

# NICCI e-Newsflash



**Interactive Session on Nepal India Trade organized by the Ministry of Commerce, GoN & JWG**

The Ministry of Commerce, Government of Nepal, in association with the Joint Working Group (JWG) of Federation of Nepalese Chambers of Commerce & Industry (FNCCI), Confederation of Nepalese Industries (CNI), Nepal Chamber of Commerce (NCC) and Nepal-India Chamber of Commerce & Industry (NICCI) organized an interactive session on “Nepal-India Trade” on Monday, 6th June 2016 in Kathmandu. The program was organized to review the bilateral trade between Nepal and India after the 1996 Trade Treaty and identify improvements in its forthcoming renewal in the last week of October 2016. The Joint Working Group will recommend its findings of study and conclusions of interactive session including issues and suggestions to be considered in the forthcoming renewal of Nepal-India Trade Treaty to the Ministry of Commerce, Government of Nepal.

Delivering introductory remarks to the interactive session, **Coordinator of the JWG of FNCCI/CNI/NCC/NICCI; Secretary General at NICCI and the Moderator of the Interactive Session Mr. R.B. Rauniar** highlighted the objectives of the JWG and the Session. He further said that keeping in view the previous practice of suggesting the government team from the private sector separately and prioritizing differently, which



mystified in identifying and further prioritizing the issues from the bundle, whether they are related to the trade/transit treaty or IGC; but this time, the JWG of FNCCI, CNI, NCC and NICCI after series of meetings, had already submitted IGC related issues and suggestions to the Ministry of

Commerce in early March 2016 and the JWG is organizing the brainstorming session in association with Ministry of

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Commerce especially for review and interaction with suggestions on the provisions of the existing Nepal-India Trade Treaty so as to make it fruitful and win-win once again for both the countries.

Delivering the welcome remarks in the program, **Joint Secretary at the Ministry of Commerce Mr. Rabi**

**Shanker Sainju** said “Trade and investment is associated with inclusive economic growth, higher income and poverty reduction. An increase in trade and investment cooperation between neighbouring countries is a priority of the trade policy of Nepal. Hence, greater economic integration, policy coordination to identify and tackle numerous trade and economic social issues remains vital for us.”

Joint Secretary Mr. Sainju further expressed “This interaction program has provided good opportunities to the policy makers and practitioners from Nepal to understand the various practical issues on bilateral issues and economic integration. I hope that the experience sharing and discussions will be very much instrumental in generating relevant and meaningful policy inputs on the issues.”

Making his presentation on “Nepal-India Trade Treaty – Current Status and Way Forward”, after going through the history of the trade treaty and understandings with India through various treaties and agreements as well as strengths and opportunities of the existing trade treaty, LoEs and bilateral trade statistics, he focused the presentation on issues to be addressed in the forthcoming renewal of trade treaty such as Bridging the trade gap, Industrialization and participation of India in value chain, ensuring meaningful market access, addressing trade shocks/adjustment, improving trade facilitation mobilizing bilateral supports in building trade capacity and strengthening institutional mechanism for bilateral cooperation.

Making another presentation from the private sector JWG of the FNCCI/CNI/NCC and NICCI, **Mr. Purushottam Ojha, Former Secretary, Government of Nepal** outlined his presentation on the necessity of BTAs, salient features of Nepal-India Trade Treaty-2009, trend of bilateral trade and investment, current issues in trade, important considerations for review

and revision and the way forward.

Former Secretary Mr. Ojha also presenting the scenario of increasing imports from India and almost stagnant export rate with worrying trade deficit, mentioned about the composition of trade bilateral exports and import, including terribly increasing imports of cereals and agro products, despite being an agro based economy, which were not the symptoms for a good economy.

Likewise, referring to the statistics on FDI into Nepal, he also stated that India being the single largest source in terms of FDI amount, number of projects and employment generation but recent years FDI in different sectors from India as registered with Department of Industry was not encouraging.

Speaking on the current issues in trade he pointed out the corresponding reasons such as erosion of tariff preferences: DFTP scheme of India, Zero tariff scheme of China; DFQF by the OECD countries, non-tariff barriers (quarantine, food test, transit fee, additional duty of customs), burdensome customs procedures, documentation and uneven working hours, inadequacy of border infrastructures and transport connectivity; road and rail mode of transportation, absence of EDI and ICT connectivity, (particularly between port customs and land customs in India and Nepal). He also indicated the further reasons like lack of coordination among trade and transport agencies, non-harmonized reporting of trade data, lack of effective institutional mechanisms to address the imminent issues (IGC and IGSC more formal than business like), weak supply side capacity of Nepal and less integrated value chain, SAFTA preferences vs. bilateral provisions: for example, tariff erosion; unilateral preferences for all products including the agricultural and primary products; short sensitive list (only two products in SAFTA); no TRQ and canalization; provisions of trade facilitation measures in order to mitigate the hassles in borders and ongoing works on customs and harmonization of standards.



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Keeping in view the above issues, Former Secretary Mr. Ojha suggested some considerations viz,

1. Trade facilitation, customs reform and cross-border infra-structures
2. Production and productivity enhancement
3. Quality assurances and certification (SPS and TBT)
4. Direct trade measures and intra-industry trade and
5. Effective institutional mechanism to address trade dispute and garner support

Speaking on the considerations for review and revision in the trade treaty, he prioritized his suggestions as follows:

- Nepal-India treaty of trade is evolving over the years but it is facing the strong headwind due to liberalization of trade, particularly after 2000. Tariff reduction on both sides is having double whammy effect on Nepalese trade.
- The level of investment and production of the goods and services are too low to utilize the market access opportunities.
- Nepalese agricultural products, particularly the production of cereal crops, are being displaced by the cheap imports. (increased food security vulnerability and loss of employment).
- Rules of origin criteria are stringent (need to be made consistent with WTO provisions).
- TRQ and canalization of products is irrelevant.
- Slow process in customs cooperation and harmonization.
- Prompt redress mechanism is lacking in resolving the trade disputes and differences.
- Absence of cross border value chain.
- Lack of appropriate framework of technical assistance for

enhancing trade capacity.

