Research Report | 2021

Trade Policy Coherence and Coordination in Nepal

An Exploratory Assessment

Paras Kharel

Kshitiz Dahal

Trade and Competitiveness **Assessment Volume I**

This study was funded by a grant from the United States Department of State. The opinions, findings and conclusions stated herein are those of the author[s] and do not necessarily reflect those of the United States Department of State or The Asia Foundation.

Acknowledgements

This study report is authored by Paras Kharel and Kshitiz Dahal. Paras Kharel (paras.kharel@sawtee.org; paraskharelpk@gmail.com) is Research Director at South Asia Watch on Trade, Economics and Environment (SAWTEE), Kathmandu, and Kshitiz Dahal is Research Officer at SAWTEE. The authors thank Dr. Sagar Prasai, PhD., Mr. Ashray Bikram Pande, and Mr. Samarjeet Singh Thapa from The Asia Foundation, and Mr. Rabi Shanker Sainju, Former Joint Secretary of Ministry of Industry, Commerce and Supplies, along with Mr. Shyam Dahal and Mr. Posh Raj Pandey from SAWTEE for helpful comments and suggestions. This study was funded by a grant from the United States Department of State. The opinions, findings and conclusions stated herein are those of the authors and do not necessarily reflect those of SAWTEE, the United States Department of State or The Asia Foundation.

Suggested citation

Kharel, P. and Dahal, K. 2021. *Trade policy coherence and coordination in Nepal: An exploratory assessment.* Kathmandu: South Asia Watch on Trade, Economics and Environment (SAWTEE) and The Asia Foundation.

Contents

Tables

Figures

Box

Annex Tables

Abbreviations

ASYCUDA	Automated System for Customs Data
BOT	Board of Trade
CNI	Confederation of Nepalese Industries
DFTQC	Department of Food Technology and Quality Control
DoC	Department of Customs
EIF	Enhanced Integrated Framework
FDI	Foreign Direct Investment
FNCCI	Federation of Nepalese Chamber of Commerce and Industries
FP	Focal Point
FSSAI	Food Safety and Standards Authority of India
FY	Fiscal Year
GDP	Gross Domestic Product
HLBF	High-Level Business Forum
ICD	Inland Container Depot
ICP	Integrated Check Post
ICT	Information and communication technology
IEA	Industrial Enterprises Act
IP	Intellectual Property
LDC	Least Developed Country
MoALD	Ministry of Agriculture and Livestock Development
MoF	Ministry of Finance
MoICS	Ministry of Industry, Commerce and Supplies
NABL	National Accreditation Board for Testing and Calibration Laboratories
NBF	Nepal Business Forum
NBSM	Nepal Bureau of Standards and Metrology
NECC	National Export Coordination Committee
NITDB	Nepal Intermodal Transport Development Board
NSC	National Steering Committee
NSW	National Single Window
NTFC	National Trade Facilitation Committee
NTIS	Nepal Trade Integration Strategy
NTTFC	National Trade and Transport Facilitation Committee
NTWCL	Nepal Transit and Warehousing Company Limited

OGA	Other Government Agency
PSDC	Private Sector Development Committee
SAFTA	Agreement on South Asian Free Trade Area
SEZ	Special Economic Zone
SPS	Sanitary and Phytosanitary
TBT	Technical Barriers to Trade
TC	Thematic Committee
TFA	Trade Facilitation Agreement
ToR	Terms of Reference
UNCTAD	United Nations Conference on Trade and Development
VAT	Value Added Tax
WTO	World Trade Organization

Trade policy coherence and coordination in Nepal: An exploratory assessment

Paras Kharel, Kshitiz Dahal

Abstract

This paper is an exploratory assessment of the coherence of policies, strategies and laws that have a bearing on Nepal's international trade, and the mechanism and extent of coordination between government agencies and between the government and the private sector in trade-related decision making, including policy formulation and implementation. It outlines possible measures for achieving policy coherence and improved inter-agency coordination.

Key words: Trade policy, tariffs, revenue, non-tariff measures, export promotion, import substitution, institutions, coordination failure

JEL classification: F10, F13, H20.

1. Introduction

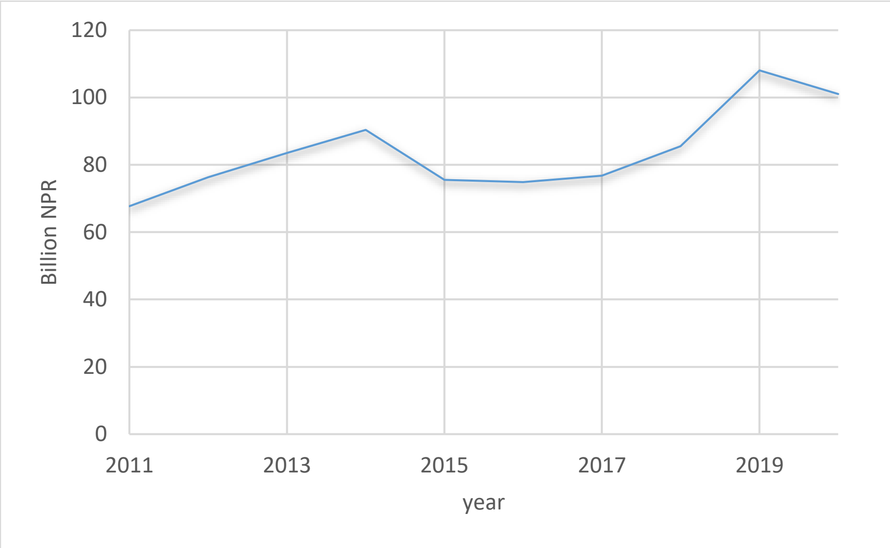
International trade covers multiple sectors and activities. In particular, boosting exports of a particular good requires alleviating constraints in a range of domains. Firm-level productivity, which is partly a function of available human capital; basic infrastructure such as roads and energy; cost of transport services; national quality infrastructure, which affects the ability of the product to meet the standards and technical regulations of the destination market; provision of market intelligence to exporters; promotion of products in destination markets; speedy and efficient customs clearance and other trade facilitation measures that reduce the time and cost of exporting and importing; and the quality of transit facility accessible for a landlocked country. Formulating policies, strategies, laws, regulations and programmes, and implementing them to harness the full potential of international trade require coordination among, and within, different government agencies, and between the government and the private sector.

Strengthening intragency coordination is one of Nepal Trade Integration Strategy (NTIS) 2016's objectives, setting out actions to strengthen Nepal's export sector. This is motivated by its assessment that "coordination among line agencies remains bleak due to lack of clear accountability mechanisms to ensure effective implementation of the Results-based Management and Reporting System" (GoN, 2016). NTIS 2016 also notes that the implementation of the strategy that preceded it, NTIS 2010, "fell short of expectation" because of, *inter alia*, "absence of a result-based monitoring mechanism". Accordingly, under cross-cutting issues, an action in the Action Matrix of NTIS 2016 concerns enhancing interagency coordination for export sector development. NTIS 2016 also specifies an action to mainstream trade in national and sectoral plans, policies, programmes and activities and an action to incorporate trade, especially export-related matters, in the roles and responsibilities of concerned ministries and agencies. The strategy also specifies yearly monitoring of its implementation. Nepal's Trade Policy Review (2018) notes that "significant legal reforms have been made to further mainstream trade in national development process" (WTO, 2018).

Overall export performance is dismal. Export declined and stagnated in the period 2014–2018, and the value of total exports in 2018 was lower than that of 2014. Significant share of exports in the period 2018–2020 was in the form of two products (refined palm oil and soybean oil), which witnesses a minimal value addition in Nepal as crude inputs needed for their production are sourced through imports (see Figure 1). Exports of products prioritized by NTIS have not fared well, either (see Figure 2). Actions needed to boost exports are well identified in Commerce Policy, NTIS and, more recently, Trade Deficit Minimization Action Plan (GoN, 2019). Yet, since most of the export targets of NTIS 2016 for the period 2016-2020 have not been met—for instance, the share of export of 9 NTIS products in GDP in FY 2019/20 stood at 0.76 percent (1.02 percent in FY 2018/19), way below the target of 4 percent (for 2020) set by NTIS 2016 and even below 1.93 percent reached FY 2012/13[1]—attention is naturally drawn to the issue of lack of interagency coordination, a problem that also afflicted the implementation of NTIS 2010.

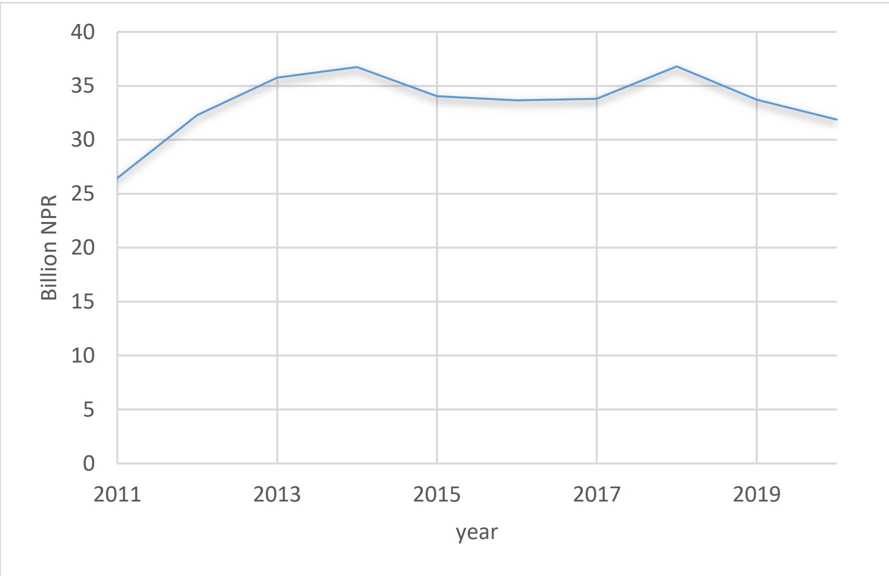
[1] Data obtained from Department of Customs (DoC). NTIS targeted to increase the share of export of NTIS 2016 products (9 goods) in GDP from 1.93 percent in 2012/13 to 4 percent in 2020. There were other product-wise targets as well, in terms of formulation of product-specific export strategy, export value, export share, or production level, which are largely unmet.

Figure 1: Nepal's total export of commodities



Source: Authors, using data from Nepal Trade Information Portal

Figure 2: Export of NTIS commodities



Source: Authors, using data from Nepal Trade Information Portal

This paper is an exploratory assessment of the coherence of policies, strategies, and laws that have a bearing on Nepal's international trade. It focuses on export performance and the mechanisms for and extent of coordination between government agencies and between the government and the private sector in trade policy formulation and implementation. It provides broad recommendations for ensuring policy coherence and inter-agency coordination for an effective trade policy in general and for developing the export sector. The paper uses information from previous studies, including those by government agencies, government policy documents, media reports, and consultations[2]

[2] Consultations were held, inter alia, in meetings organized by the Ministry of Industry, Commerce and Supplies in Kathmandu on 24 December 2020, 8 January 2021, 20 January 2021, 25 January 2021, 3 February 2021, 10 February 2021 and 18 February 2021. This paper has also benefited from discussions with producers,

with stakeholders (incumbent and former policymakers, private sector representatives, and a chartered accountant).

The rest of the paper is organized as follows. Section 2 elucidates the problems in policy coherence and institutional coordination in Nepal through examples. Section 3 discusses the existing institutional arrangement for trade policy coordination and the challenges faced therein. It also presents the experience of Ethiopia, a landlocked least developed country, in export policy coordination and its relative success. Finally, Section 4 summarizes the findings and provides recommendations for improved policy coherence and institutional coordination in Nepal.

