

‘We should list some agricultural goods as import sensitive’

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Posh Raj Pandey, the Executive Chairman of South Asia Watch on Trade, Economics and Environment, who has been working on issues of international trade and economic development for more than two decades, to know what Nepal should prioritise while revising the Nepal-India Trade Treaty. Photo: Balkrishna Thapa Chhetri

The Nepal-India Trade Treaty is going to expire on October 27 this year. To renew the treaty with some amendments, one of the contracting parties should give a written notice three months in advance to the

other before it expires. Otherwise, as per the provision of the treaty, the pact will be automatically extended for the next seven years. As the commerce secretaries of Nepal and India are going to meet on June 28-29, in New Delhi, experts have suggested that the amendment of the trade treaty should also be one of the agendas of the commerce secretary level talks. The prevailing treaty between Nepal and India was signed on October 27, 2009 and since then many developments have taken place in the regional and multilateral trading regime, which is why the bilateral trade agreement should also be harmonised as per the provisions of regional and multilateral arrangements. **Pushpa Raj Acharya** of **The Himalayan Times** caught up with **Posh Raj Pandey**, Executive Chairman of South Asia Watch on Trade, Economics and Environment, who has been working on issues of international trade and economic development for more than two decades, to know what Nepal should prioritise while revising the Nepal-India Trade Treaty.

The Nepal-India Trade Treaty is going to expire on October 27. What is your suggestion to the government regarding revision of the treaty with India?

There is a provision of automatic renewal of the treaty unless either of the parties gives a written notice to the other three months before the expiry of the treaty. Secondly, Nepal and India can also amend the protocols of the treaty by mutual consent through letter of exchanges (LoEs). I think we do not have enough time to do homework for a new treaty. The treaty will be automatically extended for a further seven years and we should follow the second option, which is amending the protocols through LoEs. In this respect, Nepal should raise the issue of amending some provisions of the 2009 treaty during the commerce secretary level talks between the two countries, which is slated for June 28-28 in New Delhi. Based on the negotiations of the commerce secretary level talks, Nepal should develop LoEs and forward them to India for the amendment of the treaty. The major concerns in Nepal-India trade are increasing trade deficit, failure to participate in the Indian value chain, presence of para and non-tariff barriers, preference erosion, adverse impact of treaty on agriculture sector, inadequate trade facilitation measures, and lack of and slow targeted support in building trade capacities. We should negotiate with India for the amendment of those provisions which are considered to be obstacles in boosting trade and investment relations with the southern neighbour.

What provisions need to be amended in the prevailing treaty in your view?

There are some unique provisions in Nepal-India Trade Treaty, which are not in practice in other bilateral trade agreements in the world. As per the provision of Article III of the existing treaty if Nepal signs any preferential trading agreement, including regional and bilateral, and accords preferences to other nations, then those preferences have to be extended unconditionally to India too. With this provision, there will be little incentive for a trading partner to conclude any preferential trading arrangement with Nepal. For example, Article VII of India-Bangladesh Trade Agreement provides exemption of Most Favoured Nation (MFN) treatment for customs union, free trade agreement or similar arrangement. We have a similar provision in the South Asian Free Trade Area (SAFTA) also. So, there is a need to revise this article. Similarly, Nepal-India Trade Treaty is not all about non-reciprocal trade preferences provided by India; it's also the preferences provided by Nepal. Article IV talks about reciprocal treatment, which means there needs to be exemption of customs duties and quantitative restrictions on primary products. So as per the treaty, Nepal partially exempts customs duties on imports from India. But the rampant import of agriculture goods from India has been hurting our agriculture base. So we should list some agricultural goods as import sensitive.

You have repeatedly talked in many forums that bilateral trade treaty with India should be harmonised as per the multilateral and regional trade arrangements. Can you elaborate on this briefly?

The treaty has imposed tariff rate quota on the export of some manufactured products from Nepal. Annex C of the treaty provides tariff rate quota on vegetable fats, acrylic yarn, copper and zinc oxide. There are three arguments against it. First, both Nepal and India are members of World Trade Organisation (WTO) and tariff rate quota on manufactured goods is normally prohibited. Second, if the intent of the tariff rate quota is to protect domestic industry, you can always invoke safeguard clause in case of threat to serious injury to domestic industry. It's wrong to presume such injury prima facie and have provision of tariff rate quota. Third, the concession provided by India to SAARC Least Developed Countries (LDCs) — Afghanistan, Bangladesh, Bhutan and Nepal — does not contain any tariff rate quota. Having such provision in bilateral agreement contradicts the provision of SAFTA. Likewise, the product needs to meet at least 30 per cent value addition to be eligible for export to India whereas in the Nairobi Ministerial Conference of the WTO held last year, India agreed to 25 per cent value addition criteria for LDCs. The provision of value addition in Nepal-India Trade Treaty contradicts the arrangement of the WTO. On the other hand, we should also change the value addition

calculation criteria because current method does not include the cost of transportation in value addition.

