

Nepal-India Trade Treaty : Some Avenues for Review

**South Asia Watch on Trade
Economics and Environment
(SAWTEE)**

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Presentation outline

- ✓ Historical background on Nepal-India trade treaty
- ✓ Contours of Nepal-India trade treaty
- ✓ Trade performance with India
- ✓ Emerging trade issues
- ✓ Avenues for review

Historical background

- ✓ British Treaty of Commerce with Nepal, 1 March 1792- reciprocal tariff of 2.5 percent;
- ✓ Treaty of Trade and Commerce between the Government of India and Nepal, 1950- customs union
- ✓ Treaty of Trade and Transit between Government of India and HMG/Nepal 1960
- ✓ Treaty of Trade and Transit between Government of India and HMG/Nepal 1971
- ✓ Treaty of Trade between Government of India and HMG/ Nepal 1978
- ✓ Treaty of Trade between Government of India and HMG/ Nepal 1991
- ✓ Treaty of Trade between Government of India and HMG/ Nepal 1996
- ✓ Treaty of Trade between Government of India and HMG/ Nepal 2002
- ✓ Treaty of Trade between Government of India and HMG/ Nepal 2009

Contours of Nepal-India trade treaty (1)

- ✓ **Most Favoured Nation (MFN) treatment-** Accord unconditionally to each other treatment no less favourable than that accorded to any third party with respect to customs duties and charges as well as import regulation including quantitative restriction. (Article III)
- ✓ **Reciprocal duty free access to primary products-** Agriculture, horticulture, floriculture and forest produce; Minerals which have not undergone any processing; Rice, pulses, flour, atta, bran and husk; Timber; Jaggery (gur and shakar); Livestock, poultry bird and fish; Bees, bees-wax and honey; Raw wool, goat hair, bristles and bones as are used in the manufacture of bone-meal; Milk, home made products of milk and eggs; Ghani-produced oil and oilcakes; Herbs, ayurvedic and herbal medicines, including essential oils and its extracts; Articles produced by village artisans as are mainly used in villages; Akara; Yak Tail; Stone aggregate, boulder, sand and gravel, other primary product mutually agreed. (Article IV and protocol)

Contours of Nepal India trade treaty (2)

- ✓ To promote industrial development of Nepal, Non-reciprocal preferential access free of custom duties and quantitative restriction for industrial products manufactured in Nepal
 - ✓ Rules of origin – Change in tariff headings (CHT) at HS 4-digit level and 30 percent domestic value addition
 - ✓ Parity regarding excise duty on the product produced by small-scale unit
 - ✓ Not applicable for alcoholic liquors/beverages except for beer and industrial spirits; perfumes and cosmetics with non-Nepalese/ non-Indian brand names and cigarettes and tobacco
- ✓ Partial exemption of customs duty for imports into Nepal from India

Contours of Nepal-India trade treaty (3)

- ✓ **General exception**
 - ✓ Protection of public morals,
 - ✓ Protection of human, animal and plant life
 - ✓ Safeguarding national interest,
 - ✓ Safeguarding the implementation of laws relating to the import and export of gold and silver bullion, and
 - ✓ Safeguarding such other interests as may be mutually agreed upon
- ✓ **Security exception**

Contours of Nepal-India trade treaty(4)

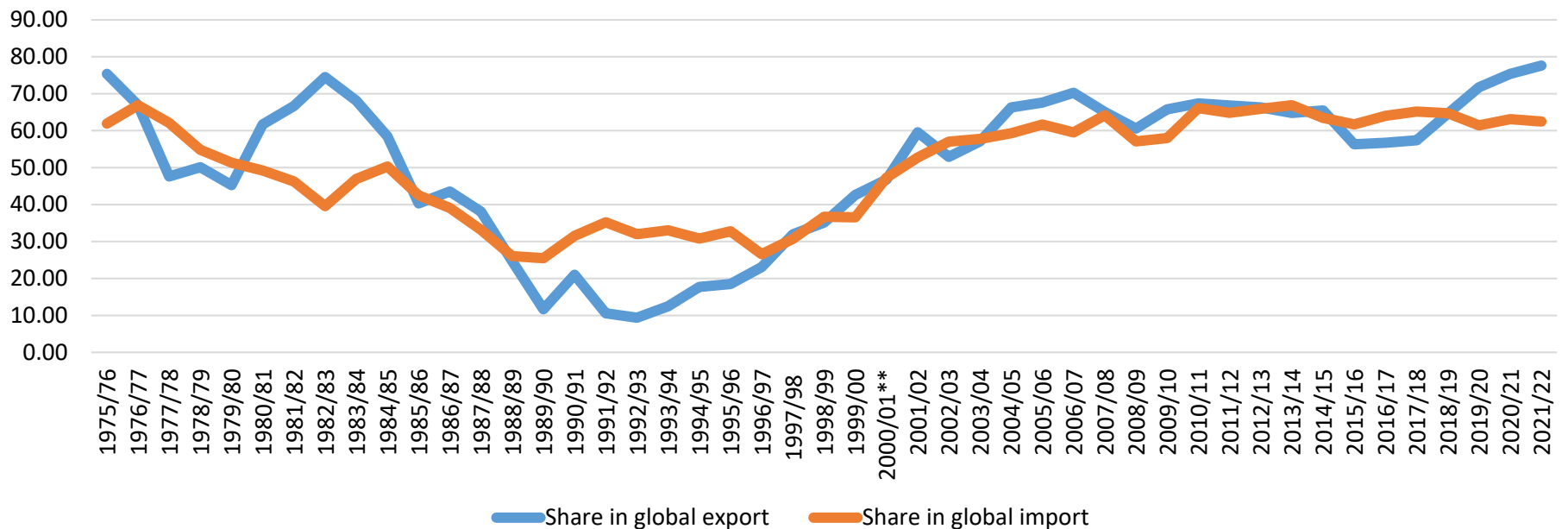
- ✓ **Provision of safeguard measures** in the event of imports in such a manner or in such quantities to cause or threaten to cause serious injury to the domestic industry
- ✓ **Provision of tariff rate quota (TRQ) for export to India**
 - ✓ Vegetable fats (100,000 MT per year)
 - ✓ Acrylic yarn (10,000 MT per year)
 - ✓ Copper products (10,000 MT per year)
 - ✓ Zinc oxide (2,500 MT per year)
- ✓ **Provision of Inter-Governmental Committee (IGC), Inter-Governmental Sub-Committee (IGSC) and joint meeting of local authorities,**
- ✓ **Both countries agree to grant recognition to the sanitary and phytosanitary certificates (including health certificates) issued by the competent authority of the exporting country with regard to agricultural and food products.**
- ✓ **Best endeavor of India to assist Nepal to increase capacity in technical standards, quarantine and testing facilities and related human resource capacities.**