2. Issues in policy coherence and coordination

2.1 Apparent policy conflict between industrial promotion and revenue collection

Industrial development and export promotion have been significant goals of Nepal's industrial policy, at least since 1992, when it rolled out the Industrial Enterprises Act 1992. One of the major strategies for achieving these objectives has been through providing incentives and facilities to industries. This strategy could aid industrialization and export promotion by making industrial investments attractive and aiding the growth of industries by easing their tax burden and fees, among others. Notably, two kinds of incentives—tax incentives and refund of customs duties and charges (duty drawback)—form the crux of the incentives accorded to industries. Moreover, although the incentives have been granted through the 'Industrial Enterprises Act'—overseen by the Ministry of Industry, Commerce and Supplies (MoICS)—the tax exemptions and concessions, and duty drawbacks are overseen by legislation such as the Income Tax Act, VAT Act, and Finance Act—overseen by the Ministry of Finance (MoF). Nepal's general belief is that the latter legislative frameworks prevail in terms of dictating what the incentives accorded to industries will be. For instance, the Industrial Enterprises Act, 1992, had several incentive provisions annulled by the Income Tax Act, 2000, and the Finance Act (which is updated every year) (see Annex Table A.1). We see that 11 out of 28 facilities and concessions (39.3 percent) provided by the Industrial Enterprises Act were annulled by the Income Tax Act, 2002, and the Finance Act, 2008. While new acts reinstated some of the provisions; *the Industrial Enterprises Act, 2016, and Industrial Enterprises Act, 2020*, albeit differently than in IEA 1992,[3] the fact that IEA cannot guarantee that other laws will not dilute its incentives casts doubt upon the realization of all the incentives proposed.

Furthermore, as per our past discussions with industry representatives, procedural obstacles to receiving some of the incentives promised are often insurmountable, partly because of lack of coordination regarding implementation of incentives provided by law. Another practice, according to our in-depth interview[4], is that industries can only realize incentives provided by the Industrial Enterprises Act if the incentives get recorded in the primary legislation governing tax concessions and other facilities (Income Tax Act, Customs Act, etc.) by being included in the Finance Act. The officials who oversee administrating concessions—for example, tax officials and customs officers—are guided by the primary legislation and hence the incentives that fail to be listed there generally do not reach the industries. According to the expert consulted, not all the incentives provided by the newly

importers, exporters, customs officials, dry port operators and local government officials, among others, during visits to Jhapa, Biratnagar, Birgunj and Bhairahawa from 27 February to 6 March 2021.

[3] There are several differences in the incentives provided by 1992 and those provided by IEA 2016 and 2020—both in terms of differences between similar provisions and in terms of the scope of incentives provided. For example, while IEA 1992 provided a full income tax exemption to manufacturing industries for five years, IEA 2016 and IEA 2020 provided an income tax concession of 20 percent on income earned by manufacturing industries. Likewise, some of the incentives such as duty drawback are less generous in IEA 2020 than in IEA 1992 (see next section for a discussion). There are some new forms of incentives in IEA 2020—such as concessions related to intellectual property (IP) costs.

[4] Interview with an expert (chartered accountant).

endorsed Industrial Enterprises Act, 2020 (2076), have been listed in the Finance Act 2077/78, which means not all the promised incentives will reach the industries.

The Industrial Enterprises Act, 2016, that repealed the previous Act of 1992, as well as the Industrial Enterprises Act, 2020, that repealed the Act of 2016, provided statutory guarantee, in Section 31(1) and Section 33 (1) respectively, that no provisions shall be introduced to limit exemptions, facilities, and concessions provided by the Act. However, it does not explicitly guarantee that no other laws will make provisions limiting the incentives provided by this Act. Moreover, as mentioned earlier, the practice is that other legislation (Finance Act; Income Tax Act, etc.) regularly curtails the incentives provided in the Industrial Enterprises Act.

Revenue concerns are likely a reason for the repealing or dilution of fiscal incentives, in which case the Ministry of Finance and the MoICS are eying different objectives. This incoherence between policies promoting industrialization, export and policies that oversee revenue have rendered certain industrial promotion policies inefficient. Government's lack of effort in guaranteeing what has been promised in the ACT allows incoherence to foster.

2.2 Duty drawback provisions getting less generous

Another policy adopted by Nepal to promote exports is the provision of duty drawback whereby the customs duties, taxes, and fees incurred during the import of raw materials, intermediates, packaging materials, etc. are refunded (partly or wholly) when the products using those inputs are exported. Nepal has adopted these policies in all of the Industrial Enterprises Acts adopted in 1992, 2016, and 2020. However, the incentives provided through this provision seem to have dwindled in the later editions of the Industrial Enterprises Act. For instance, the duty drawback provision in the 1992 Industrial Enterprise Act was significantly more generous—not only the customs duty and sales tax, excise tax, and other premiums levied on the imported inputs were fully refunded (see Table 1). The Industrial Enterprise Act 2020 also provisions duty drawback but at a rate determined by the Ministry of Finance, with possible exclusion of taxes and charges other than tariffs.

Studies have found that non-trivial tariffs are imposed on key inputs imported by the export sector, including those used in the production of goods listed as priority exports by the Nepal Trade Integration Strategy 2016. The duty drawback scheme for exporters has also not been effective (e.g., Arenas, 2016; Narain and Varela, 2017). The Federation of Nepalese Chambers of Commerce and Industries (FNCCI), a representative body of the private sector in Nepal, demanded that the duty drawback provision of 1992 be restored in its inputs to the government ahead of the budget speech and Finance Act of 2020/21. The feedback implied that the current duty drawback is less generous than the earlier versions (FNCCI, 2020). Furthermore, the implementation of the duty-drawback provision is marred by issues such as complex processes, significant delays, and uncertainties about whether the refunds will be provided.[5]

Table 1: Duty-drawback provisions in Industrial Enterprises Act

Industrial Enterprises Act 1992	Industrial Enterprises Act 2020
15 (u) The customs duty, sales tax, excise duty and premium levied on packing materials raw materials and auxiliary raw materials, etc., utilized by any industry in connection with its product during its production shall be reimbursed on the basis of the	25 (a) For exports by those industries without the facility of bonded Warehouse or passbook, the Ministry of Finance shall determine the rate of duty draw back and publish a notice in the Nepal Gazette. The Ministry must refund the amount of duty draw

[5] For instance, see Narain and Varela (2017), which points out the need for simplification of duty-drawback provision. Also, see a media account (https://thehimalayantimes.com/opinion/decreasing-exports-reduce-tariffs), which points out issues in claiming duty-drawback.

quantity of the export. Such reimbursement shall be made to the exporter within sixty days after an application to that effect has been duly submitted. Provided that no reimbursement will be made if an application to that effect is not submitted within one year from the date of export. **15 (w) If any industry sells its product within Nepal in any foreign currency, the excise duty, sales tax and premium levied on such product and customs duty, excise duty and sales tax levied on packing materials, the raw materials, auxiliary raw materials, etc. utilized in such product shall be reimbursed. The revenue to be so reimbursed shall be refunded to such industry within sixty days after an application to that effect has been duly submitted.** **Provided that no reimbursement will be made if an application to that effect is not submitted within one year from the date of sale.**	back according to the rate so determined, through the One Stop Service Centre. 25(b) If an industry which has not obtained a license of bonded warehouse is to export its products through a letter of credit or prevailing banking system or sells them within Nepal in foreign currency, it may import such raw materials or subsidiary raw materials and packaging materials that is not produced in Nepal as required for the production of such goods by depositing customs duty leviable on such import, subject to the prescribed terms and procedures
15 (x) The customs duties, sales tax, excise duty and premium levied on the production materials of intermediate goods to be utilized for the production of exportable industrial goods, and the sales tax and excise duty levied on the production shall be reimbursed to the concerned industry producing the intermediate goods on the basis of the quantity of export, within sixty days from the date of sale. Provided that no reimbursement shall be made if an application for the same is not made within one year from the date of export.	25 (g)The **customs duties** levied on the production materials of intermediate goods to be utilized for the production of exportable industrial goods shall be reimbursed to the concerned industry producing the intermediate goods on the basis of the quantity of export. Provided that no reimbursement shall be made if an application for the same is not made within one year from the date of export.
15 (v) In cases where any industry sells its products in the Export Promotion House, the customs duties and sales tax levied on the raw materials imported for producing the products so sold as well as the sales tax and excise duty levied on the products so produced shall be reimbursed to the concerned industry on the basis of the quantity of sale and export. Explanation: For the purposes of this clause, the words “Export Promotion House” mean a company, firm, or co-operative body established as prescribed with the objective of gathering the products of the industries established in Nepal and exporting them to foreign countries.	

Source: Industrial Enterprises Act, 1992[6]; Industrial Enterprises Act, 2020[7]

Revenue loss concerns could be restraining the government from making duty drawback provisions generous and their implementation effective. Taxes and levies on imports (VAT, customs tariffs, and excise duties) accounted for about 41 percent of total government revenue in fiscal year 2018/19 (as

[6] https://www.tepc.gov.np/assets/upload/acts/2the-industrial-enterprises-act1515.pdf
[7] https://moics.gov.np/uploads/shares/laws/Industrial%20Enterprises%20Act%20%202020.pdf

computed from data in GoN (2020) by Kharel (2020)). World Bank simulations indicate that revenue loss is not significant if tariff elimination is targeted at inputs used by three major export products (Narain and Varela, 2017). Kharel (2020) suggests further extensions and lines of inquiry, considering alternative scenarios to assess the validity of revenue loss concerns.

2.3 Lack of clarity regarding export cash incentives

Export subsidies are routinely used in many countries with the objective of export promotion. Nepal also uses export subsidies as a means to promote exports but the last two versions of export subsidy schemes that it has put in place exhibit a lack of clarity around objectives of export subsidy. For example, whether export subsidy is designed to promote exports in general or diversify export, including export destinations.

The Cash Incentive for Export Promotion scheme, implemented by the government in 2013, provided 1–2 percent subsidies on exports in convertible foreign currencies to markets other than India (third-country) (see Table 2). Since India— a significantly large export market for Nepali products—had been left out of the export subsidy scheme, market diversification seems to have been an objective of the export subsidy scheme alongside export promotion. However, Nepal replaced this scheme with a new export subsidy plan—Working Procedure on Export Subsidy, 2019**—**whereby export to India also qualifies for the export rebate (see Table 3). The plan raises a question—if the government policy is to reduce Nepal's concentration of exports in one destination (India), then why has the new policy allowed export subsidy in exports to India? Further, if the objective of the export subsidy was simply export growth and diversification of products, and not diversification of export destinations, why did export to India not qualify for export subsidy earlier? This suggests the need for a clear vision in terms of the primary objective of the export subsidy scheme.

Another issue in the export subsidy scheme is that it provides export subsidy on export value (i.e., a percentage of the value of exports) rather than the incremental change in exports (i.e., a percentage of the increase in exports). However, given the evidence that the export subsidy did not result in increase in export values and quantities by firms receiving the export subsidies (Defever et al., 2017), continuance of that policy, with an increase in the subsidy rate, seems somewhat incoherent. Furthermore, given the past history of lack of proper implementation of the export subsidy scheme.[8]—owing to a limited fund for export subsidy[9] coupled with a first-come-first-served mechanism, high fixed costs of filing (given a lengthy and complex filing procedure), and lack of knowledge among exporters (Pazzini, Reyes, and Varela, 2016)—an increase in the subsidy rate and also including exports to India in the scheme cast doubts over the effectiveness of the new scheme.

[8] For instance, Defever et al. (2017) point out that larger firms and firms that had received the subsidies in the preceding year were significantly more likely to receive the export subsidy; around 90 percent of export subsidy payments were received by exporters of only a handful of products: "carpets, man-made fibers, edible vegetables, apparel, and hides and skin"; and the presence of higher share of local input did not impact the chance of receiving the subsidy. As mentioned in the study, complex and lengthy filing procedures (discouraging new firms to claim the rebate), lack of knowledge or interest regarding the scheme among exporters, and a first-come-first-served mechanism coupled with limited funding might have contributed to limited uptake.

[9] For instance, Trade Policy Review of Nepal (WTO, 2018) points out that given that US$ 5.4 million is allocated to the export subsidy scheme, the "impact of the subsidy would be insignificant" (WTO, 2018).