- Lack of effective coordination mechanisms on SPS, TBT, transportation and trade facilitation issues.
- The provision on “refund of the additional duties” up to 25 percent of the collected amount to the medium and large industries (Protocol V) not yet been implemented.
- The SSI products are facing difficulties in export on account of complexities in the rules of origin criteria.
- Review of the warranted list of MFN.

Suggesting the way forward with some specific issues on the trade treaty, Former Secretary Mr. Ojha concluded his presentation as follows:

- Consider elevating the scope of the existing trade treaty for the longer term towards a comprehensive arrangement that covers investment and trade in services like hydropower, transport and communication, tourism, health and education, economic cooperation etc. The Group of Eminent Persons (GEP) is well placed to take up this task.
- Realign the scope of areas to be included in the treaty of trade in consultation with the concerned line agencies (e.g. SPS and TBT, trade facilitation, customs cooperation, border infrastructure, use of EDI and customs connectivity, IPR, dispute settlement, rules of origin criteria, trade related technical assistance, direct trade measures, trade remedy measures, and value chain linkages in specific products like garments, agricultural products etc)

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- Realign the agricultural and primary products (Article-IV) in line with HS classifications.
  - Consider the implication of free riding provisions on concessions offered by Nepal under other treaty (Article-III).
  - Maintaining close coordination; review the effectiveness of the existing provisions of the IGC, IGSC and border level coordination mechanism.
  - Define specific export procedures and rules for export of SME products and handicraft items.
  - Take measures in protecting the agriculture and farmers in Nepal.
  - Make provisions on promoting cross-border value chain of the identified products (textile and garments, jute products, energy intensive manufacturing etc).
  - Enhance TRTA program with a focus on strengthening the test and certification capacity of Nepalese SPS labs. Enhance cooperation on harmonization of standard and test parameters of some priority products that are of export interest to Nepal.
  - Activate the border trade facilitation committee with clear mandate and work program.
  - Consider organizing border *haats* (markets) to discourage the informal trade on both sides.
  - Organize trade fair every year alternatively in the big cities in India and Nepal in order to promote products of export interest to each other.
  - Establish effective mechanism to control unauthorized trade (let not repeat the *areca nut saga*).
  - Allow import of third country goods from India for the specific purposes.
- as follows:
- Form sub-groups led by senior officer of the specific sector to develop the negotiating strategies and develop draft text of agreement to be included in the bilateral treaty.
  - Use the feedback from academia, businesses and industries as input in developing the negotiating strategies.
  - Benchmark the provisions laid in RTAs and MTAs to improve and update the rules of trade.
  - Explore the best practices followed in other bilateral and regional trade agreements that provide more preferences to the land-locked and least developed countries. Example may be ASEAN and SADC.
  - Carry out study in order to find out the evidence based narrative in favor and against specific provisions to be incorporated in the text of the agreement.
  - Streamline transit procedures with better collaboration among the relevant institutions on both sides with a view to reducing the cost of transaction and improving competitiveness of Nepalese goods and services.
  - Find out the major bottlenecks that led to ballooning trade deficit of Nepal in general and to India in particular.
  - Find out the possible measures to capture the lopsided growth of Nepalese trade.
  - Find out the scope of bilateral treaty with the areas need to be covered.
  - Find out the general and specific measures would be required to be incorporated in the treaty of trade.

For all these mentioned above, he also suggested the process

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**Interacting in the floor discussion, the imminent participants in the session expressed their views and suggestions as follows:**



Opening the floor discussion, **EC Member and Convener of Energy Committee both at FNCCI and NICCI Mr. Gyanendra Lal Pradhan** warning on the ever-growing trade deficit, he said "Formal trade deficit may be 500 billion, but if you consider informal trade, it maybe 1000 billion. So how things will happen in Nepalese economy with such a huge trade deficit? I just give you an example, we are importing 80 MW

power from India through Dhalkebar Muzafarpur Transmission line. It looks very simple, only 80 MW, but we are buying 5 billion worth of electricity and replacing 15 billion worth of diesel; so the trade deficit in our side is 10 billion just for importing 80 MW. There are options to import power; in the first phase, I think the diesel import which we consume about 26 billion worth of diesel in our industries, we can make it zero import through phase-wise plan, maybe reduce to 7/8 billion worth of electricity in the first phase and the second phase replacing those import by producing our own hydropower."

Suggesting to expedite big hydropower projects in Nepal, Energy Committee Convener Pradhan said "I see, the food items, which you can't reduce; Our economy with the middle class is growing, and import will be more and more, but our agriculture policy, our agriculture subsidy or agriculture system is not working at all; import of agro products is increasing drastically in recent years and started deepening the trade deficit. Food is going to be the biggest issue, but it cannot be replaced with any other thing. Here we can ask, what we can export, we are talking about so many items, but there are hardly 1 or 2 items to export in big way. It could be cement in near future, second only I can say this is power. If you make the power cut zero through Indian electricity, the trade deficit will be increased by 40 billion rupees officially. If we complete Budhi Gandaki we can add another 40 billion to our side from substitution of import of gasses. I can see Pancheshwor can give another 100 billion worth of trade deficit gap to fulfill, Upper Karnali and Arun can give another 50 billion. So rather than going for small items like 1 billion, 5 billion, 10 billion now we have to focus on more electricity production and export to India and make the power cut zero in the first phase then only the trade deficit will be in the smaller gap otherwise this trade deficit is going to kill Nepalese economy."

Talking on the education sector, **Managing Director of Kedia Organization Anil Kedia** said "Since I am from education sector as well, I would like to correlate trade deficit with education. Here in Nepal, we have very good environments for the students where as you are sending our students to Shimla and Darjiling. Officially and unofficially we



are exporting a huge amount of 100 billion rupees on the education and our total remittance is 600 billion. I am running the school and the government is not allowing to run the education in Nepal, that is why students are going to India. When we talk about Nepal-India treaty where the problem from is? More problems I see from our side. In our new constitution the government has clearly mentioned that our constitution is no more a capital free market economy, rather going to prevail a kind of socialist constitution. When we are talking about bilateral trade between with country, which have different kind of ideology. In India they have free market economy and we are talking of communism. Then how we are going to address the things since more hurdle is from our side than the India side. We also don't know what we want from the Indian government side because government is not allowing us to run the school, there is the highest tax in the world imposed in our education system."