Contours of Nepal-India trade treaty(5)

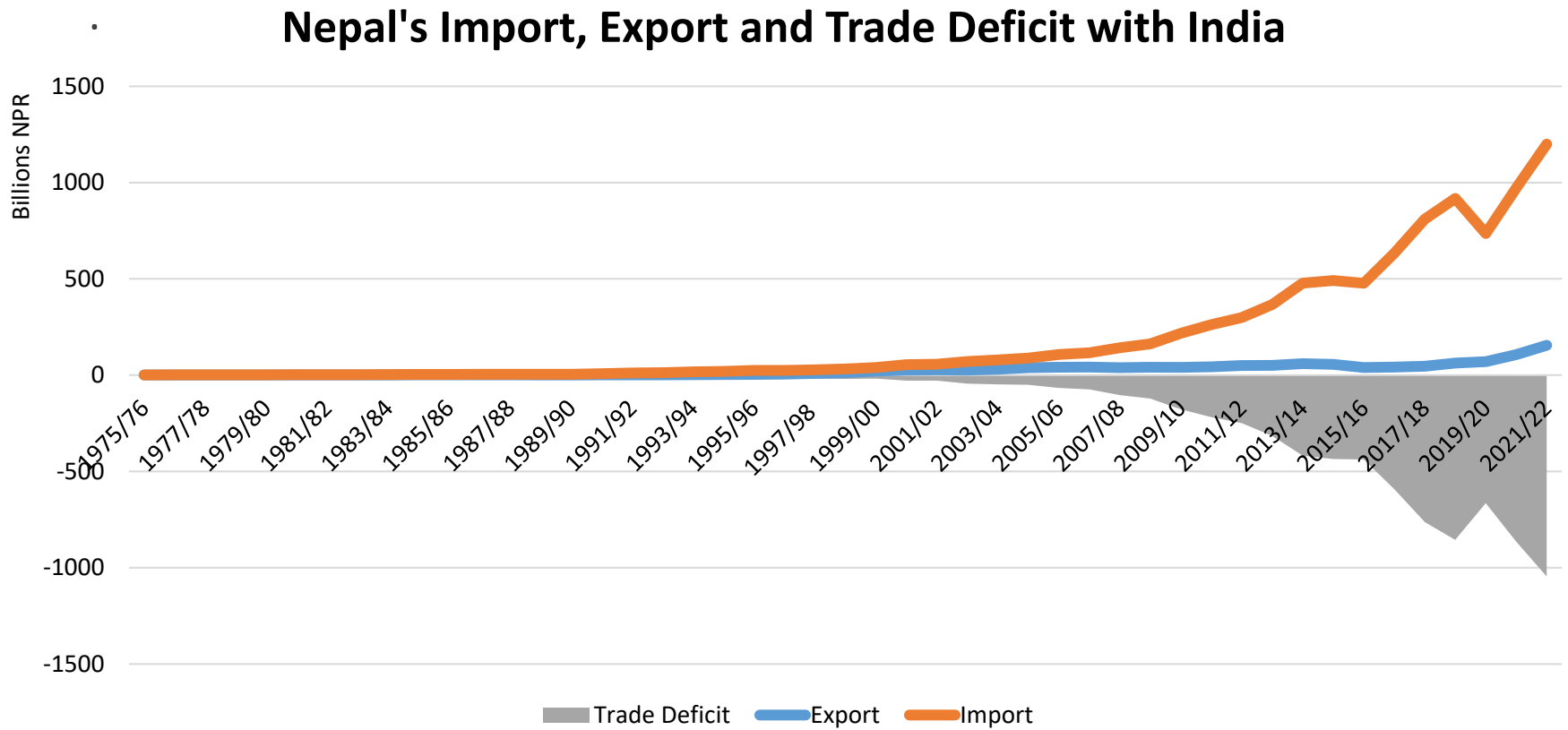
- ✓ Export restrictions allowed, but:
- ✓ It is further understood that when notifications regarding restrictions on exports to each other are issued, adequate provisions will be made therein to allow the export to each other of the goods which are already covered under the forward contract or by Letter of Credit or goods which are already in transit and/or booked through the railways or other public sector transport undertakings or goods which have already arrived at the border customs posts on the day of the notification.
- ✓ In respect of goods falling under prohibited or restricted categories and where needed by one Contracting Party, the other shall authorise exports of such goods subject to specific annual quota allocations. Specific request list of such goods shall be furnished to each other by the end of November, and specific quota allocations for the following calendar year shall be made by the end of December with due regard to the supply availability and the overall need of the other Contracting Party. The quota list may be jointly reviewed as and when necessary.