As the largest trading partner of Nepal, how can India support Nepal in boosting productive capacity?

The goal of the Nepal-India Trade Treaty is to help promote industrialisation in Nepal through better market access and support in building productive capacity and the key is providing 'level playing field' to Nepali products. So any kind of para tariffs such as additional duty or additional special duty imposed with the intent of trade protection should be abolished. Protocol on Article V provides exemption of additional duty above excise tax on the export of goods manufactured by small scale units. Unfortunately, this provision has not yet been invoked and small manufacturing units have not been able to enjoy the preferences of this provision of the treaty. Trade and transit facilitation is critical for land-locked Nepal to boost its productive capacity. Transit facilitation is the lifeline for industrial development, trade expansion and overall economic development. Thus, the issue of transit needs to be addressed.

Burgeoning trade deficit with India is also a primary concern and imports from India are consistently rising against sluggish exports. Do you see any scope in Nepal-India Trade Treaty addressing this ballooning trade gap?

Increasing imports and trade deficits per se are not bad. The concern is how do we use the imports? To increase future productive capacity through imports of machinery and equipment; or to increase current production level through imports of raw materials and intermediate goods; or to meet current consumption. The peculiarity of Nepali imports from India is that unlike Bangladesh which imports mostly intermediate goods like fabrics to add value and export to the US, and Bhutan which imports construction materials, machinery and equipment to increase future productive capacity, we import for current consumption and not for building productive capacity. Statistics show that import of machinery and equipment constitutes 5.5 per cent of total imports from India, which is almost equal to the volume of import of rice. The real problem is inability to diversify imports for production and productive capacities and increase exports. Second, as per Article V of the treaty the purpose of non-reciprocal trade preference provided by India is to promote the industrial development of Nepal. So, the analytical parameter to monitor the success of the agreement should also be the index of industrial production and the contribution of industrial sector to the national economy, not a single indicator of exports and trade deficits. Now, it's time to reflect on why Nepal is facing 'premature deindustrialisation'

despite non-reciprocal duty-free market access in India. Let me pose some bitter questions. Has the government adopted any policy to take advantage of this preference? Its focus is simply on revenue. Has the private sector implemented or initiated any project to create industrial base? Barring a few players, the private sector has eyed quick profit only by exploiting tariff differentials. I agree there are some para and non-tariff barriers against the spirit of the treaty, but the relevant questions are: Have we honestly attempted to address these issues? Have we worked to upgrade our laboratory to qualify for Mutual Recognition Agreement (MRA)? Imports from India have been increasing consistently against sluggish exports. Sluggish exports are basically due to supply side constraints so we have to focus on enhancing our productive capacity. If you look at import figures from India for the last one decade then import of capital goods has squeezed to 10 per cent and import of goods for consumption has increased dramatically.

Nepal sorely lacks foreign direct investment (FDI), which can boost productive capacity of the country. What can we do to attract more FDI from India?

There is strong interrelation between foreign investment and productivity because output is the major concern for them. Along with capital, FDI also brings skills and technology. It is obvious that we need more investment to enhance our productive capacity, but we are in a trap of political instability, labour unrest, and energy shortage, among others, which has not only discouraged new FDI but also discouraged reinvestment by existing foreign firms. But things are changing now and there are signs of political stability after the promulgation of the new constitution. We have also laid emphasis on ending load shedding and the new labour bill has also been tabled in the parliament. The political parties have started speaking about economic prosperity. As the environment is gradually becoming conducive for investment we have to now offer more facilities to foreign investors to invest in Nepal. In particular case of India, there is strong nexus between Indian foreign investment in Nepal and export to India. For example, total export of juice to India, mainly produced by Dabur, is about seven per cent of total exports to India. We need to promote this nexus. Promoting foreign investment in manufacturing, infrastructure, energy, commercial agriculture, tourism and services sector not only promotes exports but will also help Nepal to be part of 'Make in India' campaign through participation in Indian value chain. We need to make conscious efforts in this regard. Incentives provided by Nepal for Indian businesses to invest here are far less than incentives provided by Indian government to those businesses while investing in underdeveloped parts of India. So, we should bring a policy whereby incentives we offer are better to attract more Indian investment.