Raising the question on the unauthorized trade, **Secretary General of Nepal Chamber of Commerce Kamalesh Agrawal** said

"We have got the open border, easy flow of people and merchandise, per capita income in Nepal is just US\$ 752 only, where as the per capita income in India is the more than US\$ 1450. Prices of consumable goods between the two countries are different with 20 to 40 percent. The cost of production and our economy is so high due to our tariff structure in our border area market. How can we prevent this in our side so that we can stop the unauthorized trade?"



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Keeping in view the ever-growing trade deficit, and tremendous issues like quantitative restrictions on some items, state tax and other non-tariff barriers and other technical barriers which are against the spirit of Nepal-India Trade Treaty 1996 being faced by small producers and farmers, **President of Morang Merchant Association Pawan Sharda**

suggested for the concept of export house in the forthcoming renewal of Nepal-India Trade Treaty as there is such arrangement in other countries, saying it would greatly help reduce the trade deficit of Nepal with India. He also reminded the problem of quarantine at border and suggested to have quarantine check post at the border of both the countries with due recognition by the both sides.

Keeping in view the repetition of the issues, **Moderator of the session RB Rauniar** informed the meeting that for the IGC meeting which going to held very soon, the FNCCI, CNI, NCC and NICCI had formed a Joint Working Group and had prepared the issues on priority basis and already submitted to the Commerce Minister and Secretary at Ministry of Commerce including the issues like Service Tax and CESS imposed on the goods and service exported from India to Nepal, like wise to bring the goods from railway up to railway head, expand the scope of Kolkata Consulate etc.



**Representing from Garment Association Mr. Rajesh Lamichhane** raised the issues related to various tariff barriers like 2% excise duty for readymade garments made up of MRP above IRs 2000 and nor 12 percent CVD now calculated on 60% of MRP instead of 30%, which have been seriously affecting readymade garment exports to India.

**Past President of Birgunj Chamber of Commerce & Industry Mr. Ashok Temani said** "Despite we are talking on Indo-Nepal Trade since last 2 decade in various forums, the problems are still as it is, the agenda are the same today also. When we started talk on Nepal-India Trade the gap ratio of export and import was 1: 4 ratio, now it is 1:11. Rather the mentality of the government has been changed that Nepal is

a country of import base economy. We had talked about Service Tax, 30 percent of value addition etc, and we are talking about the same issues today also. We had said at that time that 30 percent value addition was not possible as market is so volatile, but nobody cared at that time. Now if we talk about the import, now ARE-1 is there, regarding incentives of Indian parties which to be received by the Indian party on Indian Currency but they are not getting that on Indian currency but the ARE-1 norms is same. How we can lobby on those issues? If the Indian parties get incentives we could more competitive by 2 to 5 percent, those issues are still pending, these issues need to be resolved in IGC meeting."

Birgunj CCI Past President Temani further said "Our biggest import from India is Petroleum product, the most hazardous item, which also includes the problems of leakage, adulteration, evaporation etc which ultimately add cost during the course of transportation of petroleum products from Birgunj/Raxaul onwards. If we could develop a railway link from Birgunj/Raxaul Custom to Amlekhgunj, the cost of this project estimated five years ago was 100 Crore. When we talked with the Indian Railway and CONCOR regarding transportation of petroleum products from Birgunj to Amlekhgunj, they said they would not charge for extra 20/30 KM; that means it comes up to Amlekhgunj without additional cost, we could save 6-7 Rupees per liter. I don't know whether this issue can be discussed in IGC meeting or not."

Likewise he also mentioned serious stories of issues that are happening due to quarantine on fruits and agro product and urged "If the environment in India and Nepal is same, people to people environment is same, culture is same, religion is same, food is same, everything is same, then what is the meaning of quarantine between Nepal and India and from where this quarantine came? We don't understand about this so please clarify the things."

Presenting next important issue on why Nepal has not been able to promote her exports, Past President of Birgunj CCI Temani said "Next thing is related to CIF and FOB; we have only one ICD Dry port in Nepal which is linked with the Indian railway network. Most Indian cargo and third country



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cargo are arriving there. 13/14 years before, we had a perception that now we can import and export direct from Nepal, we can write CIF and FOB Birgunj. But now after so many years, we have not been able to change CIF and FOB context. Now we have export import ratio of 1:11. We know all the exporters have time frame of their orders to meet; otherwise the orders will be disqualified. If we have FOB, CIF Transit in Birgunj we can meet those time frame. Now it is almost impossible to know whereabouts of the import/export consignments, when consignments move from Kolkata, when it arrives at Raxaul/Birgunj dry port, how long will it stay there, we don't know when rail will be available, when it goes to Kolkata, how long the consignment stays there. Even after getting Kolkata, it needs tracking and we need to make a call in clerk level from here to know the whereabouts of the consignments. Unless and until we have a system of export then how can we export? In that sense our trade ratio may be 1:100 also, not 1:11 as of today. Change in CIF/FOB Birgunj means it will bring U turn in our exports. So let's decide this FOB and CIF in today's meeting and have an agenda on this in forthcoming IGC meeting."

Raising another vital issue, he said "Now the Government of India has constructed the ICP in Birgunj and Raxaul, which are about to operationalise. Birgunj Custom is the main custom which collects the 60 percent of total revenues of the whole customs in Nepal which comes around 100 billion rupees. But there is no modality to collect of that 100 billion rupee. What we need in ICP is warehousing but there is no warehousing facilities; we need parking for huge movement of vehicles; around 20,000 vehicles per day; we may need parking for 200/300 vehicles but there is a parking capacity for around 10/15 vehicles only. When vehicles come out from that ICP there is 20 Ft. wide road, if two vehicles pass at same time, it will be so congested leading to traffic jam. Can that 20ft wide road carry on 20,000 vehicle movement per day? Even we have not acquired land in our side for the expansion of road there. I think government has no mentality to build road there. Infrastructure at the Nepali and Indian side is not balanced. At Nepal side, its too low while in Indian side, it is huge."