Trade Performance 1: India's Share in Nepal's Global Trade

Trade with India as a Share of Nepal's Global Trade (%)

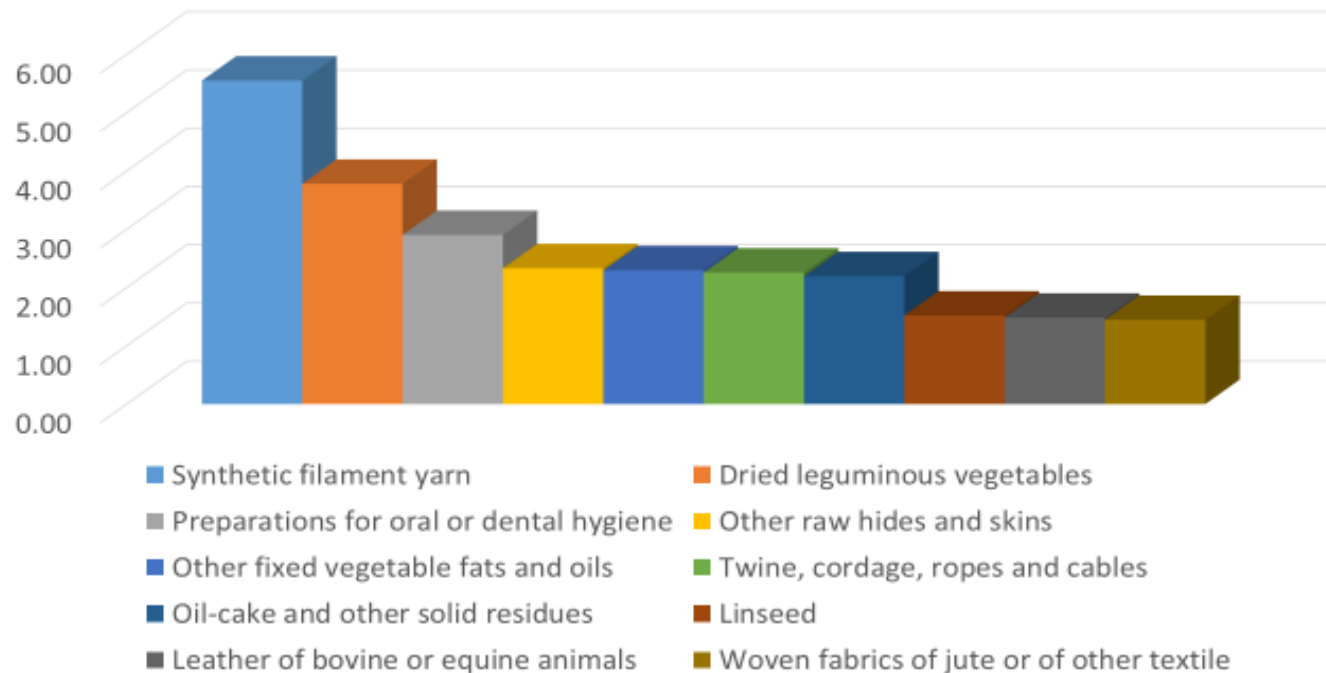


Trade performance 2 : Nepal's trade trend with India (Billion Rs)



