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Market Access Barriers to Select Nepalese Agricultural Exports

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South Asia Watch on Trade, Economics & Environment (SAWTEE)

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South Asia Watch on Trade, Economics & Environment (SAWTEE)

"Enabling South Asian communities to benefit from and minimize the harms of changing regional and global economic paradigm."

Launched in December 1994 at Nagarkot, Nepal by a consortium of South Asian non-governmental organizations (NGOs), South Asia Watch on Trade, Economics & Environment (SAWTEE) is a recognized, registered, non-profit, non-governmental organization.

The overall objective of SAWTEE is to build the capacity of the concerned stakeholders in South Asia, by equipping them with knowledge, information and skills to voice their concerns, particularly in the context of liberalization and globalization. Specific objectives include:

- to analyze various provisions of the World Trade Organization (WTO) Agreements and functioning of the system so as to promote social justice and economic equity at the national, regional and global levels;
- to conduct programs aimed at enhancing participation of developing countries, in particular least developed countries (LDCs) and land-locked countries in the global trading system;
- to facilitate the process of regional integration within South Asia from the non-governmental side;
- to establish linkages and promote cooperation with other organizations having similar objectives; and
- to conduct research and advocacy programs on trade, regional cooperation and sustainable development issues affecting South Asia.

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Section I: Introduction

1. Background

1.1 Nepalese agriculture and export trade

Agriculture plays a significant role in the Nepalese economy. Despite the decline of its contribution to GDP from 47.4 per cent in 1990–91 to 39.2 per cent in 2003–04, it is still the largest sector of the economy and the main livelihood for about 80 per cent of the population (Ghimire and Dahal 2004). Nepal's export trade is highly concentrated, both in product and destination. While carpet, textiles and agricultural produce represent 70 per cent of total exports, three markets—the U.S., Germany and India—are its major destinations, covering more than 80 per cent of total exports. Therefore, the challenge is to increase Nepal's exports in the international market by diversifying its export profile. One of the possibilities is through agricultural exports.

1.2 Objectives of the research

- study the existing tariff and non-tariff barriers on select agricultural produce of Nepal;
- identify problems the Nepalese agricultural exports face in the international market; and
- propose some measures at the international and regional levels to minimize, if not eliminate, export barriers.

1.3 Limitations

- the study looks at multilateral trade issues, but not at the preferential market access facilities nor the bilateral and regional trade issues despite their importance for Nepal, particularly in the context of its heavy trade reliance on India;[2]
- the study looks mainly at the demand side, i.e., market access barriers (tariff and non-tariff) on select agricultural products, and does not focus on supply side;

1 The authors are Executive Director and Senior Programme Officer respectively of South Asia Watch on Trade, Economics & Environment (SAWTEE), Kathmandu.

2 Nepal signed a Bilateral Trade Agreement (BTA) with India on December 11, 1996, which is renewed every five years. It expired on December 10, 2001, and an *ad hoc* extension was provided until the treaty was renewed in March 2002 for a five-year period. Since there is a limited benefit to a majority of Nepalese farmers from this BTA, some have argued that Nepal should not waste its political capital in renewing this treaty once it expires in 2007 (Pandey 2004a).

- the study covers five agricultural products—tea, natural honey, floriculture, vegetable seeds and medicinal plants—and 12 international markets—Bangladesh, India, Pakistan, Sri Lanka, China, the EU, the U.S., Japan, Canada, Australia, Republic of Korea and Hong Kong; and

- the data on non-tariff barriers (NTBs) are insufficient to indicate their impact on export trade. The data show the incidence by percentage and lack examples of cases used to identify the incidence. Upon request for information on NTBs, the researchers were suggested from the Market Accession Division of the WTO Secretariat that such information is restricted to member governments. The United Nations Conference on Trade and Development (UNCTAD) also prohibits such access to others, other than member governments.

1.4 Organization of the study

The study is divided into five sections, starting with this introductory section. Section II looks at the state and political economy of agricultural trade at a global level and at recent developments. Section III is an analysis of the tariff and non-tariff barriers facing select agricultural produce. Section IV provides international and regional policy prescriptions for the Nepalese government and Section V concludes the paper.

Section II: Agricultural Trade at the Global Level

2. Background

2.1 Political economy of agricultural trade

The agricultural policy reforms in the developed countries and the Uruguay Round (UR) of the General Agreement on Tariffs and Trade (GATT) negotiations made only a very modest start to dismantling agricultural trade barriers. This is why the constraints to agricultural trade continue to inflict enormous welfare losses to the developing world (Hans and Lutz 2000). For example, the farm policies of the Organisation for Economic Co-operation and Development (OECD) countries—even after the reforms under the UR have been taken into account—cause annual welfare losses of US$19.8 billion to developing countries (Anderson, Hoekman and Strutt 1999).

Agricultural protectionism has been a well-accepted norm in the developed and developing world for the last three centuries (Ghimire 2001). Therefore, agricultural disciplines have remained much softer compared to the general disciplines in the GATT 1947 (Das 1999). In the mid-1980s, a group of 15 “fair trading” agricultural exporting nations came together to form the Cairns Group. Due in part to pressure from this group, which was supported by the U.S., the Agreement on Agriculture (AoA) was negotiated during the UR. However, the implementation of AoA has been poor.

2.2 Barriers to agricultural trade

The market access barriers on agricultural trade can be broadly divided into two categories—tariff and non-tariff barriers.

2.2.1 Tariff barriers

Ad valorem tariffs

One of the major objectives of AoA is to establish "tariff only" regimes. All members were required to convert their non-tariff import restrictions into tariffs. Tariffication was done by converting NTBs such as quotas, variable import levies, minimum import prices, discretionary licensing and NTMs maintained through state trading enterprises, into tariff barriers. However, what the developed countries did instead was to simply inflate the monetary value of NTBs to protect their sensitive products (Adhikari 2001). In some extreme cases, tariffs have actually increased afterwards. Critics and academics alike condemn it as "dirty tariffication," and assert that this has resulted in increased protectionism in the developed countries.