Mr. Temani also pointed out that Nepal is becoming import oriented country even for food and agro based products, which we used to export in the past, due to lack of seeds and fertilizer timely in the seasons.

**Robbin Kumar Shrestha, President, Nepal Footwear Manufacturer Association** suggested to extend the incen-

tives to the exporters to India at par with the incentive extended the exporters to third country, which would help reduce trade deficit.

Speaking on a different field, **Managing Director of Music Nepal Mr. Santosh Sharma** said "We have been talking about the trade in tangible goods, but I want to mention about trade in intangible goods. Now there are possibilities of doing trade over the cable with the development in the internet technology. Will the new trade treaty envisage such trade and make necessary provision of such trade in intangible goods like music, where there is no custom point? and how the Intellectual Property Rights of such items will be protected, of which I see much needs to be done in that area."



**Pradeep Kedia, President, Birgunj CCI** also reiterated the issue of value addition percentage fixed 2 year before, which still continues, he said the result is 1:11 ratio of our export and import, and suggested to reduce the value addition percentage, otherwise our trade deficit ratio would be 1:100 not 1:11.



Today's main subject is how to improve our export to India. I think this is the focus of today's program. Now in which way the export is taking place that was based on the 1996 trade treaty when Mr. IP Gujral was the Prime Minister. Then the provision of Value addition was fixed at that time to facilitate Nepalese export even at that time also the export to India from Nepal could not increase. If the then fixed provision of value addition should be less in the present context then the export can increase at some extent otherwise the export to India from Nepal would not increase as it is what it is today so we need to be serious on that Birgunj CCI President Kedia said also raised the issues regarding service tax on the goods/service exported from India to Nepal and suggested to bring sealed container up to Birgunj directly instead of clearing the container at Kolkata port, due to which cost of doing business has been increasing.

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His next concern was regarding proper provision to get open bank account in India for those 6 million Nepalis working in India, out of which 75% are deprived from sending their earning from banking channel. He also suggested for well notification to the concerned customs and securities at both sides about release of ban on higher denomination of Indian currency.



Suggesting to be very clear about balance of payment and trade deficit, also indicating the terrible increase in trade deficit, **Mr. Ashok Todi, EC Member at FNCCI, representing from MC Group** asked the bureaucracy of Nepal to clarify their preference that whether government want to minimize our deficit in trade or to be happy seeing balance

of payment positive. He was also reiterating the suggestion not to discriminate in incentives given to exporters, whether they export, whether it is third country or India.

Pointing out the provision in our treaty which is still unused EC Member at FNCCI Ashok Todi urged, "Any of our industries whose cost of production is high compared to India they are provided a benefit 25% concession on excise by the Government of India. But that benefit is provided only when the Government of Nepal gives a cost meet certificate to the Nepalese Manufacturer. So far, we have not used that provision. We are talking on duty structure only, why not use that facility? Why don't we give such benefit to the exporters of our side, which is completely in the hands of government of Nepal?"

Mr. Todi's next concern was related to availability of Collector of Indian Customs at their stations and their interpretations. He said "Most of the time I see the Assistant Collector of Custom is either in Patna or in their headquarters, and we cannot put up our problems. Each of the three Superintendents has their own interpretation of rule. Now some border points are controlled from Kolkata, some from Lucknow and some from Patna, 3 Commissioners have their own ruling. If we have to increase our export let's request the government of India to depute one of the Commissioner at the Indian Embassy and get the regulatory work done from there for 22 border point of Nepal-India border and have an unified export system at all 22 border points."

He also suggested strengthening the systems and hassle-free mechanisms at border points rather than opening new border point/s every alternate year, so that increase in export could be ensured every year.

In the program, comments on the presentations by Mr. Rabi Shanker Sainju from Ministry of Commerce and Mr. Purushottam Ojha from the Joint Working Group of FNCCI/CNI/NCC/NICCI as well as the issues raised from the floor by **Dr. Posh Raj Pandey, Chairperson, South Asia Watch for Trade, Economics and Environment (SAWTEE)** has been given in page 14 and 15.

Speaking in the program **Mr. Rajesh Kazi Shrestha, President, Nepal Chamber of Commerce** said that after going through the presentations of Mr. Ojha, the encyclopedia of our trade and transit of Nepal, and another brilliant comments from Dr. Posh Raj Pandey, Chairperson, SAWTEE as well as after listening the issues and suggestion from the floor, all points whatever he had noted for his speech have been already covered, and so not necessary to reiterate the same points. Keeping in view the stringent issues in Nepal-India trade and transit which the business community have been discussing for the last 20 years and still not been properly addressed and also keeping in view the widening ratio of export and import and ballooning trade deficit, he was of the opinion that ultimately Nepal and India should go for win-win situation in negotiations and suggested it would be better to focus on tourism related industries, massive promotion of tourism and hydropower, where Nepal has competitive advantage



**Vice President of FNCCI Dinesh Shrestha** said "In the process of Economic Development of the country, whatever success we have achieved are through debate, discussion and dialogue among the stakeholders from Government offices and private sector organizations and today also we are on the process of discussion on the very important topic on Nepal-India Trade."

"If we get CIF Dry port, Birgunj, cost of doing business could be lowered, equal treatment in export incentives, Custom networking between Nepal and India, health sector, education sector to be considered seriously for promotion of



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export of Nepal like banking and insurance sectors are contributing the country” Mr. Shrestha said.

Mr. Shrestha further said, “In the context of our economic development, India cannot be replaced by any other country, we must realize that and we need to put our request to India and sort out those issues which are hampering our bilateral

trade. I am very much sure that whatever conclusion, recommendation come out from the program that will be more supportive for the betterment of our economy and useful for the Trade Treaty which is going to be renewed by October 27 of this year and the forthcoming meeting”

**Mr. Hari Bhakta Sharma, President, CNI** said “Primarily, in terms of export problem, in terms of lower productivity in the country, in terms of competitive advantage which is more in favor of Indian industries, if the statistics has something to say let us see about 20 years ago when we entered into typical relationship with India in terms of trade, the Indian export to Nepal has gone up tremendously; that means it’s one of the most significant growth of Indian export to any neighbouring country and Nepal is one of the most important key partners in South Asia for India.”