Table 2: Products that qualify for export subsidy

Table 2.1: Products that currently qualify for export subsidy

Table 2.2: Products that previously qualified for export subsidy

Products that qualify for 5 export subsidy (at least 50 percent domestic value addition)	**Products that qualify for export subsidy (at least 30 percent domestic value addition)**	**Industrial products**		**Agricultural products**
5 %	**3 %**	**2 %**	**1 %**	**1 %**
Processed tea	Domestically produced textiles	Processed coffee	Readymade noodles	Seeds
Processed coffee	Readymade garments	Semi-processed hides and skins	Bran	Flowers
Handicraft and wooden craft	Carpet and woolen products	Handicraft and wooden craft	Wheat flour	Fruits
Processed hides and skins (crust leather) and leather products	'Chyangra' pashmina and products thereof	Processed hides and skins (crust leather)	Polyester fiber viscous yarn	Vegetables
Hand-made paper and products thereof	Domestically processed jute and jute products	Hand-made paper and products thereof	Polyester textile yarn	Ginger
Processed herbs and essential oils	Gold and silver Jewellery	Processed honey	Readymade garments	*Alaichi* (large cardamom)
Worked/processed precious or semi-precious stones and jewellery thereof	Domestically produced semi-processed hides and skins	Tea	Vanaspati oil (hydrogenated vegetable oil)	Herbs
Allo (Himalayan nettle) products	Pharmaceuticals	Carpet and woolen products	Transformer	
Processed drinking water/mineral water	Felt (woolen) products	Pashmina and silk products	Steel poles and accessories	
Processed turmeric	Polyester yarn/ fiber; viscous yarn/acrylic yarn/cotton yarn	Processed herbs and essential oils	Ballpoint pens	
Vegetables	Copper products (handicraft products, decoration products, and other utensils)		Lentils	

Flowers	Footwear[10]			Precious and semi-precious stones	
Processed honey				Gold and silver jewellery	
Processed cardamoms				Turmeric	
Processed ginger (including dried, sliding, oil, and powder)				Dried ginger	

Source: Working Procedure on Export Subsidy, 2019, Government of Nepal; Working Procedure on Cash Incentive for Export Promotion, 2013

2.4 Coordination issues in special economic zone (SEZ)

Special Economic Zones (SEZs) are "geographically delimited areas administered by a single body, offering certain incentives (generally duty-free importing and streamlined customs procedures, for instance) to businesses which physically locate within the zone" (FIAS, 2008). Examples of SEZs worldwide show that if appropriately administered and supported by a well-crafted policy, SEZs can promote investments, including FDI, and support export-oriented industrialization. While Nepal's SEZ plans can be traced back to 1998, when the Ministry of Industry framed the idea of export processing zones (EPI, 2019), Nepal is still grappling with various issues related to the proper functioning of SEZs. While the SEZ Act came into effect in 2016[11], giving SEZs a legislative backing, only two out of the fourteen proposed SEZs—Bhairahawa SEZ and Simra SEZ— have completed the construction phase.[12] A few of the proposed SEZs are in different stages of development—for instance, SEZs in Jumla and Panchkhal have entered the construction phase, but SEZs in Biratnagar, Gorkha and Dhangadhi have not entered the construction phase.[13] Furthermore, lack of funds is also believed to contribute to the delay in the construction of other SEZs—for instance, lack of funds to acquire land has been impeding the construction of SEZ in Biratnagar, according to a media account.[14]

Moreover, even the SEZs that have come into operation have failed to attract much industrial activity. Recently, the government annulled the idea of a Garment Processing Zone in the Simra SEZ given that not a single application was filed to establish a garment industry there, according to SEZ Authority.[15] Likewise, the Bhairahawa SEZ is marred by issues that have rendered it barely functional and not attractive enough for investors—only a small number of factories have started their operations from the SEZ and some have decided to withdraw their investment.[16] Lately, the SEZ Authority has initiated a process to annul the permission given to eight units to start their operations in the Bhairahawa SEZ, citing their inability to operate industries within the agreed period.[17] Thus, there is hardly any effective industrial activity in the Bhairahawa SEZ.

[10] Added through the first amendment.
[11] The SEZ Act 2016 was amended in 2019 to remove obstacles in the legislation believed to impede SEZs' prospects.
[12] The 14 locations proposed for SEZs by the government are Bhairahawa, Simara, Panchkhal, Biratnagar, Kapilvastu, Jumla, Dhangadi, Nuwakot, Nepalgunj, Jhapa, Dhanusha, Rautahat, Siraha, and Gorkha.
[13] https://kathmandupost.com/money/2019/06/08/entrepreneurs-reluctant-to-move-into-special-economic-zones
[14] https://kathmandupost.com/money/2018/03/05/biratnagar-sez-plan-in-limbo-for-lack-of-funds
[15] https://www.setopati.com/kinmel/business/227464
[16] For example, see https://kathmandupost.com/money/2020/01/09/six-years-on-nepal-s-first-economic-zone-struggles-to-find-investors
[17] https://www.seznepal.gov.np/ (accessed March 31, 2021)

Lack of coordination among government agencies has been a prime issue that impedes the effective operation of the Bhairahawa SEZ.[18] For instance, one-stop-service—an integrated agency comprised of all the different agencies required to administer different aspects of industries, including customs-related activities—is a provision in SEZ Act intended to make production from within the SEZ more attractive. However, the SEZ Authority has not coordinated with other government agencies to operate the one-stop service center. ADB (2019) points out that there was no one-stop service in the Bhirahawa SEZ, and most importantly, a customs desk that would facilitate international trade was also missing. Likewise, there are other examples of the lack of coordination and cooperation among government agencies, preventing the implementation of the provisions in the SEZ Act. For instance, while the SEZ Act allows industries to import plants, machinery and equipment against a bank guarantee equivalent to custom duties, the customs office requires industries to deposit a refundable amount equivalent to customs duties instead (ADB, 2019).

Lack of proper dialogue with the private sector is another issue that impedes the development of SEZs. For instance, the Garment Association of Nepal had suggested that specific provisions—excessive rental charges, the requirement that only new industries be allowed in SEZs (meaning industries cannot relocate to SEZs), and not allowing ancillary industries to operate in SEZs (despite the trade policy promoting it)—will prevent the private sector from investing in the Export Processing Zone envisioned in the Simra SEZ.[19] However, the government went ahead with its plan without considering the suggestions provided by the private sector. Ultimately the plan had to be shelved as no garment manufacturer applied for a plot in the proposed garment export processing zone. Furthermore, as in the case of the Industrial Enterprises Act, lack of implementation of or difficulty in receiving the incentives provided by the SEZ Act, owing to lack of coordination between government agencies, is another issue regarding SEZs. For instance, as per our consultations, industries have reportedly not received concessions mentioned in the Act because those provisions are not updated in the primary legislation that dictates concessions. Furthermore, officials in charge of administrating concessions—for example, customs officers—are guided by the primary legislation such as the Finance Act and Customs Act and not by the SEZ Act. This is a problem when incentives accorded by the SEZ Act are not reflected in the primary legislation governing tax and duty administration.

The government must resolve the coordination issues to make the already constructed SEZs functional and to ensure that other SEZs that are currently in different phases of development become centres of industrial activities as envisioned. The issues impeding the operation of SEZs should also offer important lessons for other industrial projects such as industrial areas that the current government is keen on moving forward.[20] The fact that the government is considering a significant reduction in the rental fees currently applicable at SEZs[21] could be an indication that lessons are being learnt.

2.5 Coordination issues in SPS/TBT (standards and technical regulations)

Nepal has a challenging time meeting requirements set out for international trade. Sanitary and Phytosanitary (SPS) measures to protect human, animal, and plant life and health from risks arising from contamination in food and pests, along with Technical Barriers to Trade (TBT) measures to protect the environment, public health, national security. TBT also looks to protect consumers from inferior products, and deceptive practices. Such measures are increasingly prominent in international

---

[18] Government officials themselves believe lack of coordination among government bodies as the reason for slow development of special economic zones. For example, see https://kathmandupost.com/money/2020/01/09/six-years-on-nepal-s-first-economic-zone-struggles-to-find-investors

[19] https://www.setopati.com/kinmel/business/227464

[20] https://kathmandupost.com/money/2021/02/03/six-industrial-areas-to-be-built-with-foreign-and-domestic-funding

[21] https://bizmandu.com/content/20210331161244.html

trade. Globally, rising living standards and increasing resort to non-tariff measures for protectionism against the backdrop of liberalization in tariffs have fuelled their increasing use. No matter the reason for their use, least-developed countries (LDCs) like Nepal have a hard time meeting these requirements efficiently. For countries like Nepal – which aspires to export many of its agricultural products – the problem is especially pronounced since almost all products attract some form of SPS measures.

NTIS 2016 identifies SPS and TBT measures as serious bottlenecks for Nepali producers in getting market access abroad—SPS-related barriers on agro and forest based-products and TBT-related barriers on craft and manufacturing products. Hence, SPS and TBT feature prominently in NTIS. For instance, two out of seven cross-cutting strategies are related to SPS and TBT—Outcome 4: Standards and Technical Regulations and Outcome 5: Sanitary and Phyto-sanitary standards. Similarly, two out of six thematic committees envisioned by NTIS have their focus on SPS- and TBT-related issues—"Agricultural products development and SPS measures" Committee and "Craft and manufacturing products development, Investment facilitation, TBT, and IPRs" Committee.

SPS/TBT regime will be effective given proper coordination among government agencies. Those that come to the forefront are MoICS in regulating trade, DoC in determining procedures, Nepal Bureau of Standards and Metrology (NBSM) in establishing standards, and Department of Food Technology and Quality Control (DFTQC) in assessing conformities. Not to leave out the Ministry of Agriculture and Livestock Development (MoALD) as they regulate agriculture in the case of SPS. However, a coordinated approach to SPS/TBT is mostly lacking. For instance, NTIS 2016 observes that the National SPS Coordination Committee, tasked with developing coordination among concerned agencies, remains practically non-functional. While NTIS 2016 set a short-term goal of making the Committee functional by 2017, the Committee has not been influential enough to resolve glaring coordination problems[22].

Weak coordination—both inter-agency coordination as well as intra-agency coordination—afflicts the SPS regime. Our consultations at customs offices revealed weak coordination between SPS agencies - *animal quarantine, plant quarantine, and food quality agency*. The SPS agencies even complained about being ignored by the customs officers, resulting in non-compliance with specific quarantine and testing requirements. However, coordination among the SPS agencies also remains poor. Even though they all serve under the Ministry of Agriculture and Livestock Development, they do not work in an integrated way. They act as separate entities during the customs clearance process. For instance, importers complain about having to get multiple import permits (at different locations) and conducting multiple tests at different laboratories when importing agricultural products such as rice, wheat, and vegetables that are both plants and foods. An integrated import permit system and an integrated office that hosts all the different SPS agencies would be a more efficient system. Furthermore, while Nepal's law currently does not allow it, having all the different agencies needed for customs administration under a single agency can solve the coordination issues through potential reforms in the legislative framework.

In terms of the TBT regime, intra-agency coordination may not be a significant problem given that NBSM, a department of MoICS, oversees primary aspects of TBT. These are standardization (NBSM acts as the secretariat of Nepal Council of Standards), conformity assessment (through its laboratories), and accreditation of private laboratories for testing of a few products (as a National Accreditation Focal Point). In contrast, MoICS oversees technical regulations to be implemented at the customs, sometimes upon the recommendation of other ministries. However, coordination has been a problem within the Nepal Council of Standards (NCS), the standardization body headed by the

[22] Based on our consultations with MoALD officials on 11 February, 2021.

minister of MoICS. The inability to hold timely meetings of NCS, primarily because of the unavailability of the minister, has been reported to delay standardization processes.

A blatant coordination failure was observed in 2019 when MoICS decided to make pesticides check mandatory to import fruits and vegetables. However, a lack of coordination with other government agencies such as DFTQC and customs was evident and as such MoICS had to revoke its decision soon after[23]. The directive did not specify what pesticides were to be checked (coordination with DFTQC—the standard setting body for food products in Nepal—could have prevented this) and seemed to have been promulgated without first appraising the level of infrastructure needed in customs to implement the measure (coordination with Department of Customs (DoC) and conformity assessment bodies such as DFTQC could have given insights regarding what could be implemented). This point towards a lack of proper mechanism for coordination regarding implementing SPS and TBT measures. The mandatory pesticide testing, however, remains implemented after the Supreme Court ordered the continuance of mandatory pesticide testing on the import of fruits and vegetables[24]. This provision has increased the customs clearance time of fruit and vegetable imports as the samples of each shipment have to be transported to distant pesticide laboratories. Perhaps, a risk-based testing system, provision of import on the basis of test certificates issued abroad, or the provision of mandatory testing only after the standards and testing laboratories are in place, could have been a better policy response.