Non *ad valorem* tariff

During the UR negotiations, GATT members undermined the transparency they included into the AoA. They imposed specific tariffs instead of *ad valorem* tariffs (for instance, one-third of the EU and the U.S. farm tariffs are specific or have a specific component), which are much less transparent than *ad valorem* tariffs, and which have an increasing "protectionist impact" when world prices decline, a frequent situation since 1997 (Messerlin 2002). Low cost and low price suppliers are at a considerable disadvantage when high cost producers impose specific duties. Twenty-five WTO members have non-*ad valorem* bindings on more than 50 per cent of their agricultural tariff lines (Diakosavvas 2002). For example, 43.6 per cent of agricultural tariff lines of the EU, and 40.4 per cent of U.S. agricultural tariff lines contain non-*ad valorem* tariffs (World Bank 2003).

2.2.2 Non-tariff barriers

The trade impact of NTBs is extremely difficult to quantify. It is widely accepted that they distort trade and economic efficiency more than tariffs do in importing countries. Unlike tariffs, which are priced-based measures, most non-tariff measures (NTMs) directly alter the volume or composition of imports. For this reason, the WTO prefers the use of tariffs to the use of NTBs (Pandey 2000). Three major types of NTBs deserving special attention are discussed in this section.

Subsidy regime

As per AoA, WTO members have to reduce their agricultural support. Therefore, a formula was designed and support provided to the agricultural sector was classified according to a traffic light approach (green, amber and blue).

According to AoA, all amber subsidies were to be gradually reduced. However, in the actual implementation, the support provided to farmers actually increased in developed countries, thus making the agricultural products cheap in these countries and restricting the market access of products from developing countries. Table 2.1 substantiates this point.

It is also argued that the OECD countries, rather than reduce subsidies have instead transferred them from amber to green categories. As a matter of fact, agricultural supports in the form of subsidies and other mechanisms amount to an equivalent of US$33,000 per farm in Japan, and US$30,000 for European and American farmers (Adhikari 2001). As much as 31 cents of each dollar of revenue for the average farmer in the world's richest countries comes from government support. Only the rest comes from the market (Tangermann 2004).

Table 2.1: Estimates of Support to Agriculture in OECD (US$ Million)

Year	1986–88	2001	2002	2003 p
Total support estimate	303,720	308,041	314,808	349,808
Producer support estimate	241,077	227,955	229,691	257,285
General services support estimate	40,946	54,715	56,852	61,979

P = projected

Source: OECD (2004)

Standards – health, safety and environment

The Sanitary and Phytosanitary Measures (SPS) Agreement and the Technical Barriers to Trade (TBT) Agreement confirm the legitimate right of countries to use SPS and TBT measures. They also aim at ensuring that this right is not abused and does not have unnecessary negative effects on international trade (Pandey 2000). Article 2 of the SPS Agreement gives members the right to take measures necessary to protect human, animal, and plant life or health, but requires any measures to be based on scientific principles, and not be used to disguise trade restrictions. Nonetheless, there is a very thin line between the legitimate use and abuse of these measures by importing countries.

The requirements imposed by developed countries upon importers are often significantly higher than international standards and developing countries need to significantly upgrade their testing and monitoring facilities to meet these requirements. However, they lack the financial and technical resources to fulfill these criteria and their exports are hindered access to the international market.

Tariff rate quota

As part of market access compromise during the UR, countries had to provide a minimum level of import opportunities for products previously protected by NTBs. The market access provisions have, paradoxically, caused a proliferation of tariff rate quotas (TRQs) in agricultural trade, reflecting the high levels of tariffs prevailing in the agricultural sector. TRQs were introduced to establish minimum access opportunities where there had been no significant imports (less than five per cent of domestic consumption) before the tariffication process or to maintain current access opportunities where the tariffication would otherwise have reduced market access conditions. TRQs are two-tier tariffs that allow some fraction of domestic consumption requirements to be imported at a low tariff (in-quota), while any imports above the minimum access commitments are charged a much higher (over-quota) and often prohibitive tariff. TRQs are second-best policy instruments because they retain many of the characteristics of NTBs that might impede market access.[3]

2.3 Commitments at the Doha Round and July Package

Though the Doha Declaration was hailed as a success to improve market access opportunities of developing countries, sceptics were not convinced. The language contained in Paragraph 13 of the Doha Declaration is self-explanatory:

> ….*without prejudging the outcome of the negotiations* we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; *reductions of, with a view to phasing out*, all forms of export subsidies; and substantial reductions in trade-distorting domestic support… (emphasis added).

3 Diakosavvas, 2002, above note 9.

The texts in italics above are perceived by many observers as key reservations about the European willingness to negotiate (Messerlin 2002). In the months following the Doha Ministerial, it became clear that developed countries, in particular the EU and the U.S., were not serious. Consequently, most of the deadlines set for agreeing on the Doha Development Agenda (DDA) were missed.

Following this, the Cancun Ministerial was terminated without any decision, except to reconvene at the General Council in December 2003—a deadline later pushed to July 31, 2004, because members could not reach consensus by December. After acrimonious negotiations, the General Council finally adopted the July Text on August 1, 2004, on the modalities of negotiations on five areas, including agriculture.

The most notable achievement in the July Package (JP) is the Framework for Establishing Modalities in Agriculture. It recognizes that negotiation in agriculture is a part of a "single undertaking" and three pillars of reforms—market access, domestic support and export subsidies—are "interconnected" and "must be approached in a balanced and equitable manner." Although it provides a roadmap to reduce or eliminate most trade-distorting supports and subsidies, and to improve market access, it leaves most of the hard decisions to future negotiations with no specific date (Pandey 2004b).

Section III: A Commodity-wise Analysis

3. Introduction

This section examines the nature, types and levels of tariff barriers and the incidence of NTMs[4] by percentage on select agricultural produce of Nepal. For this purpose, a commodity-wise analysis was conducted of five agricultural products—natural honey, tea, floriculture, medicinal plants and vegetable seeds—which have tremendous export potential in the international market. This section looks at import conditions (tariff and non-tariff barriers) in the markets of neighbouring countries—Bangladesh, India, Pakistan, Sri Lanka and China[5]; two developing countries—Republic of Korea and Hong Kong; and five developed countries—Australia, Canada, the EU, Japan and the U.S.