Citing the example of his own regarding complexities in export to India, Mr. Sharma said “I represent Pharmaceutical sector, about 300 plus Indian companies sell goods in Nepal, but none of the 45 companies in Nepal have been able to go to India exporting any single product. The primary reasons are our own capacities reduced to a very bare minimum level because of the political and social conditions that exists in Nepal. On the other hand the non-tariff measures that are applicable to businesses from Nepal to India are also one of the major factors. That has played a major role in reduction of export from Nepal to India.”

Appreciating the entrepreneurial and managerial ability of joint venture manufacturing and service industries who are highly successful in Nepal, and citing the examples of two different types of business relationship of US with Mexico and Canada, CNI President Mr. Sharma further urged “Nepal prefers to have a relation like US-Canada type of relationship with India rather than what we are having a relationship of US and Mexico in particular in doing business. Let us try to reverse the Mexico-US type of relationship to US-Canada type of relationship and make the relationship more confident,

more supportive, and hassle free for people, goods, services and to do the business in both the countries.”

He also spoke on the service tax being levied on exports to Nepal which is not applicable on exports to any other country and also urged to look into those

tariff, non-tariff and para-tariff barriers which have discouraged Nepalese exports to India. He also suggested the government of Nepal to invest on improvement of border customs and infrastructures which are so congested and far below international standards.

Appreciating the organizers for the program, **Guest of Honour His Excellency Ambassador of India Ranjit Rae** said “This is something the meeting that I have been advocating for quite some time. In fact, I have even said that the meeting of the Joint Economic Council should invariably be held before the IGC meeting so that the common issues concerned with the business community on both side can feed into governmental decision making, I don’t know if it is going to be possible this time but I welcome this interaction. I also want to congratulate the paper presenters, the quality of the discussion of the presentations and the questions are truly remarkable. I think it is one of the best sessions I have attended during my 3 years in Nepal and there have been open, honest and very frank discussion. I think we have to resolve whatever problems are there not by finger pointing but by adopting a more constructive approach to resolve the issues.”

Citing the brief discussion with the Commerce Secretary Nairndra Prasad Upadhyay regarding trade statistics of Nepal, His Excellency said “I was talking to the Commerce Secretary just now and the total exports of Nepal are about a billion dollars, the total imports from India are about 5.8 billion dollars, so even if all of your exports go to India you would still have a huge trade deficit. So I think to answer reducing the deficit I will take all the points that Dr. Posh Raj Pandey has made.”

His Excellency further said “So this is my earnest suggestion to the policy makers that you should consider and move to the points raised by Dr. Pandey, such as how to improve competitiveness, industrialization within your

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country. I think the experiences of Indian Joint ventures like Dabur and Unilever which were also mentioned by President of CNI Hari Bhakta Sharma, should be taken as examples”

Regarding the questions which he is often asked that why is more foreign investment from India not coming into Nepal? Or why is the rate of growth of FDI from India is very slow; Guest of Honour Rae said “Question number one is not true, because the huge investments are being made in Hydropower; it is going to be billions of dollars. We hope very much that those investments happen but I think to be honest you need to create a better environment in order to attract the Indian investment. Indian investors here have done extremely well, but it is true that new investment has been minimal if you exclude the hydropower sector. So I think it’s very very important for the government of Nepal to look into the issues that might be deterring investments from India and abroad. I think, the issues could be protection of Intellectual Property Rights, Certain labour related issues, Security, Stability etc”

Regarding the specific trade related issues and obstacles to trade, His Excellency said “I have been saying this from several years that we are committed to resolving these issues and what I can’t understand is why the same issues keep coming up every year, every meeting we have faced the same issues, quarantine, problems at the Calcutta Port. As far as we are concerned in the Embassy that the Government of India is very happy to resolve these issues. As Dr. Pandey and former Commerce Secretary mentioned, there are certain issues as regard to the treaty that need to be addressed and I think Former Secretary made a very valid point that you pick out, the best arrangements in the various international agreements that each country has signed and that is the bottom line, those are the facilities that need to be offered by each country to the other and that is fair enough. But the basic problem seems to be in terms of the implementation and why we can’t improve the implementation and fill the gap? Or we just raise the issues and don’t follow up with any specific proposals?”

Regarding transit related technical issues, Guest of Honour of the session suggested “If the port in Calcutta is congested, you have a Consul General in Calcutta, I am sure he must be doing everything and we will be very happy to facilitate. If there are problems at ICD in Birgunj or some technical problems in Raxaul we do try and facilitate. Regarding the proposal to have a Commissioner Customs in the Embassy here, I can understand your difficulties. We can’t get a Commissioner but



we will certainly get a First Secretary from our Indian Custom Department who will hopefully assist you and help you in resolving the problems that might happen.”

Citing the example of his earlier assignment in Vietnam, Ambassador Rae said “I want to echo once again what I had said in many occasions earlier, let us think big; for example, our bilateral trade today is if say 5.5 billion US Dollars, we set up a target to double India-Vietnam bilateral trade in five years and we achieved this before time so why can’t we do this in the next IGC meeting and say that by the year 2020 we want to double India-Nepal bilat-

eral trade and once we have this target then we make a plan in terms of how this can be achieved. May be it’s an ambitious target but at least, let’s make an effort so we can focus the whole attention of both governments and the private sector into achieving this. If you have let’s say top 10 commodities that you export to India, how can you increase the export of these commodities? What kind of strategy will you follow in this sector? Dabur is a great example of a success story so you can replicate the Dabur model in Nepal and increase your exports. I think it will be extremely useful and the embassy will be happy to help.”