Furthermore, strengthening of quality infrastructure or enhanced access to quality infrastructure is a key prerequisite to reducing SPS and TBT bottlenecks. NTIS acknowledges this and has recommended several measures in that regard. However, implementation remains poor, with little or no change in legislation (outdated legislation overseeing SPS and TBT regime, lack of legislative framework for accreditation, etc.), institutions (weak institutional capacity, lack of competent human resources) and infrastructure (lack of accredited testing over a wide range of parameters). Exporters and potential exporters still complain about the testing and certification regime in Nepal. They are grossly inadequate to facilitate exports (see Sainju (2021) for examples of how the absence of adequately equipped labs in Nepal constrains agricultural exports such as tea, cardamom and ginger non-agricultural exports). There has not been proper coordination among different government agencies to resolve these issues through formulating an integrated national quality policy. Furthermore, in matters of SPS/TBT administration, cross-border coordination and collaboration are equally important. There are numerous accounts of Nepali exports being stranded at Indian customs because of India not accepting Nepali quality certificates. Hence, efforts are also required to enhance SPS/TBT collaboration among the cross-border agencies, for instance through mutual recognition of test results and through a more robust dispute resolution mechanism.

2.6 Customs and other government agencies

Weak intergovernmental coordination contributes significantly to the total time spent by cargo in customs offices. Regarding imports, about 20 percent of the time taken from the entry of a vehicle to Bhairahawa customs area to its exit (19 hours and 46 minutes on average) is due to the time taken for testing and certifying by other government agencies (OGAs), including quarantine facilities and laboratories (Department of Customs, 2020). The OGAs being located outside the customs area and the absence of a single window automated system for the provision of OGA services are behind the delays in testing samples and the issuance of certificates. This problem was also documented in the time-release studies for Mechi and Biratnagar customs (Department of Customs, 2017). Department of Customs studies has recommended bringing OGAs within the customs areas and introducing an

[23] https://thehimalayantimes.com/business/ministry-of-industry-commerce-and-supplies-revokes-decision-to-check-pesticides-in-veggie-imports/

[24] https://myrepublica.nagariknetwork.com/news/sc-tells-govt-to-compulsorily-test-imported-vegetables-fruits-for-pesticides-residue/

automated system for OGA to conduct their activities that have a bearing on customs clearance and to interface with the core customs clearance system (Department of Customs, 2017, 2020). Given that OGAs do not have access to the customs' automated system, ASYCUDA, the recently introduced National Single Window (NSW)[25], if properly implemented, can gradually bring OGAs into the integrated customs administration system.

Similarly, regarding exports (to India), official documents point out that a source of delay is the absence of an accredited laboratory in customs—for example, in Mechi and Biratnagar—which means that most of the export cargoes requiring submission of test certificates have to rely on laboratories in India located quite far away, and it may take at least a month to get the test results (Department of Customs, 2017). However, the real problem is not so much the absence of accredited laboratories right at the customs points as it is their absence in Nepal. However, information asymmetry seems to be also playing a role in delays in moving export consignments. Although there are several private laboratories in Kolkata accredited by India's National Accreditaion Board Testing and Calibration Laboratories (NABL), also notified by the Food Safety and Standards Authority of India (FSSAI), Nepali exporters continue to send samples to only one laboratory, the state-owned Central Food Laboratory (Taneja, 2018). The dependence on a single laboratory is causing delays and leading to inefficiencies and rent-seeking (Taneja, 2018).

There is a need for better coordination in Nepal to address the issues causing delays in the movement of export and import cargoes. Enhanced coordination is needed among public agencies (e.g., bringing together OGAs within the customs premises) and between the government and the private sector. For instance, government agencies such as the Trade and Export Promotion Centre informing exporters and freight forwarders about the availability of multiple laboratories in India. While effective coordinated border management requires establishing a “one-stop-shop” for the sharing of information and resources between DoC and other relevant border agencies (Dahal, 2019), such a set-up is yet to be put in place although policy and strategy documents envision it (e.g., Commerce Policy 2015 [GoN, 2015], NTIS 2016).

Developing a national single window (NSW), to increase the level of automation of customs and related processes and eventually achieve paperless clearance, is a government policy (e.g., Commerce Policy, 2015; NTIS 2016). A partial NSW was launched on 26 January 2021 covering three agencies—plant quarantine, animal quarantine, and DFTQC—with the government planning to link 40 agencies into the NSW from mid-June 2021[26]. Dahal (2019) reports that an internal assessment by the Department of Customs identified 63 different agencies and organizations under seven categories as NSW stakeholders: (i) export–import clearing government agency (1); (ii) quarantine-related agencies (8); (iii) certificate-of-origin issuing agencies (2); (iv) payment-related agencies (2); (v) agencies involved in goods management and movement (5); (vi) permit-, license-, certificate-, recommendation-issuing agencies and registration agencies (39); and (vii) users (2). Most of these agencies exhibit limited information and communication technology (ICT) application and an absence of ICT staff and infrastructure (ibid.). As noted in Dahal (2019), the process of developing NSW and implementing it has been delayed by the “diverse nature of the relevant agencies”, with each agency having a separate chain of command. Dahal (2019) argues that in order to mobilize all related agencies for automation in a speedy and coordinated manner, an institutional arrangement at the cabinet secretary level would be needed to provide “high-level guidance and incentivize government agencies to take timely decisions and speed up implementation”.

There are coordination problems beyond the ones that can be addressed by implementing the NSW and locating all quarantine agencies on customs premises. As discussed in the previous sub-section,

[25] https://risingnepaldaily.com/main-news/govt-to-bring-single-window-system-on-foreign-trade
[26] https://www.nayapatrikadaily.com/news-details/59173/2021-01-27

enforcement of SPS measures has been impeded by a lack of effective communication and coordination between customs and quarantine agencies and among the quarantine agencies themselves (although they are all part of MoALD).

2.7 Coordination issues in trade negotiations and commercial diplomacy

NTIS 2016 has identified trade negotiations as another issue where Nepal must substantially improve to enhance its export prospects. NTIS observes that "there is a dearth of skilled negotiators with a clear understanding of international laws and conventions, including the rights of access of land-locked states to the sea and freedom of transit while dealing with trade and transit-related issues, among others." While the dearth of skilled negotiators is a crucial factor in poor trade negotiation capacity, the lack of a functional institutional mechanism in the Ministry of Commerce (now MoICS) to effectively coordinate with other government agencies is documented in NTIS 2016. Since trade negotiation requires a detailed assessment of the possible impacts on different sectors, this inability to forge a meaningful coordination with different government agencies, exacerbated by a lack of proper dialogue with the private sector (through, for instance, the non-functioning of legislatively created frameworks such as the Nepal Business Forum), has the potential to not only prevent beneficial agreements, but also to create an adverse trade environment through agreements that have not been well thought out.

Kharel (2020) illustrates, as an example of lack of coordination in trade negotiations, Nepal's removal of cereals and most other agricultural products from its sensitive list under the Agreement on South Asian Free Trade Area (SAFTA) circa 2012, even when Nepali farmers, most of whom are smallholders, have suffered from the onslaught of import competition. Ironically, the government, of late, is pressing for exempting Nepal from having to provide reciprocal tariff-free access to primary agricultural products from India, which even if India decides to grant, will have little meaning if tariff-free access is available to India through the SAFTA route (Kharel 2020). A proper coordination with MoALD would have likely provided more clarity to the negotiators and prevented them from taking measures that they now feel compelled to undo.

Likewise, inadequate commercial diplomacy was also highlighted during our consultations as a constraint that impedes export promotion. For instance, it was pointed out that support from missions abroad during trade negotiations has been inadequate. Their role in finding buyers for Nepali exports and overall promotion of Nepal's primary exports is not proactive enough. This hints at a poor coordination between Nepali missions abroad and the relevant ministries such as MoICS. There is a need for an institutional mechanism that includes foreign missions of Nepal and helps facilitate exchange of information so that negotiators can gain valuable knowledge for trade negotiations and the foreign missions can provide information about Nepal's key exports to interested buyers abroad. Coordination between MoICS and the Ministry of Foreign Affairs also is critical to resolve trade frictions quickly. Sainju (2021), for example, discusses the ban on ginger imports from Nepal by India in 2016, and also outlines the activities that Nepali diplomatic missions abroad must undertake to promote exports—all of which require coordination with MoICS and the private sector.

2.8 The design of ICDs and ICPs

Five inland container depots (ICDs), also known as dry ports, and two integrated check posts (ICPs) are in operation in Nepal. The two ICPs are on the border with India (Birgunj and Biratnagar). Four ICDs are in areas bordering India (Kakarbhitta, Biratnagar, Birgunj and Bhairahawa), while there is one ICD in an area bordering China (Tatopani). Inadequate size and/or poor layout of their infrastructure hinders these facilities' ability to cater to current import and export volumes, let alone future trade volumes (Dahal, 2019)[27]. The Biratnagar and Bhairahawa ICDs cannot adequately handle cargo due to

[27] Information in this sub-section is also based on visits to ICPs and ICDs.

their size and layout (Dahal, 2019; Department of Customs, 2020b). The layout of the ICP in Birgunj is not compatible with the standard customs processes needed to facilitate the smooth flow of cargo and the facility thus remains underutilized (Dahal, 2019). The government has been unable to integrate the old Birgunj customs, the Birgunj ICP and the Sirsiya rail-linked dry port under a single administration (Department of Customs, 2020b)[28]. The failure to develop access roads as part of the overall package of ICD and ICP development has also hindered realizing the trade-facilitating potential of these facilities (Dahal, 2019). When constructing the existing ICPs, staff quarters were not built close to the office, making it difficult for customs officials to work late into the evening[29].

These problems could have been avoided through better coordination among ministries and departments when planning ICDs and ICPs. The Ministry of Urban Development, established in 2012, is responsible for designing and constructing ICPs[30]. All ICPs on the southern border, existing and planned, are constructed with the support of the Indian government. A national committee comprising relevant national agencies and an intergovernmental committee oversee ICP development. The Ministry of Physical Infrastructure and Transport oversees the construction of access roads. DoC (Ministry of Finance) is the agency in charge of cargo clearance at the border. MoICS is the lead agency in the design and construction of ICDs. The Nepal Intermodal Transport Development Board (NITDB), which falls under MoICS, regulates and oversees the operation of ICDs and ICPs. Nepal Transit and Warehousing Company Limited (NTWCL) operates the ICD in Tatopani up north and NITDB operates the ICP in Birgunj, while the management of other ICDs and ICPs have been handed over to the private sector. In other customs points, where there are neither ICPs nor ICDs, the Department of Customs alone is responsible for constructing and operating facilities in the customs area.

Constructing ICDs and ICPs to reduce trade costs is part of government policy (see, for example, Commerce Policy 2015 and National Trade Deficit Minimization Action Plan 2019). At least two more ICPs are being planned (one each in Bhairahawa and Nepalgunj), while an ICD in Rasuwagadhi (bordering China) and a container freight station in Kathmandu are under construction. Past mistakes should provide guidance to the construction of these new facilities. In other customs points, where there are neither ICPs nor ICDs, the yard and other physical facilities are not supportive of smooth cargo clearance. This is also a reflection of coordination failure.

2.9 Other border-related coordination issues

The Department of Customs notes that when building roads to Nepal's border with India—a task planned and executed by the Ministry of Physical Infrastructure and Transport—the absence of the minimum required administrative units, such as those about customs, quarantine and security, is not factored in (Department of Customs, 2020b). Arguing that the possible impacts on national security and bilateral trade should be assessed before constructing roads in border areas, the Department recommends that MOPIT consult the Department of Customs and MoICS prior to approving such projects (Department of Customs, 2020b).

The Department of Customs also maintains that its meaningful participation is not always ensured in programmes and projects that have a bearing on internal and international supply chains, implemented by various government and non-government agencies (Department of Customs, 2020b).

[28] See also https://www.abhiyandaily.com/newscategory-detail/380046.
[29] Stakeholder consultations on 8 January 2020 at MoICS.
[30] Earlier, this responsibility lay with what was then the Ministry of Physical Planning and Works. Part of this ministry's responsibility was handed over to the new ministry.

2.10 Coordination issues in north-south connectivity

The Government of Nepal has prioritized three north-south roads/corridors (Koshi, Gandaki and Karnali) as national pride projects (see 15th Plan [NPC, 2019]). These are in addition to the Galcchi-Trishuli-Mailung-Syafrubesi-Rasuwagadhi road (with Rasuwagadhi on the border with China) that is under construction and is being planned to be extended to the border with India (ibid.). The north-south roads and corridors will enhance internal connectivity, between the plains and mountains of Nepal, and potentially help in exporting products from southern Nepal to China and beyond, as well as products from northern Nepal to India and beyond. They are also aimed at connecting India and China via Nepal. In this spirit, the Commerce Policy 2015 has a policy of constructing infrastructure at customs points relevant to developing Nepal as a transit state for China-India bilateral trade.