3.1 Tea exports from Nepal and market access barriers

3.1.1 Tea export potential

"Nepal commenced the commercial production of tea only in comparatively recent times. Good prospect exists for the production of quality orthodox teas in Nepal… Improved cultural practices, latest technical know-how and efficient management systems are required to enable the tea industry to compete in the international market… Nepal has been exporting tea in the international markets such as Canada, China, the EU, Hong Kong, Israel, Japan, Republic of Korea, Pakistan, Singapore, Taiwan, Thailand and the U.S."[6]

4 In the case of NTBs, since the information based on concrete evidence is restricted to WTO member governments, a list of NTMs has been provided in Annex 1, which would help other researchers, especially the Nepalese government, to further investigate the case of NTBs.

5 In the case of China, the data on applied tariff may vary from the current rate as China had committed to lower tariffs from 2004 whereas the data provided herein are from 2003.

6 Adapted from http://www.yomari.com/fips/opportunities/feasible.html#agro

3.1.2 Market access barriers on tea exports

Tariff barriers

Neighbouring markets

Table 3.1(a) illustrates the applied and bound tariff rates for two types of green tea with harmonized system (HS) Codes 090210 and 090220. The table shows that in the case of green tea (090210), India and Pakistan have bound their tariffs at the highest level (150 per cent) followed by Bangladesh and Sri Lanka (50 per cent), and China (15 per cent). In the case of applied tariffs, India has maintained the highest rate (76.80 per cent) followed by Bangladesh (32.50 per cent), Pakistan (30 per cent), Sri Lanka (25 per cent) and China (18 per cent). In the case of green tea (090220), the applied tariff rates are the same as green tea (090210) except Bangladesh, which has maintained 200 per cent bound tariffs in this type of tea. In addition, Bangladesh imposes 0.3 per cent other duties and charges (ODC) in both types of green tea.

Table 3.1 (a): Applied and Bound Tariffs on Green Tea

Neighbouring Markets	Green Tea (HS Code 090210)		Green Tea (HS Code 090220)	
	Applied	Bound	Applied	Bound
Bangladesh (2003)*	32.50%	50% (implementation 2004)	32.50%	200%
India (2001–2002)	76.80%	150%	76.80%	150%
Pakistan (2001)	30%	150%	30%	150%
Sri Lanka (2003)	25%	50%	25%	50%
China (2003)	18%	15% (implementation 2004)**	18%	15% (implementation 2004)**

* ODC at 0.3 per cent as referred in www.amad.org

** Protocol on the Accession of China to the WTO, 10 November 2001

Source: Member Governments' Submissions to the WTO Secretariat

Table 3.1(b) shows that tariffs for both types of black tea (090230 and 090240) are same as in the case of green tea (090210 and 090220 respectively). Also, as in the case of green tea, Bangladesh has maintained 0.3 per cent ODC.

Table 3.1 (b): Applied and Bound Tariffs on Black Tea

Neighbouring Markets	Black Tea (HS Code 090230)		Black Tea (HS Code 090240)	
	Applied	Bound	Applied	Bound
Bangladesh (2003)*	32.50%	50% (implementation 2004)	32.50%	200%
India (2001–2002)	76.80%	150%	76.80%	150%
Pakistan (2001)	30%	150%	30%	150%
Sri Lanka (2003)	25%	50%	25%	50%
China (2003)	18%	15% (implementation 2004)**	18%	15% (implementation 2004)**

* ODC at 0.3 per cent as referred in www.amad.org

** Protocol on the Accession of China to the WTO, 10 November 2001

Source: Member Governments' Submissions to the WTO Secretariat

Other major international markets

Table 3.2(a) indicates the applied and bound tariffs on green tea (090210 and 090220). The table illustrates that the Republic of Korea is the most protected market followed by Japan.

Table 3.2 (a): Applied and Bound Tariffs on Green Tea

Other International Markets	Green Tea (HS Code 090210)		Green Tea (HS Code 090220)	
	Applied	Bound	Applied	Bound
U.S. (2004)	0%–6.4%	0%–6.4%	0%–6.4%	0%–6.4%
EU (2004)	3.2%	3.2%	0%	0%
Canada (2004)	0%	0%	0%	0%
Japan (2003)	17%	17%	0%–17%	0%–17%
Republic of Korea (2004)	40% (in-quota rate) 513.6% (out of quota rate)	513.6%	40% (in-quota rate) 513.6% (out of quota rate)	513.6%
Australia (2004)	0%	0% (1995–2000)	0%	0% (1995–2000)
Hong Kong, China (2001)	0%	0%	0%	0%

Source: Member Governments' Submissions to the WTO Secretariat

Republic of Korea has maintained bound tariffs for both types of green tea at 513.6 per cent. In the case of applied tariffs, it has maintained TRQ—in-quota rate (40 per cent) and out of quota rate (513.6 per cent). Japan has maintained tariff peaks on green tea (090210) at the rate of 17 per cent. In the case of green tea (090220), Japan has bound and applied tariffs at zero to 17 per cent. With the U.S., the applied and bound tariffs range from zero to 6.4 per cent, implying that tariff barriers are not high. Similarly, the EU maintains the applied and bound tariffs for green tea (090210) at 3.2 per cent and for green tea (090220) at zero per cent. Others have maintained tariffs at zero per cent.

Table 3.2 (b): Applied and Bound Tariffs on Black Tea

Other International Markets	Black Tea (HS Code 090230)		Black Tea (HS Code 090240)	
	Applied	Bound	Applied	Bound
U.S. (2004)	0%	0%	0%	0%
EU (2004)	0%	0%	0%	0%
Canada (2004)	0%	0%	0%	0%
Japan (2003)	12%–17%	12%–17%	0%–17%	0%–17%
Rep. of Korea (2004)	40%	60.7%	40%	60.7%
Australia (2004)	0%	0%	0%	0%
Hong Kong, China (2001)	0%	0%	0%	0%

Source: Member Governments' Submissions to the WTO Secretariat

Table 3.2(b) shows the applied and bound tariffs on black tea (090230 and 090240). As with green tea, this table illustrates that Korea is the most protected market for black tea followed by Japan. However, compared to the tariff structures for green tea, there are some differences in the tariffs for black tea. First, Korea has not maintained TRQ as with green tea. Second, the bound rates for black tea (both codes) are at 60.7 per cent and applied rates at 40 per cent, which are lower compared to green tea. Nonetheless, the applied tariffs are still the tariff peaks. Japan has bound its tariffs for black tea (090230) at 12 to 17 per cent and has applied at the same rates. Similarly, Japan has bound and applied its tariffs on black tea (090240) at zero to 17 per cent. Besides Republic of Korea and Japan, other countries have maintained tariffs at zero per cent on both types of black tea.

