Washington, DC on November 13, 2018 and covered a wide range of economic issues. Both 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, increase market access for certain agricultural products, e-commerce and digital trade, and draft new laws that have the potential to reform Nepal’s intellectual property and foreign investment regimes. The next TIFA Council meeting is expected to be held in Kathmandu, Nepal during the spring of 2020.

U.S. Imports from Nepal under Preference Programs: During 2019, U.S. imports from Nepal totaled \$91.0 million (see Table 1), declining 8 percent from 2018. Nepali exports to the United States are concentrated in a few major products, including carpets and other textile floor coverings (\$38.0 million), animal feed preparations (\$7.8 million), and other articles of textile materials (\$7.7 million). Certain products from Nepal receive preferential duty-free access to the U.S. market through both the Generalized System of Preferences (GSP) and the NTPP. Imports from Nepal under GSP in 2019 increased by 38 percent and totaled \$12.8 million, accounting 14 percent of total imports from Nepal. Made-up textile articles (HTS subheading HS 6307) accounted for \$5.0 million (39 percent) of imports from Nepal entering under GSP in 2019.

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

Import Program	2015	2016	2017	2018	2019
General Imports (No program claimed)	81,374	79,136	80,874	86,040	75,192

GSP	5,469	9,438	8,567	9,256	12,783
Nepal Preference	0	0	2,368	3,127	3,061
Civil Aircraft	117	27	43	148	
Total	86,960	88,602	91,852	98,571	91,036

Sources: U.S. International Trade Commission, Dataweb

Note: Totals may not add due to rounding.

The NTPP provides duty-free access to a total of 77 tariff lines, including 56 textiles tariff lines, ten leather and footwear tariff lines, nine clothing tariff lines, and two tariff lines for other manufacturing products. The average MFN duty for the products covered by the NTPP was 9.7 percent in 2017, 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 U.S. 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 2019, the third full year the NTPP has been in place, total imports under the program were \$3.1 million and accounted for 3.4 percent of total U.S. imports from Nepal. The largest import categories were hats and headgear (\$848,000), shawls and scarves (\$492,000), and travel and sport bags (\$410,000) (see Table 2).

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

HTSUS Number	Product Description	2019
65050030	Hats and headgear, of wool, knitted or crocheted or made up from knitted or crocheted fabric	848
62142000	Shawls, scarves, mufflers, mantillas, veils and the like, not knitted or crocheted, of wool or fine animal hair	472
42029215	Travel, sports and similar bags with outer surface of cotton, not of pile or tufted construction	410
42022245	Handbags with or without shoulder strap or without handle, with outer surface of cotton, not of pile or tufted construction or braid	214
57011090	Carpets and other textile floor coverings, of wool or fine animal hair, not hand-hooked, not hand knotted during weaving	149
65050040	Hats and headgear, of wool, made from felt or of textile material, not knitted or crocheted or made up from knitted or crocheted fabric	123
57031020	Hand-hooked carpets and other textile floor coverings, tufted, whether or not made up, of wool or fine animal hair	121
42029220	Travel, sports and similar bags with outer surface of vegetable fibers, excl. cotton, not of pile construction	90

42023240	Articles of a kind normally carried in the pocket or handbag, with outer surface of cotton, not of pile or tufted construction	69
62160080	Gloves, mittens and mitts, not knitted or crocheted, of wool or fine animal hair, nesoi	63
All Other:		502
Total		3,061

Source: U.S. International Trade Commission, Dataweb

Utilization of the NTPP program declined slightly compared to 2018 (see Table 1). The U.S. Embassy in Kathmandu continues to promote the NTPP program 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 2018 TIFA Council meetings, USTR and government of Nepal officials discussed how to promote the program to traders. Nepal continues to believe 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.

Technical Assistance: The TFTEA directs the President to provide trade-related technical assistance to Nepal, a function which was delegated to the U.S. Agency for International Development (USAID), in consultation with the State Department and USTR. In 2019, USAID supported the UN International Trade Center’s (ITC) Sustainability Map to Nepal, connecting over 2,300 Nepali producers (ginger, tea, coffee) to international supply chains and global buyers as well as providing information related to international standards. The UN platform provides support to these producers for branding and marketing as well as information on voluntary international certification standards. In 2017, USAID funded an assessment by USDA of the sanitary and phytosanitary (SPS) issues that negatively impact agricultural trade in Nepal and provided a road map to develop a modern risk-based SPS system. In 2020, USAID plans to launch a Trade and Competitiveness Activity to enable Nepal to foster rapid, transformational, and sustained economic growth through expanded trade and investments.

