



EUROPEAN UNION – NEPAL BUSINESS FORUM

TECHNICAL BRIEF ON THE INVESTMENT CLIMATE FOR DOING BUSINESS IN NEPAL

Prepared by the Investment Support Facility¹
6 May 2023

¹Dr. Claudius Preville, Team Leader/Investment Facility Director, EU-Nepal Trade, and Investment Programme (TIP), Investment Support Facility (ISF). Inputs were received from several colleagues, notably Deepanjali Shrestha and Narendra Hamal. The organisers of the EU-Nepal Business Forum and its partners give no warranty or make any representation, expressed or implied that the information is error free.

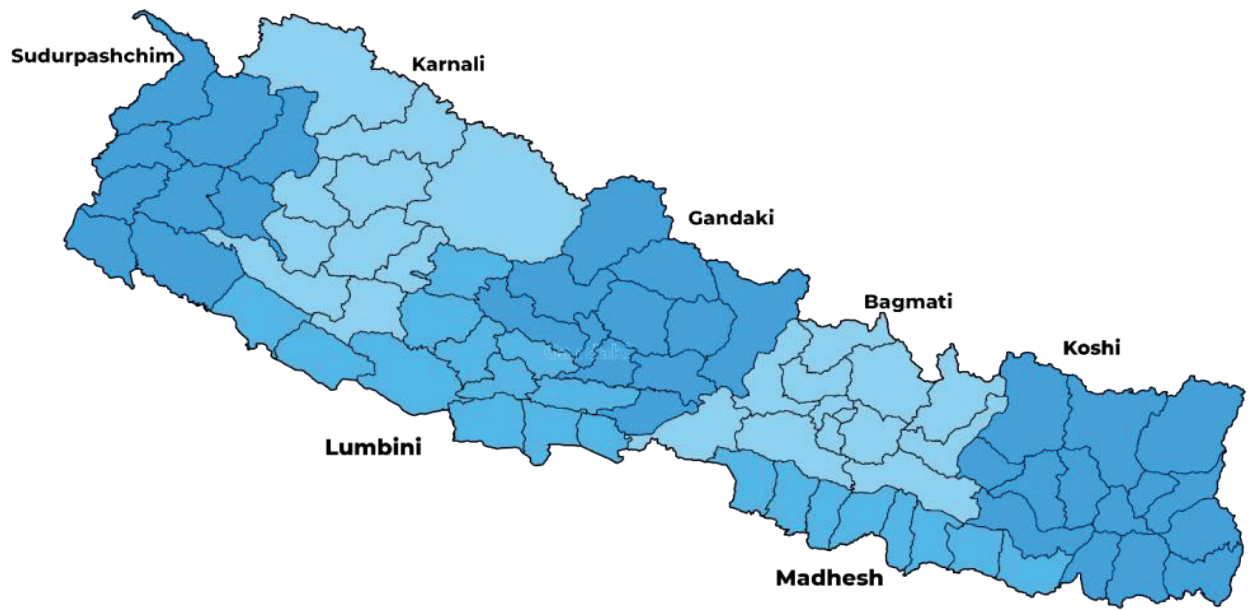
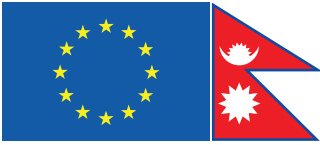
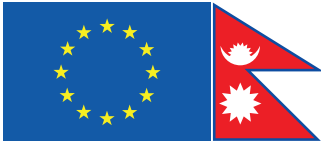




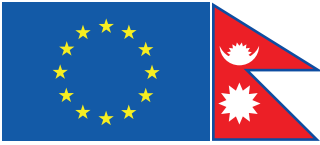
Table of Contents

LIST OF ACRONYMS	4
1.0. INTRODUCTION	5
1.2. Nepal context	5
2.1 Geography & governance arrangements	5
2.2 Population	6
2.3 Investment profile	6
Trade and investment agreements	7
2.0. INVESTMENT CLIMATE	7
2.1 Doing business index	7
2.2 Starting a business	9
2.3 Dealing with construction permits	9
2.4 Getting electricity	10
2.5 Registering property	10
2.6 Getting credit	11
2.7 Protecting minority investors	12
2.8 Paying taxes	13
2.9 Trading across borders	13
2.10 Enforcing contracts	14
2.11 Resolving insolvency	15
2.12 Labor market regulation	15
Summary of the investment climate	17
3.0. POLICY & LEGAL ENVIRONMENT	17
3.1 Laws and regulations governing trade and investments	17
3.1.1 Foreign Investment and Technology Transfer Act (FITTA), 2019	18
3.1.2 Public - Private Partnership and Investment Act (PPPIA) 2019	18
3.1.3 Company Act 2006 (Amended in 2019)	18
3.1.4 Industrial Enterprises Act (IEA) 2020	18
3.1.5 An automated system enforced by the DOI	18
Table-2: Key obstacles and possible solutions for enhancing FDI in Nepal	19
CONCLUSION	20
BIBLIOGRAPHY	20



LIST OF ACRONYMS

Item	Description
ADB	Asian Development Bank
BIMSTEC	Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation
Dol	Department of Industry
EPA	Environment Protection Act
EU	European Union
FAO	Food and Agriculture Organization
FDI	Foreign Direct Investment
FERA	Foreign Exchange (Regulation) Act, 1962 (2019)
FITTA	Foreign Investment and Technology Transfer Act
FTA	Free Trade Agreement
GDP	Gross Domestic Product
IBN	Investment Board Nepal
ICSID	International Centre for Settlement of Investment Disputes
ICT	Information and Communications Technology
IMF	International Monetary Fund
ITC	International Trade Centre
JICA	Japan International Cooperation Agency
LDC	Least Developed Country
MDGs	Millennium Development Goals
MIGA	Multilateral Investment Guarantee Agency
MoICS	Ministry of Industry, Commerce and Supplies
NPR	Nepal Rupee
NRB	Nepal Rastra Bank
OECD	Organization for Economic Co-operation and Development
PPP	Public Private Partnership
RCA	Revealed Comparative Advantage
SA	South Asia
SAFTA	South Asia Free Trade Area
SEA	Southeast Asia
SEZA	Special Economic Zone Authority
SME	Small and Medium Enterprise
TA	Technical Assistance
WIPO	World Intellectual Property Organization
WTO	World Trade Organization