Non-tariff barriers

Neighbouring markets

As shown in Table 3.3(a) and (b), there is a 100 per cent incidence of NTMs in exports of all types of green and black tea to India and Pakistan. However, for Bangladesh, Sri Lanka and China, the incidence is zero per cent.

Table 3.3 (a): Incidence of NTMs

Neighbouring Markets	Green Tea (HS Code 090210)		Green Tea (HS Code 090220)	
	NTM Incidence (%)	# of Tariff Lines	NTM Incidence (%)	# of Tariff Lines
India	100	1	100	1
Bangladesh	0	1	0	1
Pakistan	100	1	100	1
Sri Lanka	0	4	0	1
China	0	2	0	2

Compiled from: http://www.unctad.org/trains/index.htm

Table 3.3 (b): Incidence of NTMs

Neighbouring Markets	Black Tea (HS Code 090230)		Black Tea (HS Code 090240)	
	NTM Incidence (%)	# of Tariff Lines	NTM Incidence (%)	# of Tariff Lines
India	100	1	100	1
Bangladesh	0	1	0	1
Pakistan	100	1	100	2
Sri Lanka	0	4	0	4
China	0	3	0	3

Compiled from: http://www.unctad.org/trains/index.htm

Other major international markets

Table 3.4(a) shows a 100 per cent incidence of NTMs in exports of all types of green tea to Canada, Australia and Korea. However, for other countries, the incidence is zero per cent.

Table 3.4 (a): Incidence of NTMs

Other International Markets	Green Tea (HS Code 090210)		Green Tea (HS Code 090220)	
	NTM Incidence (%)	# of Tariff Lines	NTM Incidence (%)	# of Tariff Lines
OECD Countries				
Canada	100	2	100	1
Japan	0	1	0	2
EU	0	1	0	1
U.S.	0	2	0	2
Australia	100	1	100	1
Developing Countries				
Hong Kong	0	1	0	1
Republic of Korea	100	1	100	1

Compiled from: http://www.unctad.org/trains/index.htm

Table 3.4 (b) shows a 100 per cent incidence of NTMs on exports of all types of black tea to Canada and Australia. However, in the case of other countries, the incidence is zero per cent.

Table 3.4 (b): Incidence of NTMs

Other International Markets	Black Tea (HS Code 090230)		Black Tea (HS Code 090240)	
	NTM Incidence (%)	# of Tariff Lines	NTM Incidence (%)	# of Tariff Lines
OECD Countries				
Canada	100	2	100	1
Japan	0	2	0	3
EU	0	1	0	1
U.S.	0	1	0	1
Australia	100	1	100	1
Developing Countries				
Hong Kong	0	1	0	1
Republic of Korea	0	1	0	1

Compiled from: http://www.unctad.org/trains/index.htm

3.2 Honey exports from Nepal and market access barriers

3. 2.1 Honey export potential

"Honey is emerging as one of the leading export products of Nepal. It has a growing export market, as honey is increasingly being used by food industries as well as pharmaceutical companies. The cosmetic manufacturers are also using it as an ingredient for soaps and shampoo… The hill mountain natural honey of Nepal is very famous for its exotic taste… The major export markets of honey are U.K., Republic of Korea, Germany, Japan, Hong Kong, Poland, etc." (FNCCI 2004)

3. 2.2 Market access barriers on honey exports from Nepal

Tariff barriers

Neighbouring markets

Table 3.5 illustrates the applied and bound tariff rates maintained by India, Bangladesh, Pakistan, Sri Lanka and China for exports of natural honey to these countries. Bangladesh has maintained the highest bound tariffs (200 per cent) followed by India and Pakistan (100 per cent), Sri Lanka (50 per cent), and China (15 per cent). However, with applied tariffs, India maintains the highest tariff (40.40 per cent) followed by Pakistan (30 per cent), Sri Lanka (25 per cent) and China (17 per cent) and Bangladesh (15 per cent). It means that all these countries have maintained tariff peaks on the exports of tea to these countries. In addition, Bangladesh has maintained ODC at 0.3 per cent.

Table 3.5: Applied and Bound Tariffs on Exports of Honey

Neighbouring Markets	Natural Honey (HS Code 040900)	
	Applied	Bound
Bangladesh (2003)*	15%	200%
India (2001–2002)	40.40%	100%
Pakistan (2001)	30%	100%
Sri Lanka (2003)	25%	50%
China (2003)	17%	15% (implementation 2004)**

* 0.3 per cent ODC as referred in www.amad.org

** Protocol on the Accession of China to the WTO, 10 November 2001

Source: Member Governments' Submissions to the WTO Secretariat

Other major international markets

Table 3.6 indicates the applied and bound tariffs on natural honey maintained by the U.S., the EU, Canada, Japan, Republic of Korea, Australia and Hong Kong. The table illustrates that Korea is the most protected market followed by Japan and the EU.

Table 3.6: Applied and Bound Tariffs on Exports of Honey

Other International Markets	Natural Honey (HS Code 040900)	
	Applied	Bound
U.S. (2004)	1.9 cts/kg	1.9 cts/kg
EU (2004)	17.30%	17.30%
Canada (2004)	0%	2.2cts/kg
Japan (2003)	25.50%	25.50%
Republic of Korea (2004)	20% (in-quota rate) and 243% or 188 won/kg (which ever is greater) (out of quota rate)	243% or 1.864 won/kg whichever is greater
Australia (2004)	0%	1%
Hong Kong, China (2001)	0%	0%

Source: Member Governments' Submissions to the WTO Secretariat

Korea has maintained TRQ—20 per cent as in-quota rate and 243 per cent or 188 won/kg (whichever is greater) as out of quota rate. It has bound the tariff at 243 per cent or 1.864 won/kg (whichever is greater). Japan has applied and bound tariffs at 25.50 per cent, which is a tariff peak. The other countries maintaining tariff peaks are the European countries. They have applied and bound tariffs at 17.30 per cent. However, the U.S., Canada, Australia and Hong Kong have maintained no tariffs (zero per cent).