Trade performance 3 : export composition

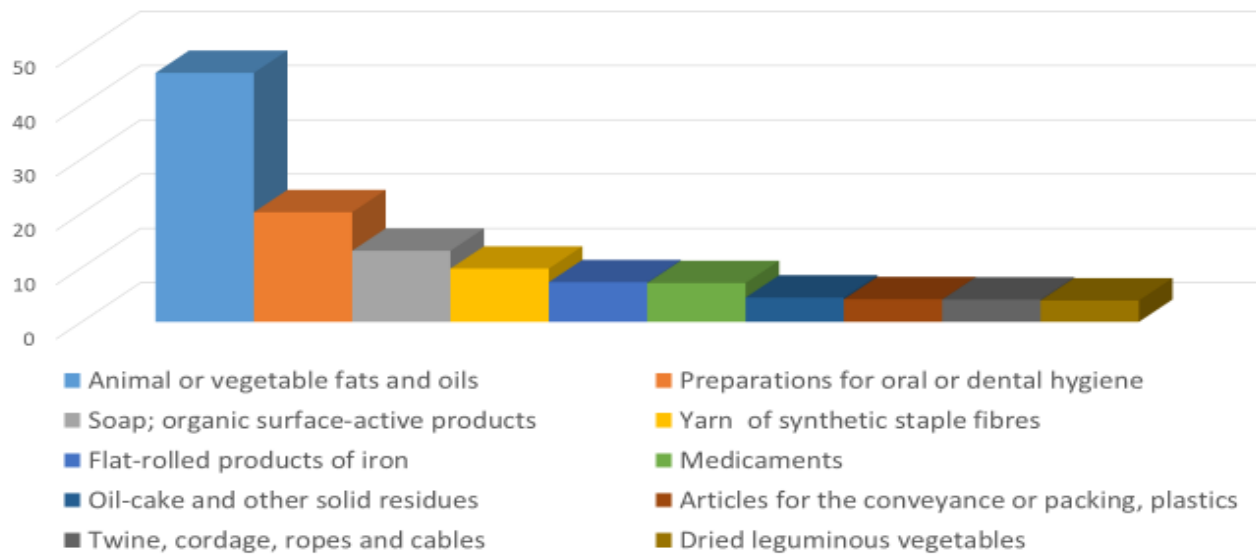
Top 10 exports in 1994 (USD Million)





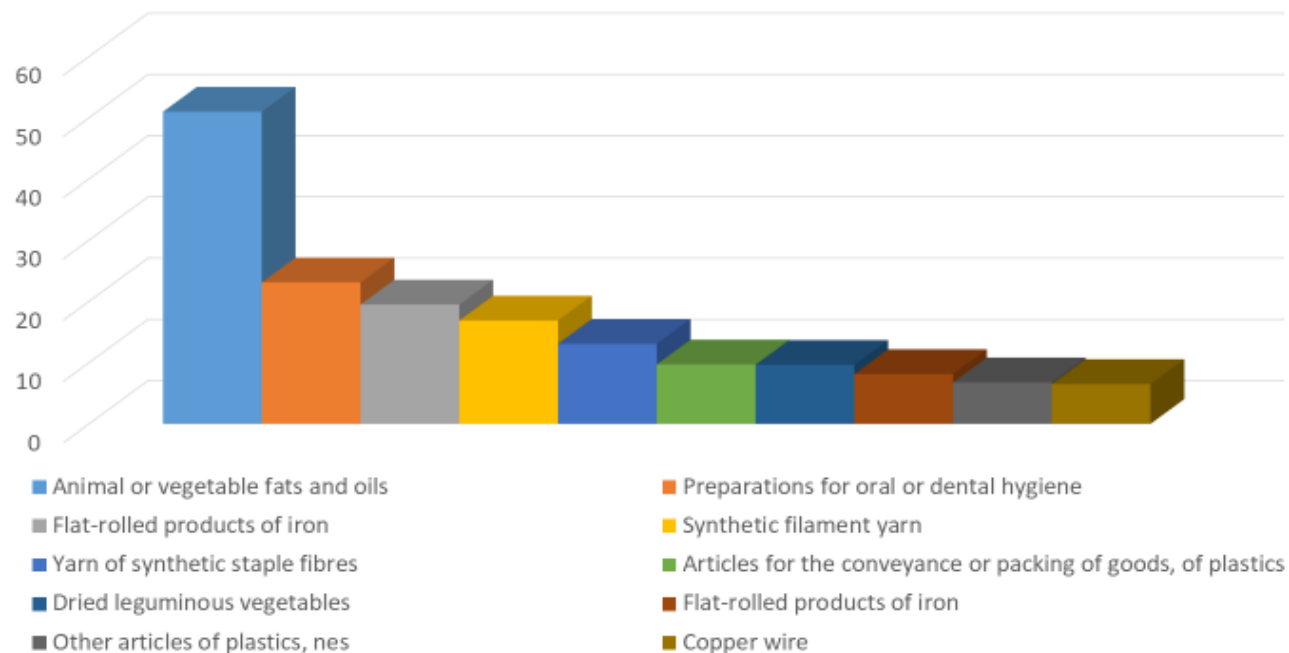
Trade performance 3 : export composition

Top 10 exports in 1999 (USD Million)