1.0. Introduction

This report examines the investment climate in Nepal, mainly the main variables and indicators driving the business environment. The purpose is to orient investors and participants attending the EU-Nepal Business Forum (8-9 May 2023) about the business environment with emphasis on how it has evolved in the last few years and which sectors are the main drivers of growth. It also discusses main indicators of the investment climate and how they continue to affect Nepal. A section discusses the legal and regulatory framework for doing business, including foreign investment.

In addition to the introduction (Section 1), the brief comprises three other sections. Section 2 provides a brief background of Nepal, its geography and governance system and its population and investment profile in 2022. Section 3 discusses the investment climate for doing business in Nepal. Drawing upon – the now discontinued – World Bank’s Doing Business 2020 Report, analyses how Nepal fares in the areas of starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting minority investors, paying taxes, trading across borders, enforcing contracts, resolving insolvency and labour market regulation. Even though discontinued by the World Bank, the indicators provide information on key areas that need to be considered for enhancing any business environment, which is the reason for the use. Moreover, the indicators also allow for international comparisons, which can help in benchmarking and improving performance. The analyses compare Nepal’s performance on each indicator with the South Asian as well as the OECD averages. Section 4 discusses the legal and regulatory framework governing investments, particularly main laws – Foreign Investment and Technology Transfer Act, 2019; Income Tax Act, 2002; Company Act, 2006; Public Private Partnership and Investment Act, 2019; Environment Protection Act, 2019; Industrial Enterprise Act, 2020; Foreign Investment and Technology Transfer Regulation, 2021; and Investment Enterprise Regulation, 2022. The section concludes with a summary.

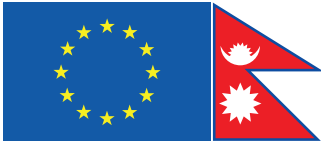
1.2. Nepal context

Nepal is part of South Asia located between China and India, the two of the most populous nations on earth. Nepal extends roughly 500 miles from east to west and 90 to 150 miles from north to south, with an area totalling up to 147,516 km sq.

2.1 Geography & governance arrangements

The topography of Nepal is diverse, with the Himalayan range in the north which is mainly mountainous (including Mt. Everest; the world’s highest peak) and mid-hills, consisting of the Mahabharat range and the Chiura Hills, and lastly, the Terai plains in the south. The country is administered federally, and through seven provinces (east to west): Koshi, Madhesh, Bagmati, Gandaki, Lumbini, Karnali and Sudur Paschim provinces (Pradesh in Nepali), and municipal governments.

The currency of Nepal is Nepali Rupee (NPR) controlled by Nepal Rastra Bank (NRB). Nepal has Bilateral Trade Agreements with Bangladesh, India, Pakistan, and Sri-Lanka. The majority of Free Trade Agreements (FTAs) of Nepal with trading partner countries are related to merchandise trade rather than trade in services, investment, and labor mobility. Nepal is a member of the World Trade Organization (WTO), the World Bank, and the International Monetary Fund (IMF).



2.2 Population

During 2020 Nepal's population increased by 528,098 people to reach 29,136,808 at the end of 2020. The increase is positive as the number of births continues to exceed the number of deaths and the median age has increased from 22.7 years in 2019 to 24.6 years in 2020. In 2019 Nepal's population increased by 512,996 people to reach 28,608,710 at year-end. This is an increase of population by 1.83 % compared to the population of 28,095,714 the year before.

The population density of Nepal is high and in comparison, to the rest of the world, it ranks 49th. Nepal is a multi-ethnic, multiracial, multicultural, multi-religious, and multilingual country. The most spoken language is Nepali followed by several other ethnic languages.

2.3 Investment profile

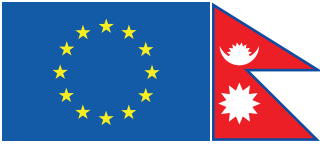
Located between two rapidly expanding economies – India and China – Nepal offers numerous opportunities for investment, production and trade of goods and services. Nepal has a diverse geography, natural resources, and cultures, which together with improvements in basic infrastructure that have taken place over the years make it an attractive destination for investment, including foreign investment, in almost all sectors: manufacturing, agro-processing, energy, tourism, and other service sectors. The comparative advantages investors can secure while investing in Nepal are access to vast natural resources, a large domestic market in addition to preferential access to markets in neighbouring countries, and a young workforce.

Nepal welcomes Foreign Direct Investment (FDI). This policy is a result of its realisation of the important role FDI can play in the country's development, in addition to capital formation, enhancement of productive capacity, as well as the transfer of technology, skills, innovation, and managerial capabilities. Nepal has a very accommodative policy to support foreign investors and has been continuously reviewing and improving its laws and regulations to encourage FDI inflows. Nepal allows foreign investors to start a business in Nepal with NPR 20 million, a threshold that is under review to be lowered further to allow investments of all sizes to benefit from the opportunities available. Nepal extends national treatment to foreign investors and permits repatriation of profits.