Non-tariff barriers

Neighbouring markets

Table 3.7 indicates that there is a 100 per cent incidence of NTMs in exports of natural honey to India and Pakistan. However, in the case of other countries, the incidence is zero per cent.

Table 3.7: Incidence of NTMs on Exports of Natural Honey (HS Code 040900)

Neighbouring Markets	NTM Incidence (%)	# of Tariff Lines
India	100	1
Bangladesh	0	1
Pakistan	100	1
Sri Lanka	0	1
China	0	1

Compiled from: http://www.unctad.org/trains/index.htm

Other major international markets

Table 3.8 indicates that there is a 100 per cent incidence of NTMs in exports of natural honey to Canada, the U.S., Australia and Korea. In the case of other countries, the incidence is zero per cent.

Table 3.8: Incidence of NTMs on Exports of Natural Honey (HS Code 040900)

Other International Markets	NTM Incidence (%)	# of Tariff Lines
OECD Countries		
Canada	100	1
Japan	0	1
EU	0	1
U.S.	100	1
Australia	100	1
Developing Countries		
Hong Kong	0	1
Republic of Korea	100	1

Compiled from: http://www.unctad.org/trains/index.htm

Though the table indicates that the EU imposes no NTBs on the exports of natural honey to its market, there are concerns that the EU standards largely discourage the exports of agricultural products. "With the standards far higher than required by the standard setting institutions like the Codex Alimentarius Commission (CAC), it has been reported that the EU uses stringent criteria that are constantly updated as new contaminants are discovered in honey on the world market, and that too on the precautionary principle… For a country to be eligible to export honey to the EU, it is essential for its name to be added to the EU's list of third countries. To be on the list, they need to show that administrative procedures are in place for the analysis of honey for residues of antibiotics, sulphonamides, pesticides and heavy metals. The laboratory used has to satisfy EU accreditation legislation."[7] Failing to do so has already created problem for the exports of honey from Nepal, affecting a large number of farmers. Keeping track of and monitoring the quality and chemical residue in honey, the EU delisted Nepal from its list of countries allowed to export honey over two years ago.

3.3 Floriculture exports from Nepal and market access barriers

3.3.1 Floriculture export potential

"Due to the variation in climate, topography and vegetation, Nepal has a diversity of ornamental plants which could be scientifically cultivated to promote export oriented business… The development of tissue culture initiated by the National Herbarium and Plant Laboratory is opening up opportunities for mass production of flowers, which could be exported from Nepal. Already tissue culture method of propagation has been successfully developed in the production of orchids and other cut flower species… Carnations and chrysanthemums have also been similarly developed."[8]

3.3.2 Market access barriers on floriculture exports

Tariff barriers

Neighbouring markets

Table 3.9 shows that for cut flowers (060310), Bangladesh has kept the highest bound tariff (200 per cent) followed by India (150 per cent), Pakistan (100 per cent), Sri Lanka (50 per cent) and China (10

7 http://www.fao.org/documents/show_cdr.asp?url_file=/DOCREP/005/Y4640E/y4640e07.htm

8 http://www.yomari.com/fips/opportunities/feasible.html#agro

per cent). With applied tariffs, India has maintained the highest rate (40.40 per cent) followed by Sri Lanka (25 per cent), Pakistan (20 per cent), Bangladesh (15 per cent) and China (13.60 per cent). This means that all of them maintain tariff peaks. In the case of Bangladesh, it also maintains ODC at 0.3 per cent.

Table 3.9: Applied and Bound Tariffs on Floriculture

Neighbouring Markets	Cut Flowers, Fresh (HS Codes 060310)		Cut Flowers, Other (HS Codes 060390)	
	Applied	Bound	Applied	Bound
Bangladesh (2003)*	15%	200%	15%	200%
India (2001–2002)	40.40%	150%	40.40%	150%
Pakistan (2001)	20%	100%	20%	100%
Sri Lanka (2003)	25%	50%	25%	50%
China (2003)	13.60%	10% (implementation 2004)**	23%	10% (implementation 2004)**

* ODC at 0.3 per cent as referred in www.amad.org

** Protocol on the Accession of China to the WTO, 10 November 2001

Source: Member Governments' Submissions to the WTO Secretariat

As with cut flowers (060310), the bound tariffs of all the countries are the same for cut flowers (060390). In the case of applied tariffs too, the tariff rates are the same except for China. Bangladesh maintains ODC at 0.3 per cent in this category of cut flowers too.

Other major international markets

Table 3.10 indicates the applied and bound tariffs on floriculture. In the case of cut flowers (060310), Korea is the most protected market followed by Canada and the EU. Korea has applied tariffs at 25 per cent. Korea has bound tariffs at 36 per cent and also likely has the flexibility to maintain higher peak tariffs. In the case of Canada, its bound tariffs range from 6.3 to 12.5 per cent and applied tariffs from eight to 12.5 per cent. With the EU, it has bound and applied tariffs from 8.5 to 12 per cent. With the U.S., the bound and applied tariffs range from 3.2 to 6.8 per cent. Australia, Hong Kong and Japan have maintained tariffs at zero per cent.

Table 3.10: Applied and Bound Tariffs on Floriculture

Other International Markets	Cut Flowers, Fresh (HS Code 060310)		Cut Flowers, Other (HS Code 060390)	
	Applied	Bound	Applied	Bound
U.S. (2004)	3.2%–6.8%	3.2%–6.8%	4%	4%
EU (2004)	8.5%–12%	8.5%–12%	10%	10%
Canada (2004)	8%–12.5%	6.3%–12.5%	0%–8%	0%–8%
Japan (2003)	0%	0%	0%	0%
Republic of Korea (2004)	25%	36%	25%	36%
Australia (2004)	0%	0%	0%	0%
Hong Kong, China (2001)	0%	0%	0%	0%

Source: Member Governments' Submissions to the WTO Secretariat

In the case of cut flowers (060390), Korea is the most protected market followed by the EU and Canada. Korea has applied tariffs at 25 per cent and bound at 36 per cent. With the EU, its bound and applied tariffs are 10 per cent. In the case of Canada, its bound and applied tariffs range from zero to eight per cent. With the U.S., the bound and applied tariffs are four per cent. Australia, Hong Kong and Japan maintain tariffs at zero per cent.

