

# Investment Policy and Regulatory Framework in Nepal

## Introduction

There were a few cases of foreign investment and technology transfer in Nepal prior to 1980. A Solidarity Ministerial meeting was held in 1982 and an Investment Promotion meeting was held in 1984 for promoting foreign investment and creating awareness of the investment opportunities in the country. Subsequently, Nepal Investment Forum was organized in Kathmandu in 1992, which was successful in attracting the foreign investors. The Government of Nepal (GoN) again organized “Nepal Investment Summit” in Kathmandu on 2-3 March, 2017, where USD 13.74 billion of FDI commitment was done in ten sectors by 26 companies located in 8 countries. However, the actual inflow of FDI in Nepal is still low, despite the high level of pledges, especially in comparison with other countries in South Asia.

## Investment Policy in Nepal

The Government of Nepal introduced a new Foreign Investment Policy, 2015, replacing the policy of 1992 with an objective of making the economy more dynamic and competitive by maintaining trade balance through export promotion and import management, and by attracting foreign investment, technology, skills and knowledge in priority sectors. The new policy incorporates the changing context of portfolio investment, non-resident Nepalese investment, special economic zones, labor relation issues, and mobilization of debt instruments in domestic and foreign currencies. The foreign investment policy aims to achieve sustainable economic growth and generate employment, enhance investment in the regional and national development, fill the gap of increasing investment demand, increase the domestic production and productivity and create an investment friendly environment.

In contrast to old policy, the new policy has clearly defined the term “foreign investment” and “technology transfer”. It recognizes assignment, user’s license, technical know-how sharing and franchising as the medium for technology transfer. The policy has envisioned the Investment Board, Ministry of Industry, Foreign Investment Promotion Board, Department of Industry, and One Stop Service Center as the institutions involved in implementing foreign investment policy in Nepal. The policy categorized the investors as a) foreign institutional investors b) foreign individual investors and c) Non-Resident Nepalese (NRN). There are provisions to facilitate FDI through the access to foreign exchange, facilities and exemptions, access to credit, hiring foreign workers, acquisitions of land, and industrial security and business promotion. It assures equal treatment to foreign investors, no nationalization of the investment, and withdrawal of their

principal investment and its earnings. The provision of mediator and dispute settlement has also been incorporated in this policy.

The procedure of FDI in Nepal varies depending on investment size and sectors. In general, the required documents differ according to mode of foreign equity participation in the industries.

### **Regulatory Framework**

Foreign Investment and Technology Transfer Act, 1982 was enacted to attract and utilize the foreign investment in Nepal. Subsequently, a new Foreign Investment and Technology Transfer Act, 1992 was enacted to facilitate the liberalization process of 1990s. Besides that other legal arrangements that govern FDI in Nepal include Foreign Exchange (Regulation) Act, 1962, Foreign Investment and Technology Transfer Act (FITTA), 1992, Privatization Act, 1992, Arbitration Act, 1999, Contract Act, 2000, Income Tax Act, 2002, Investment Board Act, 2010, Investment Board Act, 2011, Industrial Enterprises Act, 2016, Company Act, 2017, Labor Act, 2017. Similarly, DOI, Investment Board of Nepal (IBN) and NRB are the agencies for administration and implementation of rules and regulations related to FDI.

Nepal became member of the World Trade Organization-WTO, Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation- BIMSTEC, South Asia Free Trade Agreement-SAFTA and Multilateral Investment Guarantee Agency-MIGA. Nepal also signed Bilateral Investment Protection and Promotion Agreement (BIPPA) with six countries and Double Taxation Avoidance Agreement with ten countries. Furthermore, it has obtained access to neighboring and global markets. Investment Board Act, 2010 was enacted based on which Investment Board has been established.

### **Emerging Destination for Investment**

Although small in size, Nepal could be an emerging destination for FDI in South Asia. Nepal has several advantages such as demographic structure, gradually improving business indicators, geographic location and its improving legal infrastructure. Firstly, the economically active population in Nepal is about 56 percent which is rising every year. Availability of cheap labor force could be an attraction for investors. Secondly, the increasing disposable income with remittances, expansion of economic activities and changing consumption pattern have been creating new markets for products. Similarly, the gradual reforms and realization for the requirement of foreign capital in mega projects could improve the business environment for foreign investors. Also, Nepal lies in the geographic location surrounded by two populous countries, China and India, which has more than 35 percent of total world population. Lastly, the Investment Board of Nepal (IBN) has also identified potential investment sectors for FDI which

can be tapped into like hydropower, transport, agriculture, tourism, information communication technology, mines and minerals, health and education, manufacturing and financial institutions.

Finally, to manage FDI in Nepal, both short-term and long term visions, policies, regulatory frameworks operational strategies and institutions are being strengthened taking into consideration the dynamics of world investment pattern, the pace of development of domestic markets and the local resources available.

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### References

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