In addition, Nepal offers incentives to investors – both tax and non-tax concessions to specific industries and sectors – post-investment services and a hassle-free business environment. The country has bilateral investment agreements with six countries France, Germany, United Kingdom, Mauritius, Finland, and India; and double taxation avoidance treaties with Norway, India, China, Pakistan, Sri Lanka, Qatar, Bangladesh, South Korea, Mauritius, Thailand, and Austria. The government is also working to operationalize the direct or automatic route for investments that would not require prior approval in a number of sectors and investments of certain sizes.

Nepal has two specific agencies responsible for facilitating investment, including FDI, each with clear and separate mandates. All investments less than NPR 6 billion are facilitated by the Department of Industry (DoI), under the Ministry of Industry, Commerce and Supplies (MoICS), and those above this, are routed through the Investment

² Based on World Bank data and other sources. See for example <https://www.worldometers.info/world-population/nepal-population/>. However, these numbers must be treated with caution as the major census was done in 2021. (REMOVE THIS SENTENCE AND USE 2021 DATA)



Board Nepal (IBN), a high-level body chaired by the Prime Minister of Nepal. The minimum investment threshold for FDI is NPR 20 million.

Nepal allows both greenfield and brownfield investments, and most applicable approvals below are related to new industries. For brownfield investments there is one requirement, the need to obtain approval from the central bank to bring the investment. Nepal allows the following five categories of FDI: Investment through Venture Capital Funds; Investment through Technology Transfer; Foreign Currency Investment in Shares; Investment through Leasing of Machines; and Reinvestment of Dividend Received from Foreign Investment.

Trade and investment agreements

Nepal has been carrying out various reforms for boosting foreign investment. In addition to being a member of WIPO, MIGA, WTO, SAFTA, BIMSTEC and ICSID and signing Bilateral Investment Treaties and Double Taxation Avoidance Treaties, Nepal has enacted the Foreign Investment and Technology Transfer Act, 2019 (2075) and the Nepal Rasta Bank has enacted the Foreign Investment and Foreign Loan Management Bylaws, 2021 (2078) (“Foreign Investment Bylaws”) under the Foreign Exchange (Regulation) Act, 1962 (2019) (“FERA”) making efforts to improve its investment climate and foster FDI. However, Nepal ranked second lowest in FDI inflows in Southeast Asia as ratio to its GDP in 2020 at only 0.5 per cent, in front of only Bhutan at 0.1 per cent, and far behind Cambodia (13.5 %), Lao People’s Democratic Republic (5.0 %) and Myanmar (2.0 %). While net FDI inflows to Nepal are trending upwards, as a ratio of GDP, FDI inflows have stagnated at around 0.5 per cent.

2.0. INVESTMENT CLIMATE

Overall, Nepal had an ease of doing business index of 63.2 in 2020 when it ranked 94th out of 190 economies and selected cities at the subnational and regional level that were surveyed by the World Bank. The report captured several important dimensions of the regulatory environment as it applied to local firms. It provided quantitative indicators on regulation for starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting minority investors, paying taxes, trading across borders, enforcing contracts and resolving insolvency. It also measured labour market regulation. Nepal’s summary performance in all areas of the Doing Business Report for 2020 are provided in Table-1.

2.1 Doing business index

Nepal’s doing business rank had improved in 2020 relative to 2019. However, there are still many challenges for doing business in terms of regulation and law and order issues, as well as infrastructure, which can increase business costs and discourage investment. Despite these challenges there are many opportunities in the various sectors that can provide growth and investment. Below is a summary of the main indicators based on the World Bank’s Doing Business Report:

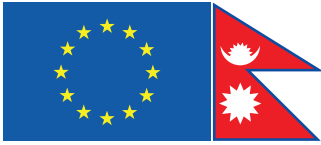


Table 1: Summary of Doing Business Indicators for Nepal 2020

Indicator	Nepal's Score	South Asia Average	OECD Reference	Remarks
Starting a Business	81.7	86.3	Paid-in capital requirements higher than SA.	Nepal was somewhat behind its neighbors
Dealing with Construction Permits	67.3	65.3	Building quality control index just behind OECD.	Nepal was better than its neighbors
Getting Electricity	60.9	62.6	Slightly behind the OECD average for number of procedures.	Reliability was a major issue for Nepal.
Registering Property	63.6	47.6	Land administration index behind OECD.	Nepal did better than the South Asian average.
Getting Credit	75.0	53.1	Legal rights index ahead of both OECD and South Asia.	Nepal's credit bureau coverage needed improvement.
Protecting Minority Investors	58.0	57.0	Nepal ahead on ease of shareholder suits.	Nepal was ahead of the South Asian average on most sub-components.
Paying Taxes	47.1	60.2	Significantly behind the OECD.	Nepal fell behind the South Asian average.
Trading Across Borders	85.1	65.3	Behind the OECD average on four sub-components.	Nepal was ahead of the South Asian average.
Enforcing Contracts	46.0	43.5	Behind the OECD average in this area.	Nepal was ahead of the South Asian average.
Resolving Insolvency	47.2	40.8	Behind the OECD except for cost as % of estate.	Nepal was ahead of the South Asian average.

Source: Author's analysis using data from Doing Business 2020



2.2 Starting a business



Figure - Starting a Business in Nepal - Score



2.3 Dealing with construction permits

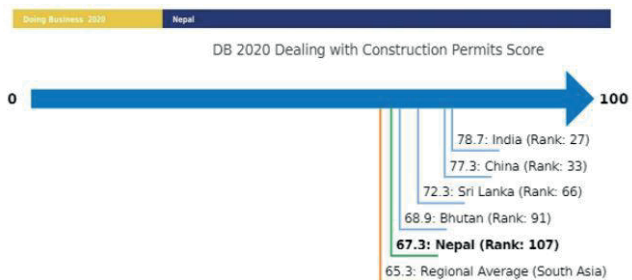


Figure - Dealing with Construction Permits in Nepal - Score



Starting a business in Nepal had a rank of 135 (index 81.7) in 2020, a slight regression relative to 2019 with an index of 82.1 on this indicator. Moreover, this placed Nepal behind the regional average (South Asia) of 86.3.