Non-tariff barriers

Neighbouring markets

Table 3.11 indicates that there is a 100 per cent incidence of NTMs in exports of cut flowers, fresh and other to India. However, in the case of other countries, the incidence is zero per cent.

Table 3.11: Incidence of NTMs

Neighbouring Markets	Cut Flowers, Fresh (060310)		Cut Flowers, Other (060390)	
	NTM Incidence (%)	# of Tariff Lines	NTM Incidence (%)	# of Tariff Lines
India	100	1	100	1
Bangladesh	0	1	0	1
Pakistan	0	1	0	1
Sri Lanka	0	5	0	1
China	0	1	0	1

Compiled from: http://www.unctad.org/trains/index.htm

Other major international markets

Table 3.12 indicates that there is a 100 per cent incidence of NTMs in exports of cut flowers, fresh to the U.S., Australia and Hong Kong followed by Canada (93 per cent). However, in the case of other countries, the incidence is zero per cent.

Table 3.12: Incidence of NTMs

Other International Markets	Cut Flowers, Fresh (060310)		Cut Flowers, Other (060390)	
	NTM Incidence (%)	# of Tariff Lines	NTM Incidence (%)	# of Tariff Lines
OECD Countries				
Canada	93	6	100	3
Japan	0	6	0	1
EU	0	27	25	2
U.S.	100	4	100	1
Australia	100	1	100	1
Developing Countries				
Hong Kong	100	1	100	1
Republic of Korea	0	9	0	1

Compiled from: http://www.unctad.org/trains/index.htm

The table also indicates that there is a 100 per cent incidence of NTMs in exports of cut flowers to Canada, the U.S., Australia and Hong Kong followed by the EU (93 per cent). However, in the case of other countries, the incidence is zero per cent. With Japan, though the table indicates that there is a zero per cent incidence of NTMs, it has been reported that Japan has introduced a regulation requiring zero tolerance on insects and pests for the import of floriculture even when such insects and pests are already found in Japan (Prasad 2003).

3.4 Medicinal plant exports from Nepal and market access barriers

3.4.1 Medicinal plant export potential

"Due to the varied agro-climatic environment, Nepal is very rich in medicinal and aromatic plants with over 700 plant species. The collection of such plants from wild sources has been practiced since ancient times… The major export markets of these products are Germany, Japan, Pakistan, Italy, France, U.S., EU, U.K., Switzerland, Sweden, Australia, etc."[9]

3.4.2 Market access barriers for medicinal plant exports

Tariff barriers

Neighbouring markets

As presented in Table 3.13, Bangladesh has maintained the highest bound tariff (200 per cent) for medicinal plants, followed by India and Pakistan (100 per cent), Sri Lanka (50 per cent) and China (six to 20 per cent). With applied tariffs, India maintains the highest rate (40.40 per cent), followed by Bangladesh (22 per cent, except for 12119021 and 12119022 (7.5 per cent), Pakistan (10 per cent), China (six to 10 per cent) and Sri Lanka (five per cent).

Table 3.13: Applied and Bound Tariffs on Medicinal Plants

Neighbouring Markets	Medicinal Plants (HS Code 1211)	
	Applied	Bound
Bangladesh (2003)*	22.5% (except for 12119021 and 12119022 – 7.5%)	200%
India (2001–2002)	40.40%	100%
Pakistan (2001)	10%	100%
Sri Lanka (2003)	5%	50%
China (2003)	6.2%–10.7%	6%–20% (implementation 2004)**

* ODC at 0.3 per cent as referred in www.amad.org

** Protocol on the Accession of China to the WTO, 10 November 2001

Other major international markets

Table 3.14 shows that except for Korea, countries have not maintained tariff barriers on the exports of medicinal plants. Korea remains the most protected market. Its applied tariffs range from eight to 754.3 per cent, depending on the HS Codes. It has also maintained the TRQ as is evident from the applied rates.

9 Adapted from http://www.yomari.com/fips/opportunities/feasible.html#agro

Table 3.14: Applied and Bound Tariffs on Medicinal Plants

Other International Markets	Plants and Parts of Plants (including seeds and fruits) (HS Code 1211)	
	Applied	Bound
U.S. (2004)	0%–4.8% except 12119060 = 6.6ct/kg Tonquin beans	0%–4.8% except 12119060 = 6.6ct/kg Tonquin beans
EU (2004)	0%–3%	0% except for 12119030 = 3% (Tonquin beans)
Canada (2004)	0%	0% (1995)
Japan (2003)	0%–4.3%	0%–4.3%
Republic of Korea (2004)	See explanations below*	See explanations below*
Australia (2004)	0%	0%–2% (1995–2000)
Hong Kong, China (2001)	0%	0%

Applied Duties *121110 = 8%; 12112011 and 12112012 = 20% (in-quota rate) and 222.8% (out of quota rate); 12112013 = 20% (in-quota rate) and 754.3% (out of quota rate); 12112021 = 18%; 12112022, 12112091 and 12112099 = 20% (in-quota rate) and 754.3% (out of quota rate)

Bound Duties *121110 = 13.1; 12112011,1211201210, 1211201220, 1211201240 = 222.8%; 1211201310, 1211201320, 1211201330 = 754.3%; 1211202110,1211202120, 1211202190 = 18%; 1211202210, 1211202220, 1211202290, 12112091, 12112092, 12112099 = 754.3%; 12119010, 12119020, 12119030 = 13.1%; 12119040, 12119050 = 27%; 1211909010, 1211909020, 12119030, 12119040 = 13.1%; 12119050, 12119060, 12119070, 12119080 = 13.1; 12119090 = 18%

Source: Member Governments' Submissions to the WTO Secretariat

Non-tariff barriers[10]

Neighbouring markets

Table 3.15 indicates that there is a 100 per cent incidence of NTMs in exports of Liquorice roots to Pakistan. However, the incidence is zero per cent in the case of other countries.