Regarding the trade pattern between Nepal and India, Ambassador Rae said “If you have 5.5 billion US Dollars, it is only the formal trade, there are lots of informal or cross border trade that is happening which don’t get captured. It would be useful if somebody could do a study, maybe we can request Dr. Pandey or somebody who can do a study on the extent of this informal trade. We tend to focus lot on trade issues but there are also several financial issues that impinge on bilateral trade; for instance, in Nepal there is a huge shortage of Indian Rupees and that is probably because there is a very large segment of informal trade or sort of unaccounted trade that happens. But I think the financial issues in terms of new investment for instance, the Indian Companies that are best in Nepal are making a profit and they want to reinvest the profit but there are problems because apparently foreign investments has to come in terms of US Dollars. There are several such issues, next example, Bank Account opening, a lot of Nepalese complain that it is very difficult to open bank accounts in India so there are large number of financial sector issues which also impinge on bilateral trade and investments. I hope in the next IGC meeting, I suggest that we can have a sub agenda on financial sector issues especially on trade related financial sector issues. So I want to leave from this

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meeting with the hope that after six months when we meet again we will have some progress to show on each of these issues."

Addressing the quarantine issues, Guest of Honour suggested "Can somebody sit and do a study, what is a problem, why these labs have not been upgraded, what needs to be done, my colleagues and I from embassy will be very happy, so you identify each of the problem areas and then lets develop the plan of action in terms of how to resolve those problems rather than in every meeting we come up with the same problem. So sometimes I feel maybe those problems are not so serious because if they were very serious I am sure the private sector would really be doing something, but if these are serious problems I think these need to be resolved and I want to convey to you the strong commitment to doing everything we can to resolving these issues"

Concluding the remarks, His Excellency expressed "With regard to trade and services, Nepal has huge comparative advantage and reference was made to Hydropower, Educational Services, perhaps other services such as Tourism, Health Facilities. So I think you have to have larger perspectives. For instance, recently decision has been made in the Education sector that CBSE schools will not be allowed or no longer be allowed apart from that exists. Now a country like India, we are encouraging international schools to come and many of these are coming with International Curricular, IB, and various other international schemes. Because foreign students or say nonresident Indian families want to send their children in India to study and gain some Indian Cultural values and so on but at the same time those children are going or to go for their higher education may be in US and so on. So I think why Nepal cannot become a hub for high value educational services? I think you need to have looked at issues in the very broad perspective rather than in political terms which tends to happen sometimes. So this is an opportunity, there is no reason why the service sector in Nepal in particular in Tourism, Education, Health cannot develop. If you can attract people from India to study here, to get the medical treatment here, to visit here, you have huge opportunity and there is no reason that this can't be done."

Speaking in the program, **Chief Guest Honourable Minister for Commerce Jayant Chand** said "India being a huge market, it has huge economic potentials and now it has become a huge economy. So we can immensely benefit from the spill-over benefits or effects of the economic prosperity of India. It



is fortunate that we are next to neighbor of India and we have long standing multi dimensional relations with India including bilateral trade and historical, cultural as well as social relations

Minister Chand further said "Despite being members of many international organizations, regional organizations, and multilateral forums, Nepal and India have developed various bilateral mechanisms and concluded different treaties and agreements to further strengthen our collaborations and cooperation in various fields of development. Similarly, Trade Treaty, Transit Treaty, Rail Services Agreement and various

other protocol signed have immensely contributed to simplifying promoting and developing trade and business between two friendly countries."

Recalling the bilateral cooperation, Chief Guest Chand said "I would like to take this opportunity to recall the important the enormous Indian supports in various areas Like, Infrastructure development, Institutional and Human capacity building etc. Now Nepal has realized that trade is an important driver of economic growth including inclusive development and poverty alleviation."

Reviewing the performance in bilateral trade, Commerce Minister Chand said "We have made efforts to implement sectoral policy reforms and major supportive of value chain development trade main streaming. But Nepal's trade performance have been less satisfactory resulting in huge trade deficit mainly owing to supply side constraints, low investment, inadequate trade infrastructure and trade facilitation measures among others which has posed great challenges to inclusive and sustainable economic growth."

Appreciating the role of India in global initiatives and bilateral trade relations, Chief Guest Chand said "I would like to recall some of the global initiatives taken by the United Nations, The World Trade Organizations, The World Bank, Asian Development Bank and others to ensure trade capacity of the list developed countries and would like to appreciate efforts and real interventions made by the Government of India in line with such global initiatives. I would also like to appreciate pro-active efforts and initiative taken by our private sector to improve our bilateral relation particularly in the area of trade and transit."

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Delivering concluding remarks from the Chair, **Secretary at the Ministry of Commerce Mr. Naindra Prasad Upadhyay** said "The purpose of organizing the important event today is to seek opinions, suggestions, recommendations, whatever you do have from the private sector perspectives and the business community. This was the idea emerged from the both sides, Ministry of Commerce along with the private sector of Nepal and the Embassy of India in Kathmandu. We had very good communication with His Excellency Ambassador of India before holding this meeting here with the private sector before the upcoming IGC meeting as well. The interaction remained very fruitful wherein we have received very pragmatic and practical suggestions not only from the floor, we are fortunate today that we have experts with us having profound acquaintance with regard to the Nepal-India trade."



Highlighting the bilateral relations, Chairperson of the Session Mr. Upadhyay said "As we are aware that Nepal and India have very excellent and multi-dimensional bilateral relations, and trade dimension being one of them, India has been the largest trading partner of Nepal and the major source of investment."

Supporting the statements made by experts, Secretary Upadhyay opined "As mentioned by the previous speakers, I totally agree that we do have a problem of the escalating trade deficit but sometimes importing the goods is not necessarily harmful for the country if it contributes to promote either production or the productive capacity of the country. But to our case, once we import the goods that are not being contributed to the national economy, production and the productive capacity, then this is the problem as clearly highlighted by Dr. Posh Raj Pandey. So our main concern that we want to resolve is how to bridge this trade deficit, how we can promote our export to India and how we can integrate our production to the entire value chain process with our trade between Nepal and India"

Secretary Upadhyay further informed that the core team of Ministry of Commerce had opportunities to interact with the stakeholders of the border side business community from Morang to Kanchanpur some time earlier and received similar suggestions for the IGC meeting. He expressed happiness to receive written suggestions from the Joint Working Group of FNCCI/CNI/NCC and NICCI which he feels to be instrumental to improve and enhance bilateral trade relations between our two countries.