Specifically, for starting a business investors were required to follow eight procedures, which could take 23 days in each case. The cost to comply with some of those procedures was about 22.0% of the income per capita in some cases.

The number of procedures for starting a business in Nepal were worse than the South Asia average and, the time required to start the business in Nepal was nearly twice the average time of South Asia countries. Also, it was nearly three times more costly to start a business in Nepal than in other South Asia countries.

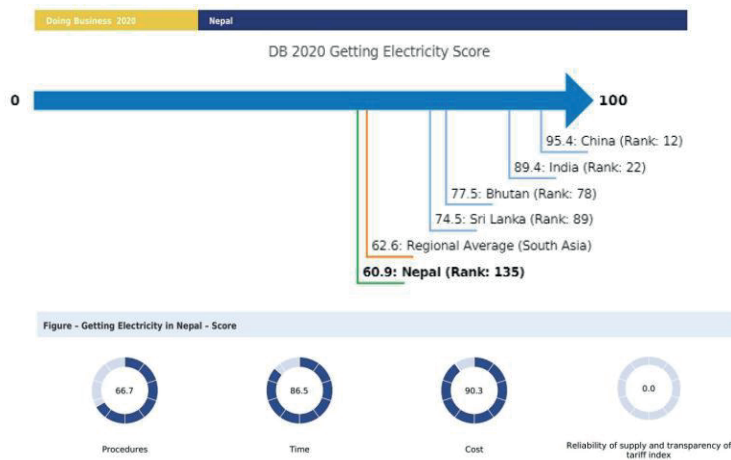
Finally, on the average, South Asia countries require a minimum paid-in capital of 0.2% of income per capita, whilst there is no minimum paid-in capital requirement for Nepal. Also, notably, the paid-in capital requirement of OECD countries is thirty-eight times that of South Asia, making the latter countries more attractive on that indicator

Dealing with construction permits in Nepal had a rank of 107 (index 67.3) in 2020. This was a significant improvement relative to 2019 with an index of 57.9 on this indicator and placed Nepal ahead of the South Asia regional average of 65.3.

Specifically, there were 12 procedures that needed to be followed for construction permits, which would take 118 days. The cost to comply with those procedures was equivalent to 8.6% of the warehouse value. However, Nepal had a building quality control index of 10.0, which was better than the South Asia average of 9.4 and slightly behind the OECD average of 11.6. Only six economies in the world had the maximum score of 15.0 for their building quality control index.



2.4 Getting electricity



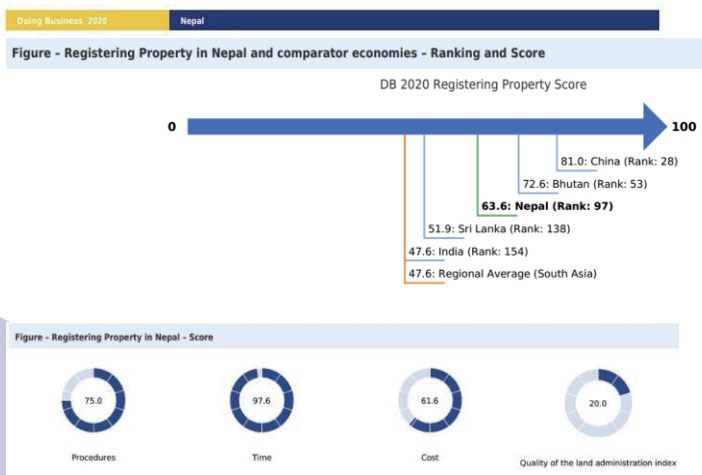
Getting electricity in Nepal had a rank of 135 (index 60.9) in 2020. This was a slight improvement relative to 2019 with an index of 58.3 on this indicator. Also, this placed Nepal behind the South Asia regional average of 62.6.

Specifically, there were five procedures that were required to be followed for getting electricity, which took 49 days to complete. The cost to comply with the procedures was equivalent to 785.8% of the income per capita.

Nepal was ahead of the South Asia average (5.5) but behind the OECD average (4.4), in terms of the number of procedures to be followed. However, Nepal was significantly ahead of both the South Asia (86.1) and OECD (74.8) for number of days needed to complete connection.

Further, Nepal's cost of getting electricity as percent of income per capita was less than half the South Asia average cost but significantly more than that in OECD countries (61.0%). However, Nepal's reliability of supply and transparency of tariff was very poor (0) compared with the South Asia average (2.7), and the OECD countries (7.4) on the average, on a scale of 0-8.

2.5 Registering property

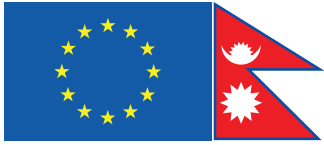


Registering property in Nepal had a rank of 97 (index 63.6) in 2020. This was a notable regression relative to 2019 with an index of 64.7. Nepal was significantly ahead of the South Asia regional average of 47.6.

Specifically, there were four procedures to be followed when registering property in Nepal, and these took six days to complete. The cost to comply with these procedures was equivalent to 5.8% of the property value.

Nepal was ahead of both South Asia (6.9) and the OECD (4.7) averages, in terms of the number of procedures to be followed. Also, Nepal was significantly ahead both the South Asia (107.8) and OECD (23.6) average for number of days needed to register a property on the average.