The Mahakali corridor linking Nepal's border with India in Mahendranagar in Kanchanpur district to Tinker in Darchula district on the border with China is also a north-south corridor, although not officially designated as such. It will improve Sudurpashchim province's internal connectivity as well as its connectivity with the rest of the country. The province is pinning high hopes on the Mahakali corridor's potential to connect it with India and China, with news reports gushing about a "tri-country point", a transit corridor linking India with China via Nepal.[31] At the southern end of the Mahakali corridor will lie a dry port and inter-country (Nepal-India) economic zone in Chadani in Kanchanpur.[32]

A customs point with the basic necessary infrastructure on the border with China in Darchula is a prerequisite for the Mahakali corridor to be meaningful for international trade or transit purposes—whether for Nepal's international trade via Sudurpashchim's border with China or for international transit-traffic via the province. Yet government plans and policy documents indicate no such provisions. Rather, the Department of Customs is mulling recommending the closure of the Tinker chhoti bhansar (small customs) office in Darchula (Department of Customs, 2020b), the only official trading point on the Nepal-China border in the province, without specifying any alternatives, including replacing the chooti bhansar office with a main customs office.

2.11 Neglect of air freight

A quarter of Nepal's total merchandise exports and about three-fourths of its exports to countries other than India are airfreighted, in the bellies of passenger airlines[33]. By comparison, exports through the Kolkata and Visakhapatnam seaports in India make up only eight percent of Nepal's total exports. Despite the importance of airfreight in exports, this has not received consistent and substantive policy attention. Detailed trade and transport facilitation concerns and measures in policy documents largely centre on road, rail and sea routes. Where policies are speaking to the issue of airfreight to facilitate international trade, implementation is fragile.

The National Transport Policy 2000/01 (HMG, 2000) aims to build a new international airport that will be a basis for exports by air (and “such airport shall act in the development of tourism and promotion of international air cargo services (trade)”[34]). Yet, its air transport-specific policies make no mention of airfreight. The Air Transport Policy 2006 (GoN, 2006) has specific measures related to airfreight. It states that the government will

1. encourage Nepali airliners to operate non-scheduled/chartered passenger and cargo flights to and from countries with which Nepal has diplomatic relations,
2. encourage the private sector to be involved in the development and operation of air cargo complex at TIA and other airports, and

[31] https://bizmandu.com/content/20201206165251.html
[32] https://www.nayapatrikadaily.com/news-details/54042/2020-11-02; https://www.nayapatrikadaily.com/news-details/54348/2020-11-06
[33] Calculation based on Department of Customs data.
[34] Section 6.1.

3. simplify the approval process to encourage international chartered passenger and cargo flights.

The Commerce Policy 2015 has a working policy of properly managing the cargo complex at the Tribhuvan International Airport and taking initiatives to increase cargo flights of other countries' airlines to and from Nepal. It also talks of giving priority to exporting by air high-value and low-weight goods and providing incentives for the production of such goods. NTIS 2016, which came after the Commerce Policy was introduced, has a target of upgrading infrastructure at airports, including TIA, without specifying details. It could have fleshed out the policy on airfreight mentioned in the Commerce Policy but does not do that. In the Fifteenth Plan (2019/20-2023/24) [NPC, 2019], introduced in 2019, the policies in the air transport section do not refer to air cargo at all. The National Trade Deficit Minimization Action Plan 2019 states that Nepal Airlines, the national flag carrier, is to provide concessions on freight charge for Nepali exports. This directly speaks to the airfreight-related policies in the Commerce Policy. However, none of these four policy documents specify any measures for ensuring the development of the requisite infrastructure for facilitating air cargo movement during the construction of two new international airports, at Pokhara and Bhairahawa.

Nepal is yet to have (regular) international cargo flights. Those operated during the COVID-19 pandemic were in response to special circumstances. In pre-pandemic times, existing airfreight capacity for exports appears to have not been fully utilized, as imports on average amounted to 2,500-3,000 tons per month while exports average 900-1,000 tons[35]. On the face of it, this looks like a demand-side issue: with adequate external demand for products that would be competitive when airfreighted, the capacity would be utilized, or, if such demand exceeded capacity, cargo flights would become viable. However, there is the question of whether airfreight capacity on the import side is being fully utilized. Further, several problems have been identified in airfreight—for example, limited onward connectivity of passenger flights; lack of online booking of cargo; lack of information on cargo capacity in passenger flights; inadequate warehousing, cold storage and packing facilities at TIA; absence of cargo law; and a regulatory process that is not amenable to arranging for freighter flights at short notice[36].

Addressing these problems and implementing existing policies on facilitating air cargo movement requires coordination, at the government level, between the Ministry of Industry, Commerce and Supplies and the Ministry of Culture, Tourism and Civil Aviation. In particular, enabling cargo flights to and from Nepal, whether by domestic or by international airline companies—and, prior to that, assessing the feasibility of such flights—requires coordinated initiatives from the two ministries. Neither the Board of Trade nor the National Trade Facilitation Committee (or National Trade and Transport Facilitation Committee), whose functioning is analyzed in Section 3, has any representation from the Ministry of Culture, Tourism and Civil Aviation.

2.12 Opening of agriculture to FDI

The government opened crop farming, aquaculture, beekeeping, the poultry industry, animal husbandry, the dairy industry and other primary agriculture sectors to foreign direct investment (FDI) by issuing a notice in the official gazette on 4 January 2021. The decision drew mixed reactions from individual businesspeople. Some welcomed it while others, especially in the dairy industry, opposed it vehemently, arguing that it would severely hurt domestic agricultural producers and industry. There

[35] As per consultations with stakeholders.

[36] Information based on discussions with exporters and freight forwarders, and ITC (2017), Kharel and Dahal (2021) and Ojha (2020).

were also mixed reactions from experts and former government officials[37]. In view of the discordant responses from private sector actors, three major private sector umbrella bodies—the Federation of Nepalese Chambers of Commerce and Industry (FNCCI), the Confederation of Nepalese Industries (CNI) and the Nepal Chamber of Commerce—issued a joint statement that FDI in agriculture should be opened after further consultations with the private sector and with additional conditions[38].

The government decision removed primary agriculture from the negative list in the Act Amending and Unifying Laws Related to Foreign Investment and Technology Transfer, 2019. Keeping primary agriculture out of the negative list had been proposed when this act (then a bill) was initially presented in parliament, but the proposal was rejected. Introducing something through a cabinet decision just two years after it had failed to meet parliamentary support has been decried by some as a decision taken on the sly, without consulting all relevant stakeholders[39]. The said Act, of course, allows the government to amend the negative list at its discretion[40]. The Supreme Court issued a stay order on the decision two weeks after it was published in the official gazette.

Interestingly, the decision to open primary agriculture to FDI is that it allows foreign investment only in large industrial units (that is, units with an investment of more than NPR 500 million) and requires at least 75 percent of the resulting output be exported. These conditions are argued as being aimed at reducing the country's trade deficit in agricultural products and cushioning the possible adverse impacts of FDI on small-scale domestic farming communities and industry[41]. Of relevance to this paper is that, on the face of it, this is clearly an export-oriented policy decision and was taken by the Ministry of Industry, Commerce and Supplies—or, more precisely, by the industry wing of the Ministry under whose purview is the foreign investment act. Even though the decision directly impacts the sector of work of the Ministry of Agriculture and Livestock Development (MoALD), it appears that this key line agency was not properly consulted.

The MoALD has given conflicting views on the decision. Its spokesperson initially said the ministry had been consulted[42]. However, in an event organized to debate the decision two weeks later (on 19 January 2021), the spokesperson said the ministry's position is that extensive consultations should be held before a decision on allowing FDI in agriculture is taken[43]. This gave credence to claims made in some media reports immediately after the decision that the ministry had not been meaningfully consulted[44]. The media reported that MoICS had done a study before the decision was taken, but the study was not available on the ministry's website as of 19 January 2021. Regardless of whether it is necessary to open agriculture to FDI, the decision failed on two counts of coordination: between government ministries, and between the government and the private sector.

---

37 https://www.onlinekhabar.com/2021/01/921630;https://www.nayapatrikadaily.com/news-details/57959/2021-01-06;https://kathmandupost.com/money/2021/01/09/concerns-raised-about-foreign-investment-in-agriculture-but-it-is-needed-stakeholders-say
38 https://www.nayapatrikadaily.com/news-details/58344/2021-01-12
39 https://bizmandu.com/content/20210105163622.html
40 Section 50 of Foreign Investment and Technology Transfer Act, 2019 confers on the government the right to make necessary alteration in the Schedule (list of industries that are restricted for foreign investment).
41 https://bizmandu.com/content/20210105163622.html
42 Kantipur TV, 5 January 2021, https://www.youtube.com/watch?v=1SOMZCaXTJw&ab_channel=News24Nepal
43 Evening news bulletin on Avenues Television, 19 January 2021.
44 https://www.capitalnepal.com/news/73795

Opening agriculture to FDI is seen by some stakeholders as paving the way for exporting fresh fruits and vegetables in huge volumes to overseas markets[45]. The nature of these products means they must be airfreighted to overseas destinations. Such a plan would call for measures to alleviate the infrastructural and other constraints concerning movement of air cargo from Nepal. Going by existing policies and their state of implementation, this does not appear to be happening. With government sights set on generating tens of billions of rupees' worth of exports of fresh agricultural produce, the relative neglect of air transport in trade facilitation initiatives and measures, discussed earlier, becomes all the more jarring.

3. Institutional arrangement for coordination

MoICS is the lead ministry in formulating, implementing and monitoring policies, plans and programmes related to international trade, besides industrial development and investment. Because international trade straddles multiple sectors and activities, an institutional arrangement is in place for purposes of interagency coordination.

The Board of Trade (BOT), as provided for in the Commerce Policy 2015, sits atop the institutional architecture. The chair of the BOT is the Minister of Industry, Commerce and Supplies[46]. Besides the chief secretary (GoN), a member of the National Planning Commission and the governor of Nepal Rastra Bank (the central bank), BOT membership comprises secretaries from different ministries, along with the heads of private sector associations and experts (Annex Table A.2). The BOT does not include representatives from the Ministry of Physical Infrastructure and Transport, the Ministry of Culture, Tourism and Civil Aviation and the Ministry of Communication and Information Technology, although the scope of work of each of these ministries has a bearing on international trade.

The joint secretary of the MoICS who heads the Division of Planning and International Trade serves as the BOT's member secretary[47]. As delineated in the Commerce Policy 2015, the BOT's main function is to coordinate the implementation of the trade policy, and provide suggestions to the GoN with regard to refining the policy and removing the obstacles to its implementation. It is also tasked with taking decisions to remove impediments to export and import trade and facilitate trade. The BOT is to be supported by subsidiary committees chaired by the secretary of the MoICS; these also represent the private sector (WTO, 2018). The Commerce Policy 2015 prescribes that the BOT meet at least once every two months.

The BOT is close to non-functional. As per the Commerce Policy 2015, the BOT should have at least one meeting every two months. Hardly one meeting is held per year on average. The last major meeting of BOT was in connection with the World Trade Organization (WTO)'s Trade Policy Review in 2018. The positions of experts serving as members of the BOT remain vacant[48]. Delays in filling these positions through appointments are hurting the functioning of the BOT. This state of the BOT prevails despite the fact that it was established through a cabinet decision[49].

There exist two trade facilitation committees in the MOICS whose terms of reference include a coordination function. These are the National Trade and Transport Facilitation Committee (NTTFC) and the National Trade Facilitation Committee (NTFC). Their inputs are to go to the BOT. They have

---

[45] https://kathmandupost.com/money/2021/01/09/concerns-raised-about-foreign-investment-in-agriculture-but-it-is-needed-stakeholders-say. See also Sainju (2021) for an argument in support of allowing FDI in agriculture.

[46] When the BOT was created, its chair was the Minister for Commerce and Supplies. With industry, commerce and supplies now under the same ministry, the Minister for Industry, Commerce and Supplies chairs the BOT.

[47] This Division is now the Multilateral Trade and Trade Cooperation Division.

[48] The tenure of these appointees is two years.

[49] This is by virtue of the fact that the Commerce Policy was endorsed by the cabinet.

very similar compositions and functions. The former was revived in 2012 under the chairmanship of the secretary of Ministry of Commerce and Supplies (now MoICS). The NTTFC was first established in 1994 in the context of the Multimodal Transport and Trade Facilitation Project[50]. The project was financed by the International Development Association (of the World Bank Group) and executed with technical support from the United Nations Conference on Trade and Development (UNCTAD). The committee was instrumental in drafting four significant pieces of transport legislation—the Multimodal Transportation of Goods Act (2006), the Railway Act (2013), the Goods Carriage by Road Act and the Marine Insurance Act (UNCTAD, 2006). It also provided recommendations for simplifying, standardization, and harmonizing transit and trade documents (UNCTAD, 2006). When the project officially ended on September 20, 2003, the NTFFC could not be sustained (UNCTAD, 2006) until its revival in 2012.