Table 3.15: Incidence of NTMs

Neighbouring Markets	Liquorice Roots (121110)		Ginseng Roots (121120)		Other (121190)	
	NTM Incidence (%)	# of Tariff Lines	NTM Incidence (%)	# of Tariff Lines	NTM Incidence (%)	# of Tariff Lines
India	0	1	0	1	100	1
Bangladesh	0	2	0	2	0	6
Pakistan	100	1	100	1	100	1
Sri Lanka	0	1	0	1	0	2
China	0	2	25	4	0	27

Compiled from: http://www.unctad.org/trains/index.htm

Similarly, there is a 100 per cent incidence of NTMs in exports of Ginseng roots to Pakistan followed by China (25 per cent). However, the incidence is zero per cent in the case of other countries. And, for exports of other medicinal plants (121190) to India and Pakistan, there is a 100 per cent incidence of NTMs. However, the incidence is zero per cent in other countries.

Other major international markets

Table 3.16 indicates a 100 per cent incidence of NTMs in exports of Liquorice roots to Canada and Australia. However, the incidence is zero per cent in the case of other countries.

10 For identifying the incidence of NTMs on medicinal plants, three categories of medicinal plants based on HS classification have been chosen for the study.

Table 3.16: Incidence of NTMs

Neighbouring Markets	Liquorice Roots (121110)		Ginseng Roots (121120)		Other (121190)	
	NTM Incidence (%)	# of Tariff Lines	NTM Incidence (%)	# of Tariff Lines	NTM Incidence (%)	# of Tariff Lines
OECD Countries						
Japan	0	1	100	2	100	2
Canada	100	2	0	1	21	7
EU	0	1	0	1	0	4
U.S.	0	1	0	1	20	4
Australia	100	1	100	1	100	1
Developing Countries						
Hong Kong	0	1	0	1	0	1
Republic of Korea	0	1	0	16	0	14

Compiled from: http://www.unctad.org/trains/index.htm

The table also indicates a 100 per cent incidence of NTMs in exports of Ginseng roots to Canada and Australia. However, the incidence is zero per cent in the case of other countries. Similarly, there is a 100 per cent incidence of NTMs in exports of other medicinal plants (121190) to Canada and Australia followed by Japan (21 per cent) and the U.S. (20 per cent). However, the incidence is zero per cent in the case of other countries.

3.5 Vegetable seed exports from Nepal and market access barriers

3.5.1 Vegetable seed export potential

"Due to the variety of agro-climatic regions and fertile soils, Nepal produces a wide variety of good quality vegetables. Vegetable seeds are not only one of the highest value agricultural produce in Nepal but are also a major input in the vegetable production… The major vegetable seed that is being exported from Nepal is *Mino early variety of Radish* and the major importing countries are Bangladesh and India. Vegetable seeds are also being exported to Germany and Switzerland. It is perceived that there is huge export market potential for Nepali vegetable seeds in Sri Lanka, Pakistan and Qatar as well" (FNCCI 2004).

3.5.2 Market access barriers for vegetable seed exports

Tariff barriers

Neighbouring markets

Table 3.17 indicates that Bangladesh has bound its tariffs for vegetable seeds at the highest level compared to others, i.e., 200 per cent, followed by India and Pakistan (100 per cent), Sri Lanka (50 per cent), and China (zero per cent). In the case of applied tariffs, India maintains the highest tariff (14.40 per cent), followed by Pakistan (10 per cent). Others have maintained zero per cent tariffs. Bangladesh maintains 0.3 per cent ODC.

Table 3.17: Applied and Bound Tariffs on Vegetable Seeds

Neighbouring Markets	Vegetable Seeds (HS Code 120991)	
	Applied	Bound
Bangladesh (2003)*	0%	200%
India (2001–2002)	14.40%	100%
Pakistan (2001)	10%	100%
Sri Lanka (2003)	0%	50%
China (2003)	0%	0%**

* ODC at 0.3 per cent as referred in www.amad.org

** Protocol on the Accession of China to the WTO, 10 November 2001

Source: Member Governments' Submissions to the WTO Secretariat

Other major international markets

Table 3.18 indicates the applied and bound tariffs maintained by the U.S., the EU, Canada, Japan, Republic of Korea, Australia and Hong Kong on vegetable seeds. The table reveals that there are no tariff peaks by any country and their bound and applied tariff rates are encouraging for the exporters of vegetable seeds. However, the table indicates that the Republic of Korea can impose special safeguards (SSG).

Table 3.18: Applied and Bound Tariffs on Vegetable Seeds

Other International Markets	Vegetable Seeds (HS Code 120991)	
	Applied	Bound
U.S. (2004)	0%–5.9cts/kg	0%–5.9cts/kg
EU (2004)	3%–8.3%	3%–4% as from 1995
Canada (2004)	0%–5.5%	0%–5.8%
Japan (2003)	0%	0%
Republic of Korea (2004)	0%	0% (SSG)
Australia (2004)	0%	2%
Hong Kong, China (2001)	0%	0%

Source: Member Governments' Submissions to the WTO Secretariat

Non-tariff barriers

Neighbouring markets

Table 3.19 indicates that there is a 100 per cent incidence of NTMs in exports of vegetable seeds to Pakistan. However, the incidence is zero per cent in the case of other countries.

Table 3.19: Incidence of NTMs on Exports of Vegetable Seeds (120991)

Neighbouring Markets	NTM Incidence (%)	# of Tariff Lines
India	0	1
Bangladesh	0	1
Pakistan	100	3
Sri Lanka	0	1
China	0	1

Compiled from: http://www.unctad.org/trains/index.htm

Other major international markets

Table 3.20 indicates that there is a 100 per cent incidence of NTMs in exports of vegetable seeds to Canada, the U.S., Australia and Republic of Korea. However, the incidence is zero per cent in the case of other countries.