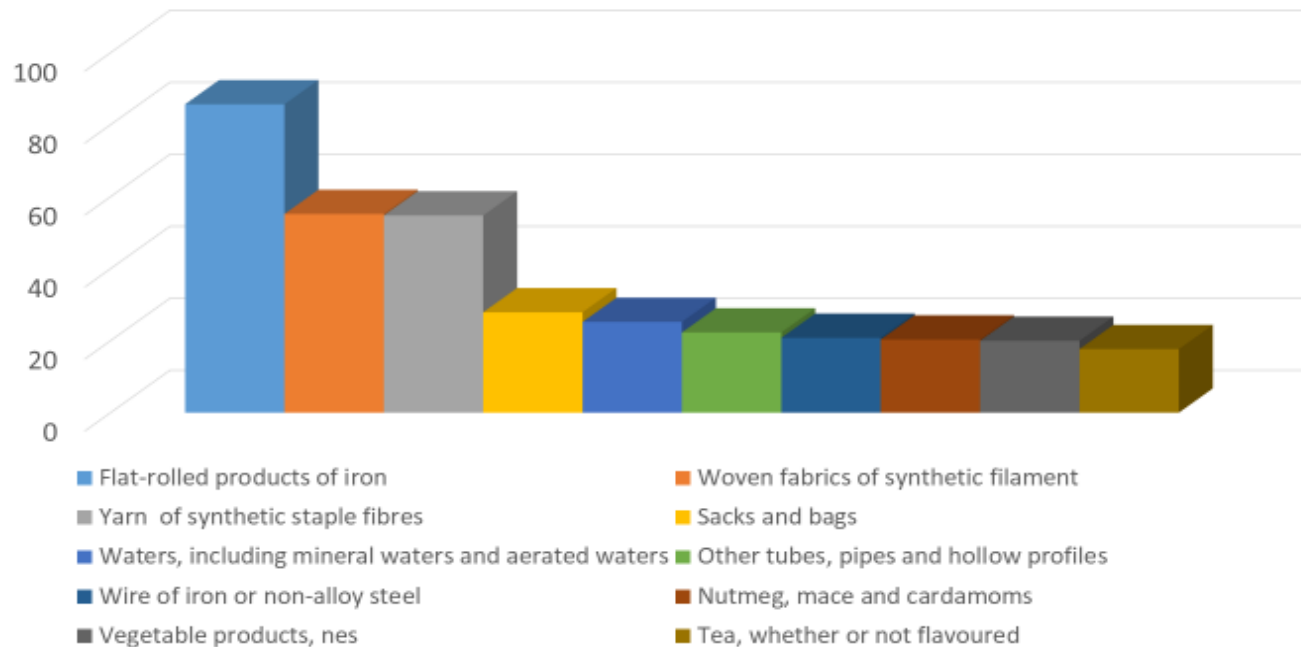
Trade performance 3 : export composition

Top 10 exports in 2003 (USD Million)



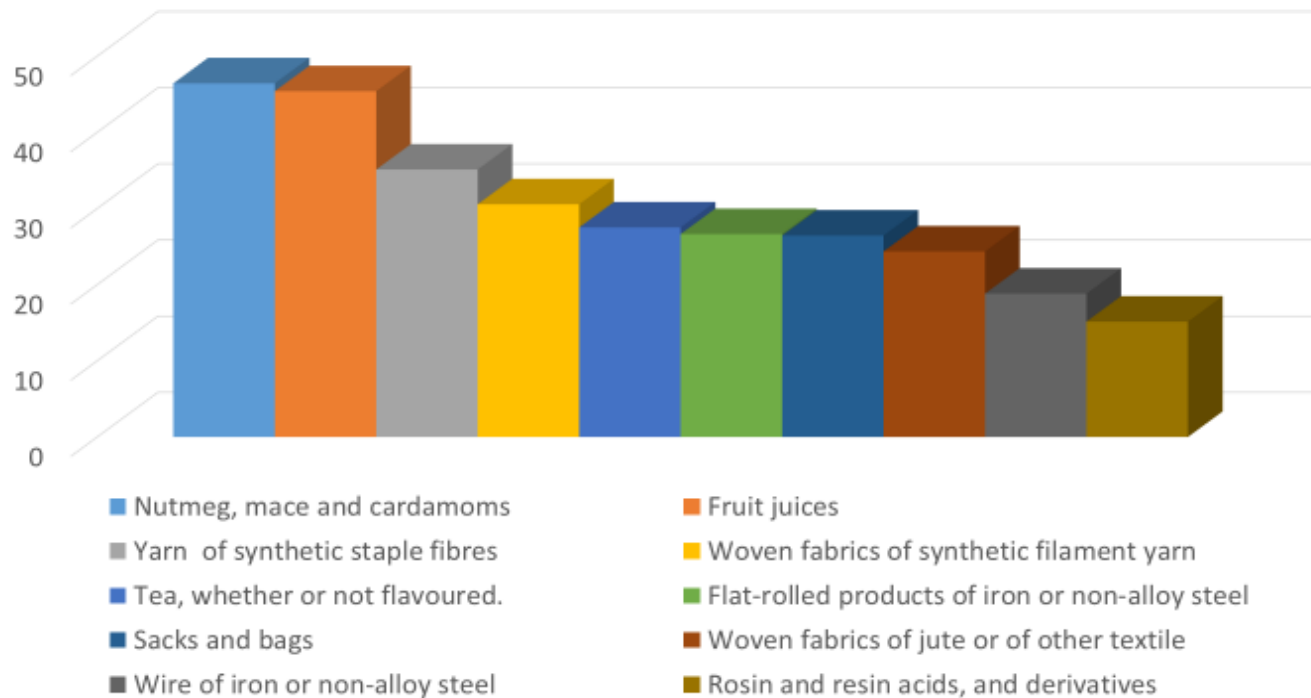
Trade performance 3 : export composition