The NTFC, on the other hand, was formed as per the requirement of the WTO's Trade Facilitation Agreement, which came into force in early 2017. Annex Tables A.3 and A.4 present the terms of reference of the NTTFC and NTFC, respectively. Annex Tables A.5 and A.6, respectively, show the composition of the NTTFC and the NTFC. The compositions of the two committees are practically the same. Like the BOT, the committees have representatives from the private sector. The similarity in their functions is apparent. The NTTFC is under the aegis of the division that handles bilateral and regional trade, while the NTFC was set up by the division handling multilateral trade and assistance. The co-existence of two committees with the same objectives and functions is a symptom of the challenges in coordination within the MoICS. The ministry is seriously mulling a transition to only one trade facilitation body.

Formed to meet a WTO Trade Facilitation Agreement (TFA) requirement, which could have been achieved by identifying the existing body, NTTFC, as the relevant committee—the NTFC is not active. Even though the NTTFC had made contributions to trade and transport facilitation measures when it was part of a project, the committee's functioning as a permanent body since 2012 has been weak. NTTFC meetings are supposed to take place once every month, but they are irregular. Former officials who have participated in the meetings are more in the nature of information sharing rather than coherent problem identification, strategizing to address the problems, target setting, and follow-ups. The private sector finds the effectiveness of NTTFC hampered by inadequate consultations with commodity associations.

The NTTFC lacks a secretariat with staff dedicated to its functions and activities. This is identified as another cause of its ineffectiveness. Currently, the NTTFC has an MoICS undersecretary as its member secretary. The task associated with the NTTFC is a residual task, and not necessarily the most important one, for the undersecretary, who has other tasks on his plate. Working groups can be formed under NTTFC, but this option has not been exercised. The absence of a dedicated secretariat with support staff is also hampering the functioning of the BOT. At present, the BOT's member secretary is an MoICS joint secretary, for whom this is one of many roles to be discharged.

A key (and first) step to make the NTTFC/NTFC and the BOT effective is assigning staff members (e.g., undersecretary and section officer) to these bodies and inscribing their roles in the organizational structure the MOICS. We have seen the BOT being non-functional despite having been formed by a cabinet decision and one reason for that is the absence of a functioning secretariat with support staff, a factor that also stymies the operation of the NTTFC/NTFC. Former government officials identify an additional challenge facing the two committees: the absence of a high-level mandate. The committees' authority is limited by the fact that they were established by a minister, not by the cabinet, and are headed by a secretary. Dahal (2019) also identifies the lack of a high-level and clear

[50] https://unctad.org/system/files/non-official-document/TFC_NP_EN.pdf

mandate to coordinate all trade facilitation measures as impeding its efficacy. On the other hand, the BOT being chaired by a minister or minister of state for industry, commerce and supplies, rather than the prime minister, is not a constraint on its functioning at present, as it has yet to hold regular meetings. However, there are views that such a body needs to be headed by the prime minister for it to have the presence of various ministers. This is necessary for making decisions on issues requiring the cooperation of multiple ministers—for example, the agenda of making tariff and tax policy conducive to exports.

There is no integrated information database reflecting the status and requirements of various government agencies responsible for implementing measures committed to under the Trade Facilitation Agreement (Dahal, 2019). The lack of legal mandate of the NTFC, or a formal mechanism under it, to harmonize foreign aid in the area trade facilitation is also a weakness of the NTFC arrangement (Dahal, 2019).

Even if the two committees (NTFC/NTTFC) were functioning well, not all coordination issues in trade policy implementation would have been addressed. This is because the functions of these committees cover activities in the realm of trade, transport and transit facilitation. Trade facilitation is generally understood as referring to the transit of goods, fees and formalities (documentation and procedures), and the transparency of laws and regulations. The aim is to ease border procedures and to facilitate the movement, release and clearance of goods[51]. The content of the ToRs of both the committees implies it is this standard coverage of trade facilitation that is under consideration. This is especially not surprising in the context of the NTFC as it was set up as a requirement of the WTO's Trade Facilitation Agreement.

Yet trade policy is more than trade, transport and transit facilitation. There are factors that affect export competitiveness that go beyond these issues and also require coordination. A few examples of issues that do not come under the purview of the two committees are (problems in): the implementation of the duty drawback system with regard to import duties on inputs used in production for exports; the design and implementation of the cash incentive scheme for exporters; access to export finance; provision of market intelligence and information on available fiscal incentives (including for farmers); and capacity of producers/exporters[52]. Further, although the ToRs of the committees include the task of addressing constraints concerning SPS and TBT issues, the scope is likely to be limited by the trade-transport facilitation focus of the committees. For example, while coordination among border agencies, including plant and animal quarantine units, would come under the purview of the committees, issues such as the constraints in the adoption of good agricultural and collection practices, and the need to upgrade, and get international accreditation for, the Kathmandu laboratory of DFTQC are likely beyond their scope. The Trade Facilitation Agreement is mostly interested in SPS and TBT issues insofar as they are related to imports. Upgrading laboratories would be relevant to both imports and exports, but there could be testing and certification issues specific to exports. Suppose the argument is that the ToRs are broad enough to permit the discussion of all SPS and TBT issues. In that case, other trade policy and export competitiveness issues—some of which were enumerated above by way of examples—might as well be brought into the committees' agenda. This discussion points to the role that the BOT, with its broader mandate covering all trade policy issues, could have played in enabling the coordination needed for boosting export competitiveness. The reality, to recall, is that the BOT has not even been able to meet regularly.

The NTIS 2016 specifies an institutional set-up for its implementation. At the top of the institutional mechanism for implementing the NTIS 2016 is the Enhanced Integrated Framework National Steering Committee (EIF NSC). Chaired by the Minister for Commerce (and now, Industry and Supplies), the

---

[51] See https://www.wto.org/english/news_e/brief_tradefa_e.htm.

[52] See Sainju (2021), for example, for a discussion of product-specific constraints faced by exporters.

NSC is to ensure "effective coordination for the implementation of the Strategy through policy and strategic guidance and resource mobilization" (GoN, 2016). It is to assess annually the performance of the six thematic committees (TCs) and product-specific focal points (FPs) assigned to implement NTIS. Inputs and outputs are to be monitored against the indicators and targets in the Action Matrix. The TCs, with joint secretaries of MoICS, Ministry of Agriculture (now MoALD), Ministry of Finance and the Office of the Prime Minister and Council of Ministers as coordinators, are to submit progress reports to MoICS twice a year. The progress reports are to be discussed in a meeting under MoICS chaired by the Commerce Secretary, which will provide guidance and directions to the TCs. Issues regarding higher-level interventions are forwarded to the NSC. Given the limited results in implementing product-specific actions relative to cross-cutting activities under the NTIS 2010, the NTIS 2016 designates product-specific focal points given specific roles and responsibilities. These focal points are to coordinate with various government agencies, the private sector and development partners. The Action Matrix specifies the government agencies responsible for each action. The NTIS 2016 envisions adopting a sector-wide approach or a similar modality for effective coordination and mobilization of domestic resources and aid for trade. The failure to meet the export targets of the NTIS 2016 by a wide margin reflects poorly on the functioning of its institutional set-up.

The Nepal Business Forum (NBF), a high-level platform for public-private dialogue, was established by the GoN in May 2010. Its objectives are to stimulate dialogue between the public and private sectors; make recommendations that promote investment and business, assisting the government with implementation and monitoring; and establish an institutional framework for regular, results-oriented and transparent dialogue[53]. At the top of its institutional structure is a high-level business forum (HLBF), chaired by the prime minister and comprised of ministers, secretaries, civil society, private sector organizations, and development partners. The secretary (industry) of MoICS serves as member secretary of the HLBF. It is to hold meetings as required. Below the HLBF is the private sector development committee (PSDC), chaired by the chief secretary and comprised of secretaries of relevant ministries and heads of two private sector umbrella bodies—the FNCCI and the CNI. An MoICS joint secretary (Industrial Promotion Division) serves as member secretary of the PSDC, which is mandated to meet at least once every two months. The Industrial Promotion Division of the MoICS serves as a secretariat which coordinates with all line ministries. The private sector umbrella groups, the FNCCI and the CNI, also have their own secretariat for the NBF. Given the presence of high-ranking officials in its institutional structure, the NBF is more powerful than the BOT and the NTFC/NTTFC. In principle, the NBF can play an important role in the coordinated formulation and implementation of policies and strategies relevant to international trade, among others.

When problems identified and policy measures discussed in the NTFC/NTTFC and the BOT need further discussions among higher authorities before a decision can be reached, forwarding the same to the NBF would make practical sense. However, this avenue has not been fully utilized. The NBF was quite active in its initial years and succeeded in bringing about a few major policy reforms—for instance, its involvement resulted in the implementation of 75 recommendations out of 165 issues raised by the private and public sectors[54]. Some of its stated achievements include investment promotion and facilitation (promulgation of Board of Investment Act), reforms in tax payment, refinancing facility for exporters at concessional rates, registration of collective trademark (for pashmina and coffee), trade facilitation reforms (simplification of documentation requirements for trade), and hydropower sector reforms[55]. However, it has been largely inactive, almost to the point of

[53] https://www.nepalbusinessforum.org/page/detail/about-us-17/.
[54] https://www.nepalbusinessforum.org/page/detail/about-us-17/. Last accessed March 31, 2021.
[55] https://www.nepalbusinessforum.org/page/detail/about-us-17/. Last accessed March 31, 2021.

non-existence, in the last five years[56]. Some former policymakers are of the view that the NBF's institutional structure that assigns similar designations to high-level government officials as well as to representatives from the private sector, which did not go down well with bureaucrats and consequently resulted in lack of ownership by them, played a role in the ultimate collapse of the NBF.

Lastly, the private sector is also believed to contribute in some ways to the poor functioning of coordination bodies. Consultations with bureaucrats and former bureaucrats reveal that private sector associations do not always take the task of enhancing coordination with the necessary gravity. According to a former bureaucrat, "there is representation from the private sector, but not participation." For instance, while committees designate certain officials occupying a specific position in a private sector body as members of the coordination bodies, private sector bodies do not adhere to that prescription and send their representatives ad-hoc. Instead of a designated person attending the meeting regularly and contributing to the development of institutional memory, the ad-hoc nature of private sector participation makes the meetings perfunctory.

[56] For instance, the NBF's website (https://www.nepalbusinessforum.org/) doesn't show any activity after May, 2017 (as of 31 March 2021). The website still lists Sher Bahadur Deuba as the chair of the high-level committee, when in fact he is not the prime minister and consequently the chair of the committee since February, 2018.

Box 1: The case of export coordination in Ethiopia

High-level committee that meant business

Ethiopia's National Export Coordination Committee (NECC) was established in 2003, after its precursors, the Export Promotion Board and the Ethiopian Export Agency, proved largely ineffective. The NECC was mandated to promote exports and improve coordination among government institutions. Chaired by the prime minister, its membership was composed of representatives from different government ministries. The agendas of the NECC meetings included performance reviews of the overall export sector and each ministry, setting monthly targets and reviewing actual performance. Discussions were based on the report of each ministry and agency, and focused on constraints requiring decisions. With the monthly meetings, always chaired by the prime minister, rarely cancelled, a total of 90 meetings were held between 2003 and 2012. Each meeting usually took almost a day. The prime minister made the difficult decisions, where necessary. The founding chair of the NECC, Prime Minister Meles Zenawi, who served as the prime minister from 1995 to 2012, is recognized as the architect of the country's industrial development strategy.

On NECC's watch, Ethiopian merchandise exports grew by 22 percent per annum on average between 2006 and 2012, with merchandise export earnings rising from US$1 billion to US$3.2 billion. In particular, the growth of floriculture exports was spectacular, with the NECC playing a vital role in addressing many of the constraints by the firms in the sector. The NECC made floriculture a top priority from 2004 and 2011. Once the Ethiopian Horticulture Development Agency was established, it became part of the NECC. The state-owned Ethiopian Airlines responded effectively to the needs of the floriculture sector whose perishable cargo required to be airfreighted to destination markets. There were almost no floriculture exports before 2004. Exports grew at the rate of 400 percent per annum from 2003-04 to 2011-12. As a result, the share of floriculture in exports rose from 0.05 percent in 2004 to 6.2 percent in 2011, and the sector became the fifth largest source of foreign exchange earnings.