Further, Nepal's cost of registering property as per cent of property value was more than the average cost of OECD countries (4.2%), but less than the average cost of South Asia countries (7.0%). However, Nepal's quality of land administration index was only 6.0, well behind the South Asia average (9.1) and significantly behind the OECD countries (23.2) on the average, on a scale of 0-30.



2.6 Getting credit



Getting credit in Nepal had a rank of 37 (index 75.0) in 2020. This was a significant improvement relative to 2019 with an index of 50.0. This placed Nepal ahead of the South Asia regional average of 53.1.

Specifically, when dealing with getting credit in Nepal there were four indicators. On a scale of 0-12, Nepal had a strength of legal rights index of 10, placing it ahead of both the South Asia (5.5) and the OECD (6.1) averages. In terms of the depth of the credit information index, measured on a scale of 0-8, Nepal had a score of 5, placing it slightly behind the South Asia (5.1) average, significantly behind the OECD countries (6.8) average.

Further, in terms of the percentage of adults covered by a credit registry, Nepal's score was 0.0%, placing it behind the South Asia average (5.1%) and the OECD countries (24.4%) average. However, in terms of the percentage of adults covered by a credit bureau, Nepal's score 7.3%, was well behind the South Asia average (21.0%) and significantly behind the OECD countries (66.7%) on the average.

Figure - Getting Credit in Nepal - Score



Score - Getting Credit



2.7 Protecting minority investors



Figure - Protecting Minority in Nepal - Score



Score - Protecting Minority Investors

On protecting minority investors Nepal had a rank of 79 (index, 58.0) in 2020. There was no change relative to 2019 on this indicator. This placed Nepal ahead of the South Asia regional average of 57.0. Specifically, when dealing with protecting minority investors in Nepal there are six indicators, all measured on a scale of 0-10. In terms of the extent of disclosure index, Nepal had a score of 6.0, placing it ahead of the South Asia (5.8) but behind the OECD (6.5) average.

In terms of the extent of director liability index, Nepal had a score of 1.0, placing it significantly behind the South Asia (5.0) average, and the OECD countries (5.3) average.

Further, in terms of the ease of shareholder suits index Nepal's score was 9.0, placing it significantly ahead of both the South Asia average (7.4) and the OECD countries (7.3) average. Also, in terms of the extent of shareholder rights index Nepal's score was 5.0 placing it significantly ahead of both the South Asia average (3.5) and the OECD countries (4.7) average.

However, in terms of the extent of ownership and control index, Nepal's score was 4.0, placing it ahead of the South Asia average (3.6) but behind the OECD countries (4.5) average. Also, in terms of the extent of corporate transparency index Nepal's score was 4.0, slightly ahead of South Asia average (3.3) but somewhat behind the OECD countries (5.7) on the average.



2.8 Paying taxes

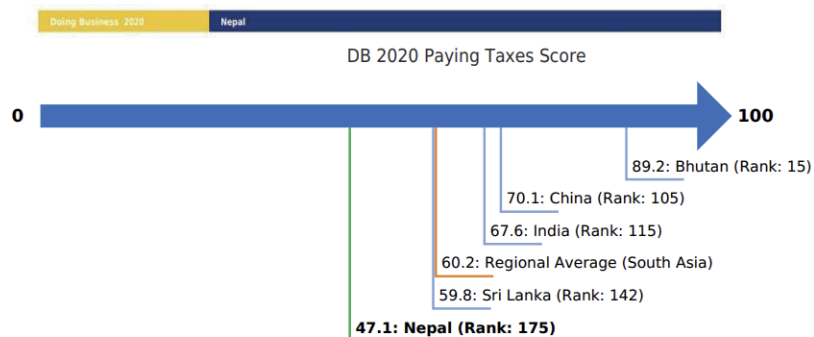


Figure - Paying Taxes in Nepal - Score



2.9 Trading across borders



Paying taxes in Nepal had a rank of 175 (index 47.1) in 2020. This is a significant regression relative to 2019 with an index of 52.7. This placed Nepal behind all South Asian countries. The South Asia regional average was 60.2.

Specifically, when dealing with paying taxes in Nepal there are four (4) indicators to be considered. In terms of the number of payments per year, Nepal had a score of 46, placing it behind both the South Asia (26.7) and the OECD (10.3) averages.

In terms of the time in hours per year required for these payments,

Nepal required 377 hours, placing it well behind the South Asia (273.5 hours) average, and significantly behind the OECD countries (158.8 hours) average.

Further, with regards to total tax and contribution rate as a percentage of profit, Nepal's score was 41.8%, placing it somewhat ahead of the South Asia average (43.9%) but behind the OECD (39.9%) average. However, in terms of post-filing tax index measured on a scale of 0-100, Nepal's score was 33.3, placing it behind the South Asia average (41.2) and significantly behind the OECD countries (86.7) average.

Trading across borders in Nepal had a rank of 60 (index 85.1) in 2020. This was a significant improvement relative to 2019 with an index of 80.4 on this indicator, and placed Nepal ahead of the South Asia regional average of 65.3.

Specifically, when dealing with trading across borders in Nepal there are eight (8) indicators to be considered. In terms of the border compliance time to export in hours, Nepal had a score of 11.0, placing it ahead of the South Asia (53.4) and the OECD countries (12.7) averages. In terms of the border compliance cost to export in USD, Nepal had a score of 103, placing it well behind the South Asia (310.6) average, and somewhat behind the OECD countries (136.8) average.

In terms of the documentary compliance time to export in hours, Nepal had a score of 43, placing it ahead the South Asia (73.7) but significantly behind the OECD countries (2.3) average. In terms of the documentary compliance cost to export in USD, Nepal had a score of 110, placing it well ahead of the South Asia (157.9) average, but significantly behind the OECD countries (33.4) average.