Highlighting the salient features of the bilateral trade treaty,

Secretary Upadhyay said "We should be clear that for smooth and win-win trade between the two countries, apart from solution of issues mentioned above, unless and until we have more production capacity with higher productivity at competitive rate and quality, we cannot grab the opportunities provided by the trade facilities between the two countries" Chairperson of the session also mentioned that Nepal and India have enjoyed very good long standing bilateral relations based on goodwill, mutual trust and understanding in a very cordial and the friendly manner and this bilateral trade relations keeps its own significance, that is why the generosity coming from the Indian side to extend support to us

not only resolving the non tariff barriers but also giving the technical assistance for trade related infrastructure development.

Recalling the earlier renewals of the trade treaty, Chairperson Upadhyay further said that Nepal being a small country with very limited production base, limited export basket and facing various challenges in enhancing our production base because of the domestic supply constraints. He said "with these constraints, Nepal and India concluded the historical trade treaty in 1996 and worked miracle for the first five years and flipped the bilateral trade with India to 2/3 portion (from 1/3 earlier). But soon after 2002, Nepal's export remained almost stagnant from 2002 to 2009, and sluggish export growth after that, compared to imports increased in geometric way, thereby widening the trade deficit every year. Citing 3 examples, he admitted that we are importing more than 1 trillion Rupees of Petroleum products that could be substituted by the energy products, we are importing agro based products which could minimize almost 20 percent of trade deficit, and improvement in manufacturing base could reduce 15-20 percent of trade deficit. Altogether we could minimize trade deficit by 50 to 60 percent." Upadhyay said, "on one hand, we have peculiar issues like quota restriction which is not applicable to any other LDC countries in South Asia having Preferential Arrangement, quarantine and laboratory problems, customs facilitation problems etc. which we just witnessed in the presentations and experts' comments. He also thanked for candid discussion on the Tariff, Non-tariff, Para-tariff issues like service tax that are levied on transportation to our dry port as well and other sort of duties and the charges, certificate of origin, value addition criteria under WTO that has been brought down to 20 percent, government of India's facilities to other LDC countries, upgradation of the testing labs along the border etc which we can discuss in the upcoming IGC meeting as well"

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### Glimpse of Interactive Session



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*Comments made by Dr. Posh Raj Pandey, Chairperson, South Asia Watch for Trade, Economics and Environment (SAWTEE) on the presentations by Mr. Rabi Shanker Sainju, Jt. Secretary, Ministry of Commerce and Mr. Purushottam Ojha, Former Secretary, MoCS, GoN in the interactive session.*



1. There is **convergence of views** among the government officials and the private sector on the importance of trade with India as well as Nepal- India trade treaty and the issues that need to be addressed for increased economic cooperation and deeper integration. To be more specific, the concerns are
  - increasing trade deficits,
  - failure to participate in the value chain,
  - presence of para and non-tariff barriers,
  - preference erosion,
  - adverse impact of treaty on agriculture sector,
  - inadequate trade facilitation measures and
  - lack of and slow targeted support on building trade capacities.
2. Our imports from India have been consistently increasing and exports are stagnant for last 10-12 years, and as a result trade deficit has widened over the period. **For me, increasing imports and trade deficits per se are not bad.** The issue is how do we use the imports?
  - to increase future productive capacity through imports of machinery and equipment; or
  - to increase current production level through imports of raw materials and intermediate goods; or
  - to meet current consumption.

The peculiarity of Nepalese imports from India is that unlike Bangladesh who imports mostly intermediate goods, like fabrics to add value and export to the US, and Bhutan which imports construction material, machinery and equipment to increase future productive capacity, we import for current consumptions, not for building productive capacity. The statistics shows that import of machinery and equipment constitutes 5.5 percent, which is almost equal to the import of rice. The real problem is inability to diversify imports for production and productive capacities and increase exports.

Second, we should not count **import of petroleum** products while presenting trade deficits with India, it is fundamentally entropot trade for India. It distorts the true picture of our trade relations.

Third, **as per Article V of the treaty the purpose of non-reciprocal trade preference provided by India is to promote the industrial development of Nepal.** So, the analytical parameter of monitor the success of the agreement should also be the index of industrial production and the contribution of industrial sector on the national economy, not single indicator of exports and trade deficits. Now, it's high time to reflect why Nepal is facing 'premature deindustrialization' despite non-reciprocal duty free market access in India.

Let me pose some bitter questions.

- Have the government adopted any policies to take advantage of this preferences? Its focus was simply on revenue.
- Have the private sector implemented or initiated any project for creating industrial base? Baring few, private sector eyed on quick profit by exploiting tariff differentials.

I agree there are some para and non-tariff barriers against the spirit of the treaty, but the relevant questions are:

- Have we honestly attempted to address these issues?
- Have we worked to upgrade our laboratory to qualify for Mutual Recognition Agreement (MRA)?
- Have we approached with concrete proposal instead of making blanket statement on the problem? Let's cogitate honestly.

3. Nepal-India trade treaty is not all about non-reciprocal trade preferences provided by India, **it's also the preferences provided by Nepal.** Article 4 states reciprocal, meaning by both Nepal and India, exemption of customs duties and quantitative restrictions on primary products and as per Article VI of the treaty, Nepal partially exempts customs duties on imports from India.

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4. **Article III** provides that *'both the contracting parties shall accord unconditionally to each other treatment no less favourable than that accorded to any third country with respect to:*
  - (a) *customs duties and charges of any kind imposed on or in connection with importation and exportation, and*
  - (b) *import regulations including quantitative restrictions.'*
5. What does it mean in practice and policy space for Nepal? If Nepal signs any preferential trading agreements, including regional and bilateral, and accord preferences those preferences have to be extended unconditionally to India. With this provision, there will be little incentives for trading partner to conclude any preferential trading arrangement with Nepal. Here the issue is why should Nepal-India trade treaty circumscribe Nepal's policy space whereas most of preferential trading arrangement signed world-wide donot have such provisions. For example, Article VII of India Bangladesh provides exemption of MFN treatment for customs union, free trade agreement or similar arrangement. We have similar provision in SAFTA also. So, there is need to revise this Article.
 