Remaining coordination challenges

Despite its achievements, the NECC was unable to realize its full potential in addressing coordination failures due to four key factors. First, the NECC had a narrow composition, and excluded important agencies and stakeholders such as state-owned banks, the national flag carrier, institutes responsible for key export industries, and industrialists and industrial associations. Beginning in 2009, autonomous institutes (for leather, textiles and metal industries) were established. These, together with the Ethiopian Horticulture Development Agency, were helpful in channelling supports to industries and firms, dealing with bureaucratic inertia, organizing the incentive structure and strengthening government-industry information flows and collective learning. However, apart from the horticulture agency, these institutes, not being represented in the NECC, detracted from its effectiveness.

Second, as the NECC's agenda was limited to direct export issues, the complementarities between export and import-substitution industries were ignored. A decision in late 2012 incorporated import substitution industries such as cement and steel, pharmaceuticals, food processing, and beverages into the NECC agenda, to allow for better coordination and a clearer focus on the manufacturing sector.

Third, the NECC was unable to focus only on major coordination failures as operational issues and routine coordination problems that could have been dealt with at sectoral, regional and local levels were brought to its attention. The Ministry of Industry was the lead agency for industrialization, but its functioning was hamstrung by its limited mandate and lack of political influence over other institutions. The coordination problems it faced were also brought before the NECC.

Fourth, effective export target setting was impeded by the limited supply response of the domestic economy. The analytical capability needed for well-operationalized targets that take account of the domestic supply capacity and the support needed to meet the targets was inadequate.

Source: Oqubay (2015)

Box 1 presents the experience of Ethiopia, another landlocked least developed country, where a high-level export coordination committee played a pivotal role in the country's spectacular export growth. The outstanding coordination challenges are also discussed.

4. Summary and recommendations

The promotion of industrialization and exports is a critical component of Nepal's trade and industrial policy and other sectoral policies. However, progress in both industrialization and exports remain lackluster. A poor state of coordination among different government agencies has been identified, including by the government's policy documents such as the Nepal Trade Integration Strategy, as a major impediment to the proper implementation of government policy. Our study highlights some of the coordination issues. For instance, lack of coordination between industrial and export promotion agencies (different government agencies under the Ministry of Industry, Commerce and Supplies) and revenue-related agencies (different government agencies under the Ministry of Finance) have resulted in lack of implementation of some of the industrial and export promotion tools such as facilities and concessions accorded to industries.

Furthermore, it has fostered an environment of uncertainty among industries regarding the incentives provided by the law. Likewise, lack of coordination has been affecting SPS/TBT administration, where coordination among government agencies is pivotal. Trade negotiation capacity and economic diplomacy also suffer from lack of coordination. Likewise, lack of coordination among customs and other government agencies prevents an efficient customs-clearance process, thereby increasing costs and time for traders. Similarly, lack of coordination among different government agencies has created issues in ICDs and ICPs, making them unable to manage current trade flows efficiently. The study examines the current coordination mechanism regarding Nepal's international trade, finding that the apex body, the Board of Trade, is largely non-functional, unable to even hold meetings regularly, and that the absence of dedicated secretariat services has stymied the functioning of the board as well as other trade-related bodies. Finally, the study offers some examples for improvement in this mechanism through the case study of Ethiopia.

Given the findings of the study, we propose the following broad actions and reforms, the details of which must be chalked out through the active participation of different government agencies:

- Ensure implementation of incentives provided to industries by the Industrial Enterprises Act. Moreover, ensure that the incentives provided do not erode through amendments, including through provisions in other legislation. A significant ownership of the Industrial Enterprises Act by the Ministry of Finance is necessary to implement and continue industrial incentives, which requires increased coordination between the Ministry of Finance and MoICS. Furthermore, a clear vision is needed on the government's part to balance the two competing interests in the form of industrialization and government revenue, at least in the initial phase.
- Move away from the practice of making laws in silos. Ensure wide stakeholder participation during the law-making process so that the laws are coherent, gain the ownership of all stakeholders, and secure necessary funds for their proper implementation. For instance, a vigorous discussion must be carried out through the parliamentary committees regarding implications of the law before they are implemented. All the contentious issues must be sorted out beforehand. Once the laws are endorsed, it is an obligation of all agencies to follow it. Hence, when the Finance Act is formulated each year, the provisions made by other laws affecting it should be respected. Some sort of monitoring mechanism might be needed to ensure that there are no conflicts with provisions mentioned in other laws. This would once again require a coordinated approach from different government ministries rather than each ministry only focusing on its immediate sectors. Furthermore, a robust mechanism for the implementation of laws has to be developed.
- Ensure that the filing process for claiming facilities such as duty drawback and export subsidy is simple and transparent. Promoting electronic filing and electronic payment of the incentives may be considered.

- Formulate a clear vision regarding the export subsidy scheme—for instance, its priorities with regard to market diversification, product diversification, export growth, etc.—and ensure that it is efficiently implemented.
- Disseminate information to industries, for instance, through publication in the ministries' websites or in the Nepal Trade Information Portal website, regarding the concessions and facilities that the industries are entitled to and the procedures for claiming the incentives.
- Ensure proper implementation of the National Single Window that has recently been launched at the customs offices. Ensure that more non-customs offices/other government agencies (OGAs) such as banks are integrated into the national single window for an efficient customs clearance. Expedited introduction of e-payments for the payment of customs duties will also enhance the customs clearance process.
- Introduce guidelines detailing the minimum facilities and standards that must be ensured in inland clearance depots (ICDs) and integrated check posts (ICPs). Ensure effective representation and participation of customs in the process of designing ICDs and ICPs so that the layout and facilities are adequate to meet current and future needs.
- Regarding SPS issues on the import front, having an integrated import permit system and an integrated office that hosts all the different SPS agencies would be a more efficient system. Furthermore, while Nepal's law currently does not allow it, having all the different agencies needed for customs administration, under a single agency, can solve SPS-related coordination issues through potential reforms in the legislative framework. On the export front, as SPS-related non-tariff measures in destination countries are a key obstacle to exports, the National SPS Coordination Committee should be made functional with priority.
- Enhance the level and quality of public-private dialogue and ensure implementation of regulations to ensure that SEZs are attractive locations for industries.
- A Logistics Policy, being developed by the government with MoICS as the lead agency, stands to help reduce domestic and international trade time and cost by tackling the underlying constraints in an integrated and coordinated manner. At the same time, successful implementation of this policy critically depends on good coordination. The lessons from existing trade-related institutional mechanisms should be utilized when setting up and refining an institutional mechanism for the execution of the Logistics Policy.
- Against the failures of so many committee-style coordination institutions and a body chaired by the minister, formulate a clear vision on the mechanism for institutional coordination, learning from past mistakes and international good practices. Adequate resources—human and financial—a clear mandate, and/or legislative backing are the essentials. A commitment at the highest political level is crucial for effective operationalization of existing or proposed mechanisms.

Making the Board of Trade functional would be a key first step towards addressing trade policy coherence and coordination problems. This requires, first of all, holding its meetings regularly. It should be backed by a dedicated secretariat, providing adequate human and financial resources. The Board of Trade should be expanded to include yet other ministries handling sectors relevant to international trade such as tourism and civil aviation, communication and information technology, and physical infrastructure and transport. An implementation committee may be formed under the Board of Trade headed by a Secretary (Commerce and Supplies) and having as members joint secretaries or representatives of a similar level from the agencies represented in the Board of Trade. An undersecretary from MoICS, supported by a couple of section officers, can provide secretariat services to the implementation committee. The National Trade and Transport Facilitation Committee and the National Trade Facilitation Committee, which have virtually the same composition and ToR, should be turned into a single committee/body with staff specifically assigned to it. This committee could be a subset of the implementation committee. Working groups/committees could be formed under the implementation committee as per the need, and each of these should have permanent staff member(s) to provide secretariat-like services.

As there are issues on which the requisite decisions from various ministries are forthcoming only with the prime minister's involvement, a mechanism must be instituted to enable such issues to be forwarded from the Board of Trade to a meeting chaired by the prime minister (i.e., cabinet meeting). Forming a (say, coordination) council/committee chaired by the chief secretary with secretaries of key trade-relevant line ministries as members would be one way of improving inter-ministerial coordination and of ensuring issues requiring intervention by the prime minister is brought to his/her attention. This is critical for effectively operationalizing the Board of Trade. The various bodies formed to implement the Nepal Trade Integration Strategy need to be tightly linked to the Board of Trade through a robust reporting and feedback mechanism. Revitalizing the Nepal Business Forum and leveraging it in trade policy formulation and implementation also merits consideration.

While holding regular meetings is a basic necessary condition for various bodies to function well, ultimately their effectiveness depends upon discipline in terms of the meetings having clear agendas, setting targets and conducting diligent follow-ups, along with accountability of all participants.

This paper has focused on coherence and coordination in the context of federal policies and federal agencies. Although many prominent instruments and activities under trade policy, such as tariffs, customs clearance, border infrastructure, regulation of foreign direction investment, standards and technical regulations and trade negotiations, fall exclusively under the remit of the federal government, subnational governments can introduce laws, policies, strategies and programmes that impact production and international trade, including exports. For example, agriculture is an area that falls under the authority of all three tiers of government, and a coordinated effort by all three is needed to set up a credible system of traceability, a tool that will help Nepali agro-forestry-based products carve out a niche for themselves in international markets. How to ensure synergy between the three tiers of government activities to improve export competitiveness is a subject worth investigating in future work. On another front, while this paper has briefly touched upon coordination issues in economic/commercial diplomacy, this topic merits a detailed study. One fruitful line of enquiry would be to identify the institutional interventions needed to make economic/commercial diplomacy effective, including ways to ensure the participation of provincial governments in such diplomacy.

References

ADB. 2019. *Macroeconomic update, Volume. 7, No. 2: Special economic zones: Issues and challenges*. Kathmandu: Asian Development Bank.

Arenas, G. 2016. "From evidence to policy: Supporting Nepal's trade integration strategy. Policy Note 2: Nepal integration into value chains: Stylized facts and policy options". The World Bank, Washington, D.C.

Dahal, S. 2019. "Nepal". In Abdou, M., Butiong, R., Kumar, U., & Shepherd, B. (ed.), *Borders without barriers: Facilitating trade in SASEC countries*, pp. 189-216. Manila: Asian Development Bank.

Defever, F., Reyes, J-D., Riaño, A., & Varela, G. 2017. "All these worlds are yours, except India: The effectiveness of export subsidies in Nepal". Policy Research Working Paper 8009. The World Bank, Washington, D.C.

Department of Customs. 2017. *Time release study report: Mechi and Biratnagar customs 2017*. Kathmandu: Department of Customs, Government of Nepal.

Department of Customs. 2020. *Time release study: Bhairahawa customs* [in Nepali]. Kathmandu: Department of Customs, Government of Nepal.

Department of Customs. 2020b. "Study report of task force on customs points" [in Nepali]. Unpublished report of Department of Customs, Government of Nepal, Kathmandu.

EPI. 2019. "Legislation and operation of special economic zones in Nepal". EPI Lessons Product, Economic Policy Incubator, Kathmandu. http://epi.org.np/resources.

FIAS. 2008. *Special economic zones: Performance, lessons, and implication for zone development*. Washington, D.C.: The World Bank.

FNCCI. 2020. Recommendations of the Federation of Nepalese Chambers of Commerce and Industry for the budget and finance act of fiscal year 2020/21 [In Nepali]. May 2020. Federation of Nepalese Chambers of Commerce and Industry, Kathmandu.

GoN. 2006. *Air Transport Policy* [in Nepali]. Kathmandu: Government of Nepal.

GoN. 2015. *Commerce Policy* [in Nepali]. Kathmandu: Government of Nepal.

GoN. 2016. *Nepal Trade Integration Strategy 2016*. Kathmandu: Government of Nepal.

GoN. 2019. *National Action Plan for Trade Deficit Minimization*. Kathmandu: Government of Nepal.

GoN. 2020. *Budget speech for fiscal year 2020/21* [In Nepali]. Kathmandu: Ministry of Finance, Government of Nepal.

HMG. 2000. *National Transport Policy 2000/01*. Kathmandu: His Majesty's Government.