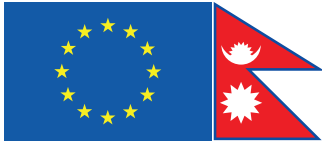


Figure - Trading across Borders in Nepal - Score



In terms of the border compliance time to import in hours, Nepal had a score of 11.0, placing it significantly ahead of the South Asia (85.7) and somewhat behind the OECD countries (8.5) average. In terms of the border compliance cost to import in USD, Nepal had a score of 190, placing it well behind the South Asia (472.9) average, and significantly behind the OECD countries (98.1) average.

In terms of the documentary compliance time to import in hours, Nepal had a score of 48, placing it ahead of the South Asia (93.7) but significantly behind the OECD countries (3.4) average. In terms of the documentary compliance cost to import in USD, Nepal had a score of 80, placing it well ahead of the South Asia (261.7) average, but significantly behind the OECD countries (23.5) average.

2.10 Enforcing contracts



Enforcing contracts in Nepal had a rank of 151 (index 46.0) in 2020. This was an improvement relative to 2019 with an index of 45.3 on this indicator and placed Nepal ahead of the South Asia regional average of 43.5.

Specifically, when dealing with enforcing contracts in Nepal there are three (3) indicators to be considered.

In terms of time, (number of days), Nepal had a score of 910, placing it slightly ahead of South Asia (1101.6) and behind the OECD countries (589.6) average.

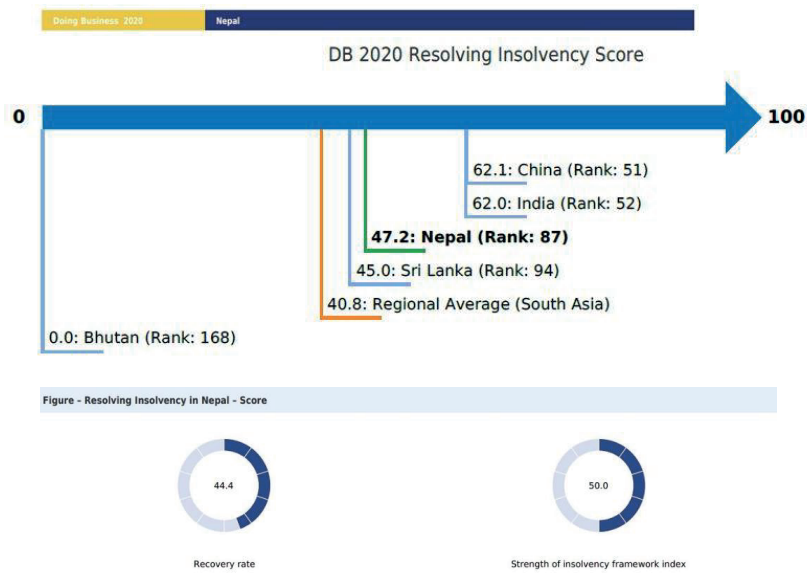
In terms of the cost as a percent of the claim value, Nepal had a score of 27.3, placing it ahead of the South Asia (29.9) but behind the OECD countries (21.5) average. In terms of the quality of judicial processes index, measured on a scale of 0-18, Nepal had a score of 6.0, placing it slightly behind the South Asia (7.1) and well behind the OECD countries (11.7) average.

Figure - Enforcing Contracts in Nepal - Score





2.11 Resolving insolvency



In resolving insolvency, Nepal had a rank of 87 (index, 47.2) in 2020. This was unchanged relative to 2019. Also, this placed Nepal well ahead of the South Asia regional average of 40.8.

Specifically, when dealing with resolving insolvency in Nepal there are five (5) indicators to be considered.

In terms of recovery rate (i.e., cents on the dollar), Nepal had a score of 41.2, placing it slightly ahead of the South Asia (38.1) and well behind the OECD countries (70.2) averages.

In terms of the time (in years), Nepal had a score of 2.0, placing it ahead of the South Asia (2.2) average and behind the OECD (1.7) average.

In terms of the cost (as % of estate), Nepal had a score of 9.0, placing it ahead of both the South Asia (9.9) and the OECD (9.3) averages.

In terms of the strength of insolvency framework index measured on a scale of 0-16, Nepal had a score of 8.0, placing it ahead of the South Asia (6.5) but behind the OECD countries (11.9) average.

2.12 Labour market regulation³



Employing Workers in Nepal

Hiring

Redundancy rules

Dismissal due to redundancy allowed by law? Yes.

Third-party notification if one worker is dismissed? Yes.

³Nepal has a new labor law dated 2017 (2074) and things have changed since (<http://www.lawcommission.gov.np/>)



Fixed-term contracts prohibited for permanent tasks? No
 Maximum length of a single fixed-term contract (months) No limit
 Maximum length of fixed-term contracts, including renewals (months) No Limit
 Minimum wage applicable to the worker assumed in the case study (US\$/month) 119.6.
 Ratio of minimum wage to value added per worker 1.0.
 Maximum length of probationary period (months) 6.0.

Working hours

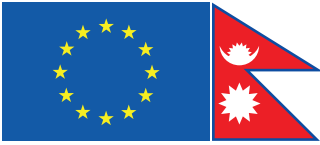
Standard workday 8.0.
 Maximum number of working days per week 6.0.
 Premium for night work (% of hourly pay) 0.0.
 Premium for work on weekly rest day (% of hourly pay) 50.0%.
 Premium for overtime work (% of hourly pay) 50.0%.
 Restrictions on night work? No.
 Restrictions on weekly holiday? No.
 Restrictions on overtime work? No
 Paid annual leave for a worker with 1 year of tenure (working days) 18.0.
 Paid annual leave for a worker with 5 years of tenure (working days) 18.0.
 Paid annual leave for a worker with 10 years of tenure (working days) 18.0.
 Paid annual leave (average for workers with 1, 5 and 10 years of tenure, in working days) 18.0.