Annex C of the treaty provides **tariff rate quota on vegetable fats, acrylic yarn, copper and zinc oxide**. There are three arguments against it.

**First**, both Nepal and India are members of WTO and tariff rate quota in manufactured goods are normally prohibited.

**Second** if the intent of the tariff rate quota is to protect domestic industry, you can always invoke safeguard clause in case of threat to serious injury to domestic industry. It's wrong to presume such injury prima facie and have provision of tariff rate quota.

**Third**, the concession provided by India to SAARC LDCs- Afghanistan, Bangladesh, Bhutan and Nepal does not contain any tariff rate quota. Having such provision in bilateral agreement contradicts with the provision of SAFTA.
6. The goal of the treaty is to help, through better market access and through support in building productive capacity, promote industrialization of Nepal and the key is providing **'level playing field' to Nepalese products** by providing national treatment. So any kind of para tariffs such as additional duty or additional special duty imposed with the intent of trade protection should be abolished. Protocol on Article V provides exemption of additional duty above excise tax on the export of goods manufactured by small scale units. Unfortunately, this provision has not yet been invoked and small manufacturing units have not been able to enjoy the preferences of this provision of the treaty.
7. Some **procedural irritants** on the exports of pharmaceutical product, cardamom and medicinal and aromatic plants from Nepal that amounts to old **License Raj** need to be addressed and abolished.
8. There is **strong nexus between Indian foreign investment** in Nepal and export to India. For example, total export of juice to India, mainly produced by Dabur, is about 7 percent of total exports to India. We need to promote this nexus. Promoting foreign investment in manufacturing, infrastructure, energy, commercial agriculture, tourism and services sector not only promote exports but help Nepal to be part of **Make in India** campaign through participation in value chain. We need conscious efforts in this regard. India may treat investment in Nepal, at policy level, as investment in underdeveloped part of India and accord all incentives to the investor in Nepal at par with her domestic investor investing in underdeveloped part of India.
9. Although **transit issue** is not the part of today's discussion. I would like to emphasize that for a landlocked country transit facilitation is lifeline for industrial development, trade expansion and overall economic development. Thus, the issue of transit such as **identification and treatment of sensitive products; detention or warf charges; additional route, both road and railways, for goods in transit, taxes on goods in transit; insurance or bank guarantee for transit in goods, issue of custodian rights, importing CIF Nepalese dry ports needs to be addressed**. I think it demands a separate session.
10. Finally, we should not be the prisoner of path dependency, we should not carry multiple baggage, Nepal-India trade relation can be and should be win-win game, we have to think India- Nepal trade and economic relation afresh, for deeper economic integration, for dependable dependency, for enhancing interdependency. For this, comprehensive economic partnership agreement, covering whole gamut of economic cooperation- trade, investment, services, energy cooperation and harmonization of fiscal and monetary policies and we have initiated talks at the government level back in 2008, could be a potent instrument. In this context, initiatives from private sector for **Nepal India Partnership Conclave** would be important starting point. ■



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Delivering the vote of thanks, **President of NICCI Mr. Saurya Rana** informed the gathering about the purpose of the review of the Nepal-India Trade Treaty before its expiry on 27<sup>th</sup> October, 2016, the unanimous suggestions from the private sector and that most people know that there is a working group of FNCCI, CNI, NCC and NICCI that deliberated on IGC related issues and gave suggestions to the Commerce Minister some time back from their side.



Speaking at the session, President Mr. Rana thanked all those who were involved in the assignment. He thanked Coordinator of the Joint Working Group Mr. R. B. Rauniar for his effective coordination. He also thanked Vice President Mr. Shekhar Golchha, Mr. Ashok Todi, Mr. Rajan Sharma, Mr. Gyanendra Lal Pradhan from FNCCI, Mr. Hari Bhakta Sharma, President and Mr. Anuj Agrawal, Vice President

of CNI, Mr. Lokmanya Golchha, Mr. Deepak Shrestha, Mr. Surendra Kumar Shrestha from Nepal Chamber of Commerce, Vice President Mr. Shashi Kant Agrawal from NICCI. He also thanked the secretariats of NICCI, FNCCI, CNI and NCC for their excellent coordination in this venture.

Mr. Rana sharing his views said that since IGC is a meeting between the Commerce Secretaries essentially, they may not have adequate time to go through the nitty-gritties. He further said "whatever we've said we put it there, and regarding the trade treaty, we are going to keep on discussing. I am sure we are going to have far more meetings regarding the trade treaty, as we go along. I would also request the Indian Embassy on this as well as the Commerce Ministry that maybe on a quarterly basis or biannual basis if there could be a meeting to discuss issues - whether on the Garment, or Freight Forwarders, or Education sectors, what they want or we could have a separate meeting on this to look into what the issues are. As the Minister and the Ambassador said, regarding quarantine issues, we need not

take such issues to this forum? The persons or a person who should be here are not here and every time we go to the Commerce Ministry meeting and we talk about the quarantine issues, unfortunately the requisite ministry does not know what is happening. So there are huge coordination issues".

Concluding his remarks, NICCI President Mr. Rana extended sincere thanks to the Chief Guest, Honourable Minister Mr. Jayant Chand, Secretary and the Chair of the Session Mr. Naindra Prasad Upadhyay, Guest of Honour His Excellency the Indian Ambassador Mr. Ranjit Rae, Jt. Secretary Mr. Rabi Shanker Sainju, Mr. Purushottam Ojha, Dr. Posh Raj Pandey, President of CNI Mr. Hari Bhakta Sharma, President NCC, Mr. Rajesh Kazi Shrestha, Vice President, FNCCI Mr. Dinesh Shrestha for their presence and valuable remarks to the session. He also thanked Mr. Vinay Kumar, DCM, Indian Embassy, Mr. Ashish Sinha, First Secretary (Commerce), officials from the Government of Nepal, business fraternity, and media who also had given their time to be in the interactive session. He also extended special thanks to the Ministry of Commerce for hosting the session. ■

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