Table 3.20: Incidence of NTMs on Exports of Vegetable Seeds (120991)

Market	NTM Incidence (%)	# of Tariff Lines
OECD Countries		
Canada	100	2
Japan	0	2
EU	0	3
U.S.	100	6
Australia	100	1
Developing Countries		
Hong Kong	0	1
Republic of Korea	100	1

Compiled from: http://www.unctad.org/trains/index.htm

Section IV: Policy Prescriptions

4. Measures to be taken

From this study, two issues become clear. First, exports of all five products studied face tariff peaks in neighbouring markets except China. Considering members have the right to raise their tariffs to the bound level if circumstances dictate, the tariff barriers are very formidable. With bound tariffs as high as 200 per cent in neighbouring countries, they are almost like quantitative restrictions (QRs) in the sense that they literally foreclose the possibility of exports. Second, though other developing and developed countries, except Korea, have not maintained high tariff barriers, the incidence of NTMs is high for exports. Given these issues, Nepal should strategize the following measures at the international and regional levels.

4.1 At the international level

Regarding market access for agricultural products and the country's ability to utilize market access opportunities, four issues need serious consideration.

First, given the fact that JP is currently on progress with negotiations on different issues under DDA and that agriculture still remains the most contentious issue, Nepal should, along with other like-minded members, press for the following:

- creating a more transparent and simpler trade regime in all countries by converting specific tariffs to *ad valorem* tariffs, eliminating minimum price regulations, cutting peak tariffs and changing the structure of TRQs so they increase over time; and
- the phasing out of export subsidies and subsidies that encourage overproduction.

Second, given the high incidence of NTMs, Nepal must raise its voice against such barriers. Nepal should join hands with other like-minded countries to oppose standards not based on internationally agreed criteria or sound science, and are instead used for protectionist purposes.

Third, as a least developed country (LDC), Nepal enjoys certain preferential market access opportunities in several developed as well as developing countries. However, most are unilateral and offer little predictability. Nepal should join the LDC group to press for binding these offers at the WTO.

Fourth, Nepal lacks both capacity and resources to implement some WTO commitments which would help it exploit market access opportunities. Realizing this, Nepalese negotiators did press hard to include a provision on technical assistance in the Working Party Report at the time of WTO accession. Also, the language on technical assistance is included in most commitments made by Nepal. Article 11 of TBT and Article 9 of SPS that deal with technical assistance to implement WTO commitments have also been referred to in the Working Party Report.

Based on such language, Nepal needs to mobilize support from various bilateral and multilateral donors to implement these resource-demanding commitments. It is also important for Nepal to seek support from UNCTAD as it helps countries with capacity building measures and market access.

4.2 At the regional level

It is evident that Nepal also faces tariff and non-tariff barriers in the markets of South Asian countries. Therefore, it should initiate negotiations with these countries to lower their barriers. If there are problems for neighbouring countries to lower their trade barriers on a most favoured nation status (MFN) basis within the WTO, Nepal should take them into confidence to obtain better market access opportunities through the South Asia Free Trade Agreement (SAFTA). The negotiations within SAFTA, and also the South Asian Association for Regional Cooperation (SAARC), could be important because Nepal could generate mutual cooperation and understanding among countries during such negotiations.

Given that SAFTA negotiations have faced serious challenges due to an expanded list of sensitive products (mostly agricultural) proposed by relatively better-off countries in the region—India, Pakistan and Sri Lanka—Nepal should join with other LDCs in the region to demand that agricultural products of export interests to LDCs are excluded from the sensitive list.

While dealing with any bilateral treaties with its neighbouring countries, especially India, the country should take note of the market access aspect. It is crucial that, before making any commitment at the bilateral level, the government consults with stakeholders, including the private sector, farmers, academics and civil society groups.

Section V: Conclusion

This study reaches the tentative conclusion that some portion of Nepal's negotiating capital should be spent on improving market access. The policy-makers and trade negotiators need to strike a balance between the demand-side and supply-side of the economic equation. Just as it is necessary to segregate the market access barriers into tariff and non-tariff components, it is equally necessary to segregate the destinations on the basis of barrier types. For example, market access barriers faced while exporting produce in neighbouring countries are mainly in the form of high tariffs, while with developed countries, they are mostly in the form of NTMs. Therefore, before making any strategic plan for exports, Nepal should identify ways to minimize such barriers.

This study proposes the government conduct trade negotiations at two levels—multilateral and regional. At the multilateral level, across-the-board tariff reduction may not always be desirable for LDCs like Nepal because it could result in preference erosion. Therefore, Nepal and other LDCs should first identify the products they have a comparative advantage in, and then persuade their trading partners to remove trade barriers on those products. At the regional level, MFN tariff reduction by its neighbouring countries means that Nepal, as a country with a narrow range of exportable agricultural commodities, would not be able to compete with other more efficient suppliers. Therefore, a regional approach to tariff reduction is more desirable.

Annex 1: Classification of NTMs

NTM Category	Type of NTMs	Examples
Core NTMs	Price control measures	• Administrative price fixing • Variable charges • Anti-dumping measures • Countervailing measures
	Quality control measures	• Non-automatic licensing • Quotas • Prohibitions • Export restraint arrangements
Non-core border NTMs	Para-tariff measures	• Customs surcharge • Additional charges • Internal taxes and charges on imports
	Financial measures	• Advance payment requirements • Multiple exchange rates • Restrictive foreign exchange allocation • Terms of payment for imports • Transfer delays/queuing
	Automatic licensing measures	• Automatic licensing • Import monitoring
	Monopolistic measures	• Single channel for imports • Compulsory national services
	Customs procedures	• Customs valuation • Customs classification • Customs clearance • Rules of origin
Standards and certification	Technical regulations	• Product standards • Production standards • Mandatory labelling • Marking • Packaging
	Certification	• General certification • Quarantine • Inspection • Testing
Domestic governance (other than standards and certification)	Government assistance issues	• Production assistance • Export assistance
	Public procurement issues	• General preferences • Tendering issues/systems • Contract conditions
	Investment restrictions	• Foreign equity restrictions • Performance requirements • Trade balancing
	Distribution restrictions	• Wholesale restrictions • Retail restrictions
	Transportation restrictions	• Restrictive airport regulations • Restrictive seaport regulations
	Lack of IPR protection	• Copyright • Trademark • Patent
	Law enforcement issues	• Lack of legal infrastructure • Inadequate efforts on trade integrity
Miscellaneous measures		

Source: Walkenhorst, Peter and Fliess, Barbara (2003)

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