Third-party approval if one worker is dismissed? No
 Third-party notification if nine workers are dismissed? Yes.
 Third-party approval if nine workers are dismissed? No.

Retraining or reassignment obligation before redundancy? No.
 Priority rules for redundancies? Yes.
 Priority rules for reemployment? Yes.

Redundancy cost

Notice period for redundancy dismissal for a worker with 1 year of tenure 4.3.
 Notice period for redundancy dismissal for a worker with 5 years of tenure 4.3
 Notice period for redundancy dismissal for a worker with 10 years of tenure 4.3
 Notice period for redundancy dismissal (average for workers with 1, 5 and 10 years of tenure) 4.3.
 Severance pay for redundancy dismissal for a worker with 1 year of tenure 4.3.
 Severance pay for redundancy dismissal for a worker with 5 years of tenure 21.4.
 Severance pay for redundancy dismissal for a worker with 10 years of tenure 42.9.
 Severance pay for redundancy dismissal (average for workers with 1, 5 and 10 years of tenure) 22.9.
 Unemployment protection after one year of employment? Yes.



Summary of the investment climate

Nepal's investment climate indicators reveal an economy in transition, making progress on some indicators and regressing in other areas. Overall, Nepal had an ease of doing business index of 63.2 for 2020 giving it a global rank of 94 out of 190 economies. It was a significant overall improvement, as it is a consequence of several measures that Nepal successfully implemented in the current year compared to the previous. The index tells us the overall performance of the country and it is clear that it has improved. The indicators have further improved in the past few years, particularly in terms of measures taken by the government in annual budget speeches and are likely to improve further upon implementation of the Nepal Trade Integration Strategy 2022.

Within the overall stronger investment climate performance, some sub-indicators had improved, but a few have become worse in 2020 versus 2019. Notably, in the area of "Dealing with Construction Permits", Nepal had made it easier and less costly by reducing fees for building permits and improving the online e-submissions platform. Also, in the area of "Getting Credit", Nepal had improved access to credit information by expanding the coverage of the credit bureau. Similarly, with regard to "Trading across Borders", Nepal had reduced the time and cost to export and the time to import by opening the Integrated Check Post Birgunj at the Nepal-India border. New border trading arrangements have also become operational in other parts of the country. Finally, with regards to "Enforcing Contracts", Nepal had made enforcing contracts easier by adopting a new code of civil procedure that introduced time standards for key court events.

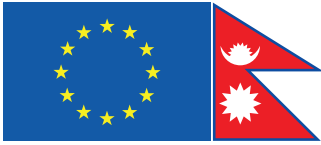
However, the World Bank had noted that two important areas where the situation had regressed were "Starting a Business" and "Registering Property". With regards to "Starting a Business", Nepal had made it more difficult by requiring in-person follow-up for employee registration for social security. Also, Nepal had made property registration more expensive by increasing the property transfer registration fee. Nepal had also improved the quality of its land administration system by publishing the official service standards for delivering updated cadastral maps.

3.0. POLICY & LEGAL ENVIRONMENT

The purpose of the legal and regulatory framework governing business and investment in Nepal is to ensure foreign investors comply with the country's laws and regulations; foreign direct investments are directed to their intended purpose that is to attract, develop and promote businesses in Nepal; ensure smooth facilitation of trade across borders and finally, and to provide a conducive environment for business and investment to flourish in the country.

3.1 Laws and regulations governing trade and investments

There are a number of legislations and policy directives comprising the legal and regulatory framework governing investment in Nepal. These legal and regulatory frameworks, amongst others, are as follows: Foreign Investment and Technology Transfer Act, 2019; Income Tax Act, 2002; Company Act, 2006; Public Private Partnership and Investment Act, 2019; Environment Protection Act, 2019; Industrial Enterprise Act, 2020; Foreign Investment and Technology Transfer Regulation, 2021; and Investment Enterprise Regulation, 2022. These legislations and policy directives are briefly elaborated in the ensuing sections.



3.1.1 Foreign Investment and Technology Transfer Act (FITTA), 2019

Some of the main features of the FITTA are as follows. 1). Guarantees national and non-discriminatory treatment to all foreign investors; 2). 100 percent foreign investment allowed in all types of industries except industries mentioned in the negative list of FITTA and some sectors like casinos, telecommunications, and aviation; 3). Open to technology transfer in all industrial sectors; 4). Guarantees repatriation of profits in convertible currency; 5). Provides business/residential visas for investors; 6). Defines FDI broadly, includes lease financing and investment made in the permitted sectors of equity investment in new industry in foreign currency, investment through purchase of shares of existing industry, through capital investment fund, technology transfer and reinvestment of dividend earned from foreign investment; 7). Provides for a One-Stop-Service Centre to facilitate and fast-track investment; 8). Allows opening bank accounts in convertible foreign currency; 9). Provides for dispute settlement as agreed between the parties in agreement; and 10). Provides for hiring foreign nationals in high-level managerial positions.

3.1.2 Public - Private Partnership and Investment Act (PPPIA) 2019

Some of the main features of the PPPIA are as follows. 1). Provides for the formation of the Investment Board Nepal (IBN), a high-level body, to facilitate large infrastructure projects; 2). IBN is chaired by the Prime Minister of Nepal and includes relevant ministers and heads of major government agencies and the private sector as members; 3). Approves investments of over NPR 6 billion in all sectors, and energy projects of over 200 MW of installed capacity; 4). Provides for a separate PPP Unit and Investment Unit; 5). Provides for viability gap funding for construction, operation, and expansion; and 6). Provides for One-Stop Service Centre with authority to issue survey licenses, sign MoUs and agreements, and grant investment approvals, among others.