Top 10 exports in 2010 (USD million)



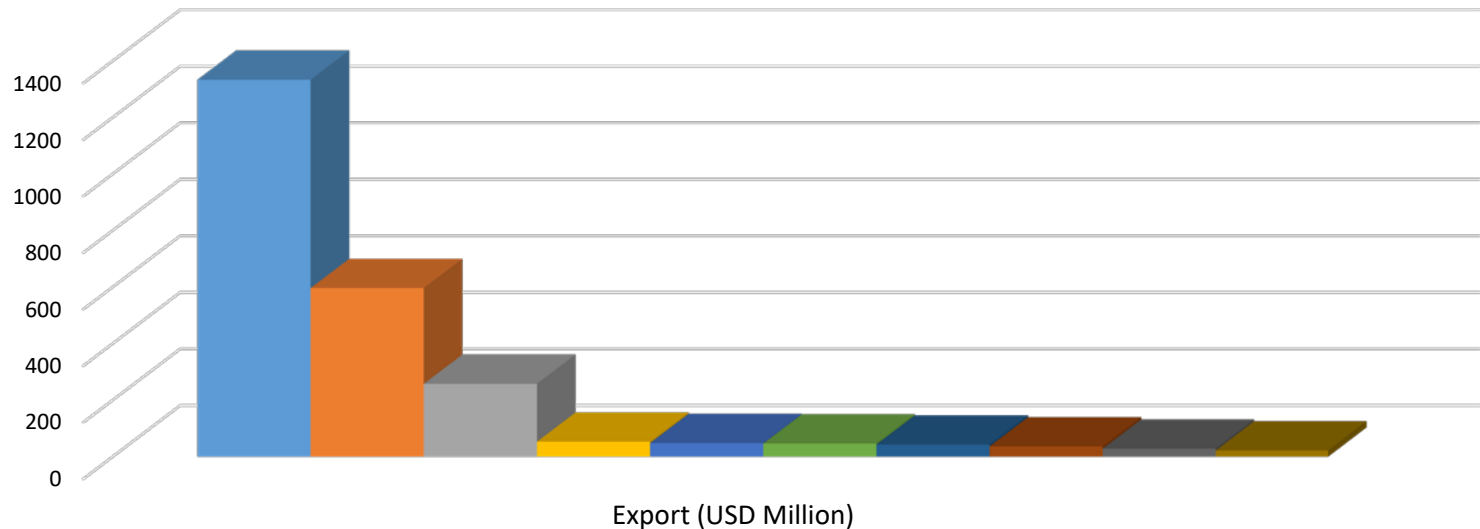
Trade performance 3 : export composition

Top 10 exports in 2017/18 (USD million)



Trade performance 3 : export composition

Top 10 Exports to India in 2021 (USD Million)



■ Soya-bean oil and its fractions

■ Yarn of synthetic staple fibres

■ Nutmeg, mace and cardamoms

■ Sunflower-seed, safflower or cotton-seed oil and fractions

■ Oilcake and other solid residues

■ Palm oil and its fractions

■ Woven fabrics of jute or of other textile

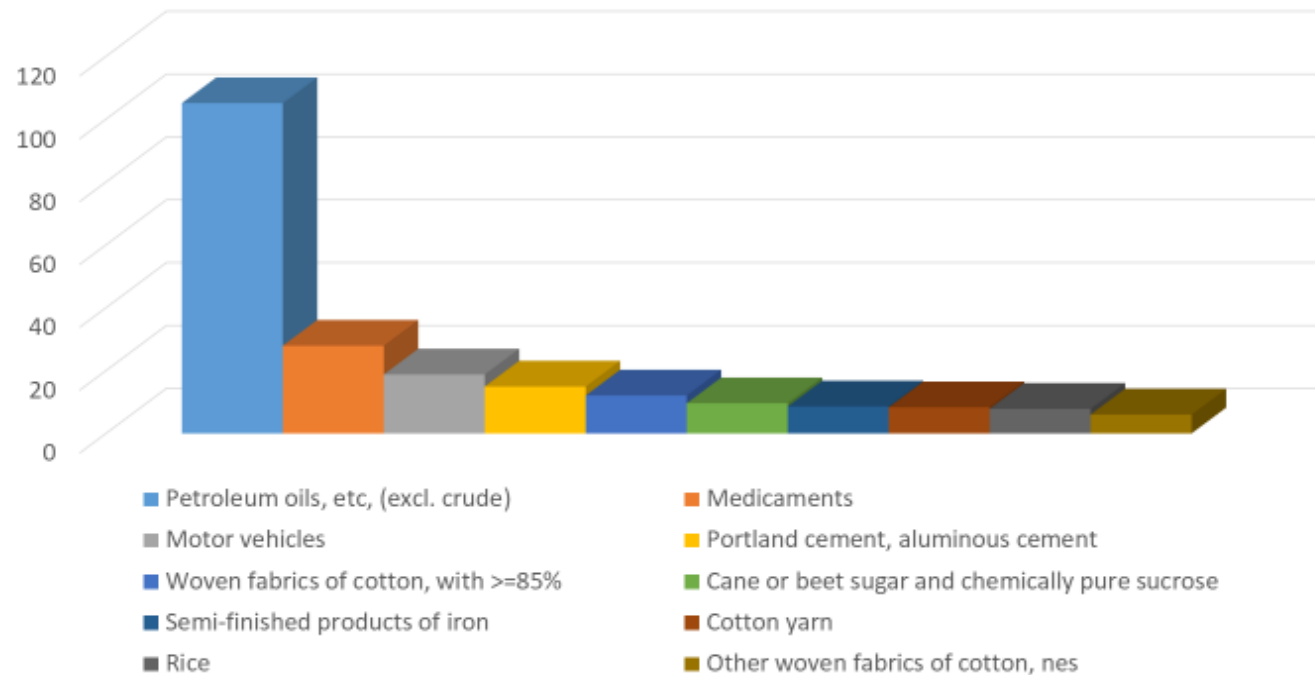
■ Fruit juices (including grape must)