International Trade Centre. 2017. *Nepal: Company perspectives. An ITC series on non-tariff measures.* Geneva: International Trade Centre.

Kharel, P., & Dahal, K. 2021. "Small and medium-sized enterprises in Nepal: Examining constraints on exporting". In Urata, S. (ed.), *Enhancing SME participation in global value chains: Determinants, challenges, and policy recommendations*, pp. 367-97. Tokyo: Asian Development Bank Institute.

Kharel, P. 2020. "Industrialization, input duties and revenue concerns in Nepal". SAWTEE Working Paper Series 20/01. South Asia Watch on Trade, Economics and Environment, Kathmandu.

Narain, A., & Varela, G. 2017. *Trade policy reforms for the twenty first century: The case of Nepal*. Washington, D.C.: The World Bank.

NPC. 2019. *Fifteenth Plan (2019/20-2023/24)* [in Nepali]. Kathmandu: National Planning Commission, Government of Nepal.

Ojha, P. 2020. "Aviation logistics in the BBIN sub-region: Pathways for greater resilience". CUTS International Briefing Paper, November.

Oqubay, A. 2015. *Made in Africa: Industrial policy in Ethiopia*. Oxford: Oxford University Press.

Pazzini, A., Reyes, D., & Varela, G. 2016. "Assessment of the impact of the incentive to promote export diversification in Nepal. Policy Note 4". The World Bank, Washington, D.C.

Sainju, R.S. 2021. "Assessment of trade and competitiveness barriers to Nepal's export sector". Report submitted to The Asia Foundation, Kathmandu.

Taneja, N. 2018. "Granular approach to addressing nontariff barriers: India's trade with Bangladesh and Nepal". In Kathuriya, S. (ed.), *A glass half full: The promise of regional trade in South Asia,* pp. 105-158. Washington, D.C.: The World Bank.

UNCTAD. 2006. *Trade facilitation handbook Part I – National facilitation bodies: Lessons from experience.* Geneva: United Nations Conference on Trade and Development.

WTO. 2018. *Trade Policy Review: Nepal (WT/TPR/S/381).* Geneva: World Trade Organization.

Annex

Table A. 1: Incentive (facilities and concessions) provisions in Industrial Enterprises Act, 1992 that were annulled

Details of incentives	Legislative framework annulling the incentives previously provided to industries
15 (a) Sales tax, excise duty, and income tax shall not be levied on cottage industries.	Financial Act, 2008 (2065)
15 (c) The 'national priority industries' listed in Annex 4 shall be entitled to an income tax exemption for two additional years. But agro and forest-based industries mentioned in Annex 4 will be entitled to an income tax exemption for five years.	Income Tax Act, 2002 (2058)
15 (d) Other manufacturing, energy-based, agro and forest-based industries, other than cigarette, *bidi*, alcohol, beer, sawmill and catechu, not included in Annex 4 but utilizing 90 percent or more of their raw materials in the form of domestic raw materials shall be, upon the expiration of the five year income tax exemption period as per sub-section (b), shall be entitled to an income tax exemption for an additional period of two years.	Income Tax Act, 2002 (2058)
15 (e) Industries shall be entitled to a reduction in each income tax slab or corporate tax rate by 5 points. Example: If income tax rates as per the prevailing law are 10%, 15%, and 20%, industries shall be taxed at the rate of 5%, 10%, and 15% respectively; and if the rate of the corporate tax is 40%, industries shall be taxed at the rate of 35%.	Income Tax Act, 2002 (2058)
15 (j) If an industry diversifies itself through reinvestment in the same or any other industry, or expands its installed capacity by 25 percent or more, modernises its technology or develops ancillary industries, it shall be entitled to a deduction of 40 percent of new additional fixed assets from its taxable income. Such remission may be deducted on a lump sum or on an instalment basis within a period of three years	Income Tax Act, 2002 (2058)
15 (l) Costs incurred by any industry in skill development training prior to commencement of operations shall be allowed to be capitalized.	Income Tax Act, 2002 (2058)
15 (p) An industry donating to any school, college, university, hospital, religious place and in social activities shall be entitled to a deduction of such donated amount (up to 5	Income Tax Act, 2002 (2058)

percent of its gross income) in course of assessing the taxable income.	
15 (q) Up to 5 percent of gross income spent for the advertisement of the products or promotion services, hospitality and any other similar expenses shall be allowed to be deducted while assessing the taxable income.	Income Tax Act, 2002 (2058)
15 (r) If a single industry provides direct employment to six hundred or more people, it shall be, in addition to the income tax exemption under sub-sections (b) and (c), granted income tax exemption for an additional period of two years.	Income Tax Act, 2002 (2058)
15(s) If any other industry utilizes locally available raw materials, chemicals and packing materials, etc. on which excise duty or sales tax or both are imposed, the excise duty, sales tax or both shall be reimbursed to the industry utilizing such raw materials, chemicals and packing materials. The amount to be so reimbursed shall be refunded within sixty days after an application to that effect has been duly submitted.	Income Tax Act, 2002 (2058)
15(t) No income tax shall be levied on profits earned through export.	The Act Amending Some Nepal Acts, 1999 (2057)

Note: This doesn't take into account the incentives that were changed, reduced, or annulled by the amendment in the Act itself and only takes into consideration changes that took place as a result of other Acts. The original version of the Act (in Nepali) is obtained from the Department of Printing (http://rajpatra.dop.gov.np/) and the English translation of the original act, obtained from FAOLEX Database (http://www.fao.org/faolex/en/), is also referred to. The updated version of the Act (Act with amendments) is obtained from https://www.tepc.gov.np/assets/upload/acts/2the-industrial-enterprises-act1515.pdf.

Table A. 2: Composition of Board of Trade

Minister for Commerce and Supplies	Chairman
Deputy Minister for Commerce and Supplies	Member
Chief Secretary, Nepal Government	Member
Member, National Planning Commission, (working on commerce)	Member
Governor, Nepal Rastra Bank	Member
Secretary, Office of Prime Minister and Council of Ministers (working on Finance and infrastructure)	Member
Secretary, Ministry of Finance	Member
Secretary, Ministry of Industry	Member
Secretary, Ministry of Law, Justice and Parliamentary Affairs	Member
Secretary, Ministry of Agriculture and Livestock Development	Member
Secretary, Ministry of External Affairs	Member
Secretary, Ministry of Commerce and Supplies	Member
Director General, Department of Commerce and Supplies	Member
Executive Director, Trade and Export Promotion Centre	Member
Chairman, Nepal Transit and Warehousing Company Ltd.	Member
Chairman, Federation of Nepalese Chambers of Commerce and Industry	Member
Chairman, Confederation of Nepalese Industries	Member
Chairman, Nepal Chamber of Commerce	Member
Chairman, Federation of Cottage and Small Industries	Member

Chairman, Federation of Nepal Gold Silver Gem and Jewellery Association	Member
2 nominees from among Professors or Assistant Professors at national-level universities, who have expertise in commerce or economics	Member
4 nominees (including 2 females) who are experts in the areas of finance, commerce or economic diplomacy, nominated by the Minister for Commerce and Supplies	Member
Joint Secretary, Department of Planning and International Trade, Ministry of Commerce and Supplies	Member-Secretary

Source: Commerce Policy, 2015 (GoN, 2015)

Table A. 3: Terms of Reference of National Trade and Transport Facilitation Committee (NTTFC)

1. Continuous review of the trade and transport procedures and system with a view to update their simplification and harmonization.
2. Undertake coordination of efforts of concerned organizations in the field of facilitation of international trade and transport.
3. Collect and disseminate information on international trade and transport formalities, procedures, documentation and related matters.
4. Pursue the simplification and alignment of trade and transport documents.
5. Promote the adoption of standard trade and transport terminology and international codes for trade and transport information.
6. Promote training and research in international trade and transport and upgrade common knowledge of the trade and international practices.
7. To facilitate the establishment of ICD and CFS for the promotion of international trade of Nepal.
8. Strengthening policy coherence between national development priorities and international obligations and between trade facilitation reform initiating and technical assistance projects.
9. Provide a forum for stakeholder consultation on trade facilitation related policies and implementation (Private Sector Dialogue).
10. Increase public awareness of trade facilitation measures, practices and standards.
11. Discuss and recommend for the adaption of trade facilitation measures, oversee the implementation of policy decision and provide guidelines on key decisions for the trade facilitation projects to be implemented.

Source: MoICS

Table A. 4: Terms of Reference of National Trade Facilitation Committee (NTFC)

1. Review legal provisions and procedures for managing national trade, transit and transport patterns / systems and recommend ways to simplify and harmonize trade facilitation. 2. Identify and discuss issues related to bilateral transit agreements with neighboring countries and provide suggestions for improving the issues and processes of those agreements. 3. Improve coordination and communication between business and transport organizations. 4. To provide policy feedback for the development of the concept of cooperation in facilitating trade, transport and transit at sub-regional and regional levels. 5. Conduct periodic review of the progress of projects in implementation for improvement of transit /transport and trade facilitation. 6. Coordinate activities related to international trade, transport and transit, especially transit processes; implement the National Single Window; address SPS and TBT constraints; and improve export and import processes. 7. To simplify, standardize and consolidate documents related to trade and transit. 8. Promote training and research in international trade, transit and traffic, and make information available to stakeholders in international technologies. 9. Collect and distribute information on international trade and transportation formalities, processes, documents and related matters. 10. Encourage the development and use of ICD, ICP and CFS to increase efficiency in international trade 11. Establish policy coordination between national development priorities and international obligations to improve trade facilitation. 12. To mobilize technical assistance related to trade for the facilitation of trade and transit. 13. To act as a forum for discussions with stakeholders on trade and transportation policies and their implementation. 14. Raise awareness on issues related to trade facilitation measures, practices and parameters. 15. To make necessary decisions for the functioning of the Committee, and to make the meetings of the Committee result-oriented.

Source: MoICS

Table A. 5: Composition of National Trade and Transport Facilitation Committee (NTTFC)

NTTFC position	Designation	Agency
Chairman	Secretary	Ministry of Industry, Commerce and Supplies
Member	Joint-Secretary	Ministry of Industry, Commerce and Supplies
Member	Joint-Secretary	Ministry of Industry, Commerce and Supplies
Member	Joint Secretary	Ministry of Agriculture and Livestock Development
Member	Joint-Secretary	Ministry of Finance
Member	Joint-Secretary	Ministry of Physical Infrastructure and Transport
Member	Joint-Secretary	Ministry of Urban Development
Member	Director General	Department of Commerce, Supplies and Consumer Protection
Member	Director General	Department of Customs
Member	Director	Nepal Rastra Bank
Member	Executive Director	Nepal Intermodal Transport Development Board
Member	Executive Director	Trade and Export Promotion Centre
Member	Representative	Confederation of Nepalese Industries
Member	President	Federation of Nepal Chamber of Commerce and Industry
Member	Chairman	Nepal Chamber of Commerce
Member	President	Nepal Freight Forwarders Association
Member Secretary	Under Secretary	Ministry of Industry, Commerce and Supplies

Source: MoICS

Table A. 6: Composition of National Trade Facilitation Committee (NTFC)

Secretary, Ministry of Industry, Commerce and Supplies	**Chair**
Joint Secretary, Multilateral Trade and Trade Cooperation Division, Ministry of Industry, Commerce and Supplies	Member
Joint Secretary, Industrial and Investment Promotion Division, Ministry of Industry, Commerce and Supplies	Member
Joint Secretary, Bilateral and Regional Trade Division, Ministry of Industry, Commerce and Supplies	Member
Joint Secretary, Ministry of Finance	Member
Joint Secretary, Ministry of Agriculture and Livestock Development	Member
Joint Secretary, Ministry of Physical Infrastructure and Transport	Member
Joint Secretary, Ministry of Urban Development	Member
Director General, Department of Commerce, Supplies and Consumer Protection Management	Member
Director General, Department of Customs	Member
Executive Director, Trade and Export Promotion Centre	Member
Executive Director, Nepal Intermodal Transport Development Board	Member
General Manager, Nepal Transit and Warehousing Company Limited	Member
Executive Director, Nepal Rastra Bank	Member
President, Federation of Nepalese Chamber of Commerce and Industries	Member
President, Federation of National Industry and Commerce	Member
President, Confederation of Nepalese Industries	Member
President, Nepal Chamber of Commerce	Member
President, Nepal Freight Forwarders Association	Member
Under Secretary, Multilateral Trade and Trade Cooperation Division, Ministry of Industry, Commerce and Supplies	Member Secretary

Source: MoICS