3.1.3 Company Act 2006 (Amended in 2019)

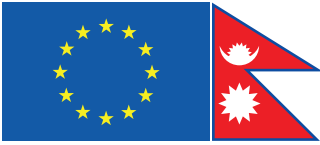
Some of the main features of the Company Act are as follows. 1). Company Act 2006 (Amended in 2019); 2). Statutory recognition for online company registration; 3). Robust legal mechanism to protect trademarks; 4). Allows a public company to hold 100% shares of a private company and vice versa without conversion; 5). Simplifies the conversion of a liaison office of a foreign company into a branch office; 6). Provides for buying back own shares to protect against hostile takeovers; 7). Flexible provision for issuing shares at premium price.

3.1.4 Industrial Enterprises Act (IEA) 2020

Some of the main features of the IEA are as follows. 1). Classification of industry based on fixed asset investment and nature of business; 2). Provides for a One-Stop Service Centre; 3). Provides for importing goods from the foreign parent company for market development of new goods; 4). Provides for hiring foreign nationals in high-level managerial positions; 5). Provides for industrial environmental standards; 6). Provides for contract manufacturing for supply of goods and services; and 7). Provides for allowing various fiscal incentives.

3.1.5 An automated system enforced by the DOI

In response to a drop in foreign direct investment (FDI) commitments to one-third of the previous year's level, the government is taking measures to facilitate foreign investors by implementing an automated system for FDI up to



NPR 100 million. The Department of Industry (DoI) has stated that this system will make the one-window policy more effective for foreign investors, removing the existing lengthy procedures.⁴

The system will integrate Nepal Rastra Bank (NRB), Office of the Company Registrar (OCR), and several other government officers, thereby eliminating the need for separate approvals. In addition, the online system will allow people to register and complete the necessary bureaucratic processes for opening a company, even from their home country, and it will be applicable for businesses in ten sectors and sub-sectors designated by the government. The NRB and OCR will maintain the necessary data within the automated system, while the DOI will coordinate with other related offices to complete the required processes for foreign investors.⁵

The government has revised several laws, including the Foreign Investment and Technology Transfer Act, and lowered the minimum threshold limit for FDI to NPR 20 million from NPR 50 million since October 14, 2022, in an effort to attract more FDI. However, Nepal received only NPR 2.55 billion in FDI in the first six months of the current fiscal year (2022/2023), a significant drop from NPR 12.66 billion during the same period last year.

Summary of the policy & legal environment

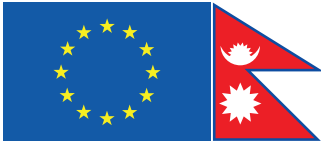
The existing legal and regulatory framework makes provision for safe investments in Nepal by foreigners and the bulk of these provisions are found in the FITTA. The government is mindful of the possible negative impact of an overly restricted investment environment, whilst at the same time, it seeks to ensure foreign investments have both direct and indirect spill over effects that benefit the citizens of Nepal. Ultimately, any revisions to the legal and regulatory framework will seek to find some balance between the rights and protections of foreign investors and their investments and the development impact of their investments, which must be inclusive of the citizens of Nepal.

Table-2: Key obstacles and possible solutions for enhancing FDI in Nepal

Obstacle	Possible Solution
Difficulty in following procedures to introduce FDI into Nepal.	Improve and streamline the procedural aspects of FDI.
Incentives to potential investors relatively weak compared to South Asia.	Incentivise FDI – study the best practices within the region and introduce similar measures to improve FDI flows.
Some laws and regulations do not reinforce each other to make the environment more conducive.	Harmonize existing laws and regulations regarding FDI.
Weak intellectual property rights regime, providing uncertainty about protection of IP of foreign investors.	Modernize and improve Nepal's IPR regime.
Enforcement of laws and regulations is weak, esp. in the area of IP. Counterfeit goods allowed to be sold in the market.	Strengthen enforcement of the rules.

⁴<https://myrepublica.nagariknetwork.com/news/govt-implementing-automated-system-for-approval-of-fdi-aims-to-facilitate-foreign-investors/>

⁵<https://theannapurnaexpress.com/news/doi-develops-mechanism-to-approve-fdis-up-to-rs-100m-online-41479>



CONCLUSION

The investment climate in Nepal has improved significantly since the last decade, which is also evidenced by the numbers recorded by the Doing Business reports. Notably, Nepal has gotten better in the areas of “Dealing with Construction Permits”, “Getting Credit”, “Trading across Borders”, and “Enforcing Contracts”. All these areas send strong positive reassurances to businesses, especially foreign investors, that Nepal is ready for a significant transformation. Further, Nepal has amended and updated the laws and regulations to provide greater legal certainty especially for FDI and technology transfer, and public private partnerships.

However, some work needs to be done with regard to starting a business and registering property in Nepal. Under the EU-support Trade and Investment Programme, one of the intervention areas is the One Stop Service Centre (OSSC) improvement, which aims at being comparable to a good practice standard within South Asia (e.g., Bangladesh) by 2024.

BIBLIOGRAPHY

Doing Business 2020: Comparing Business Regulation in 190 Economies. The World Bank Group.

Environment Protection Act, 2019.

Foreign Investment and Technology Transfer Act, 2019.

Foreign Investment and Technology Transfer Regulation, 2021.

Income Tax Act, 2002; Company Act, 2006.

Industrial Enterprise Act, 2020.

Investment Enterprise Regulation, 2022.

Public Private Partnership and Investment Act, 2019.