■ Woven fabrics of synthetic filament yarn

■ Tea, whether or not flavoured

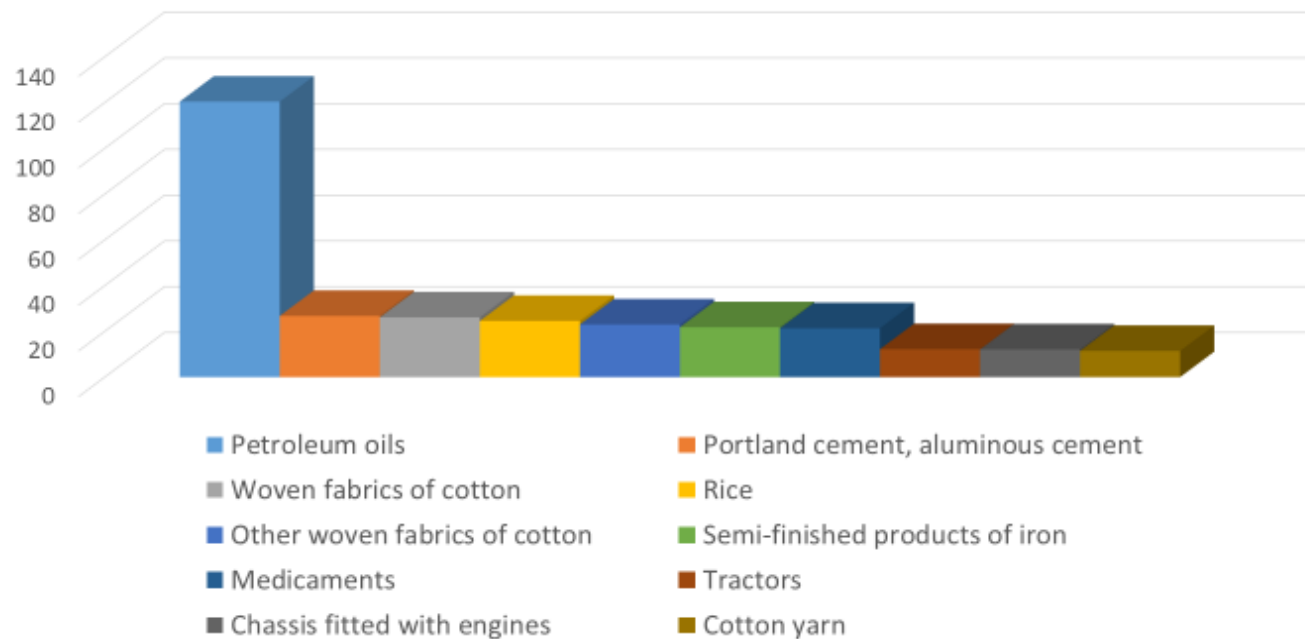
Trade performance 3 : import composition

Top imports from India in 1994 (USD Million)



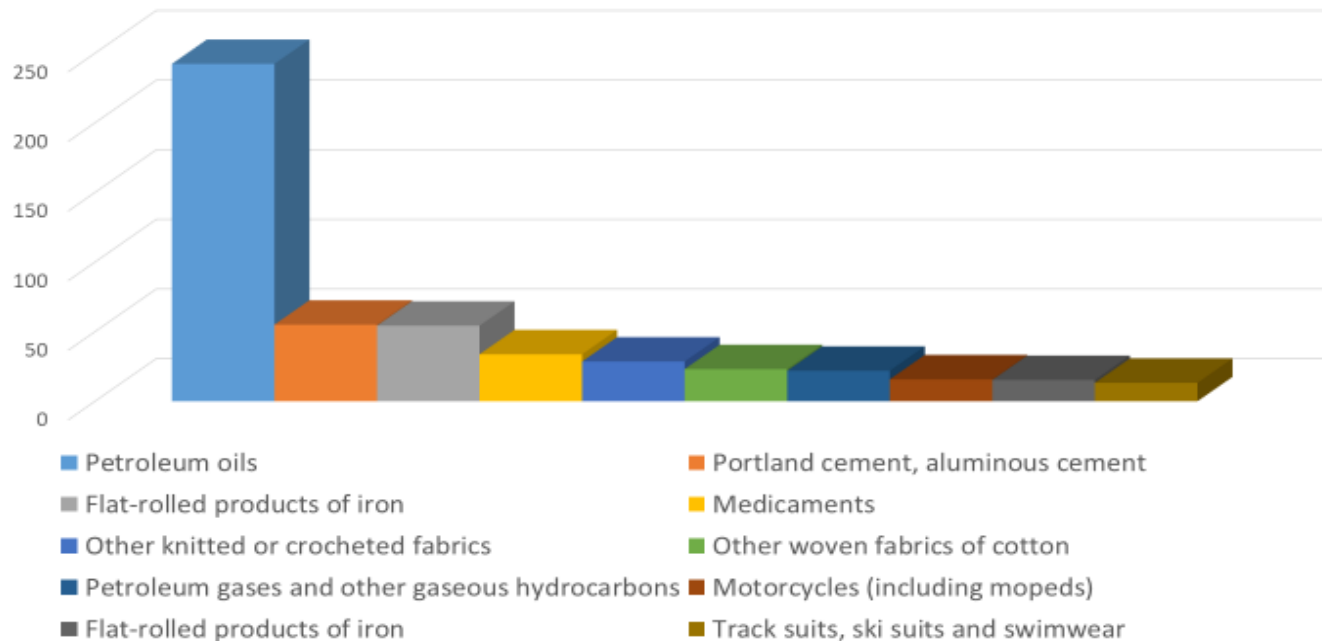
Trade performance 3 : import composition

Top imports from India in 1999 (USD Million)



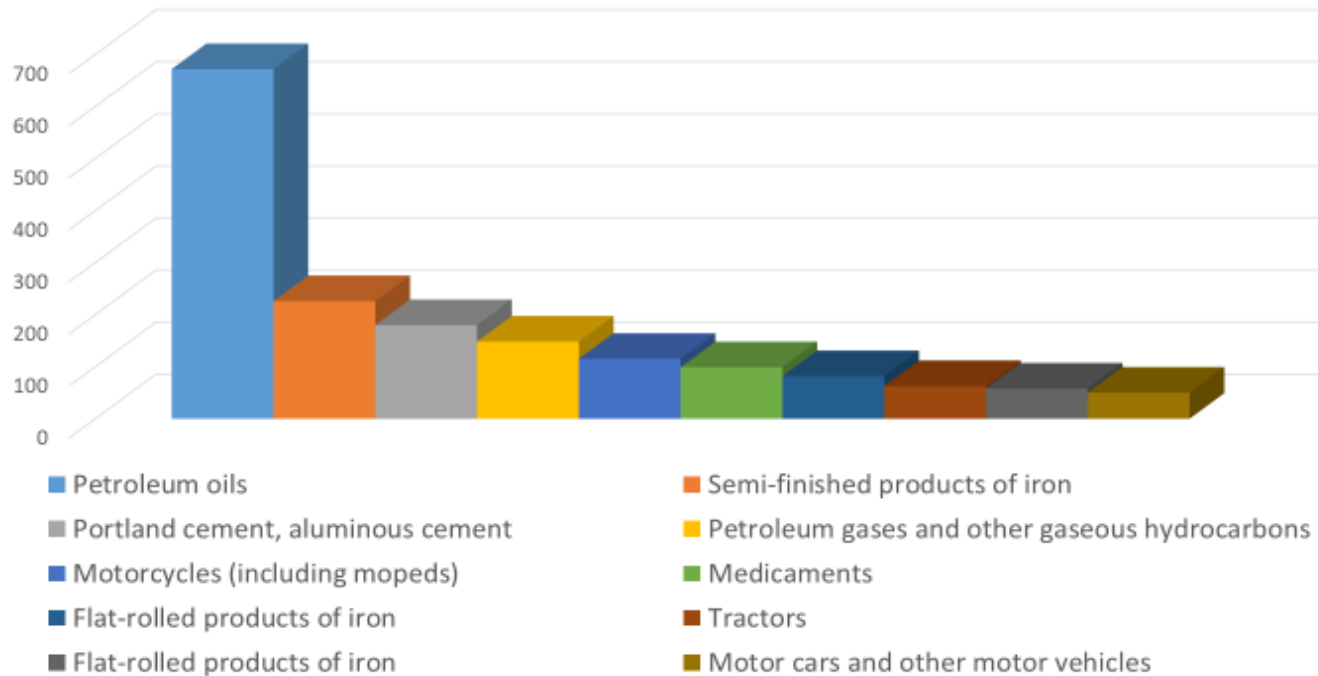
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Top imports from India in 2003 (USD Million)



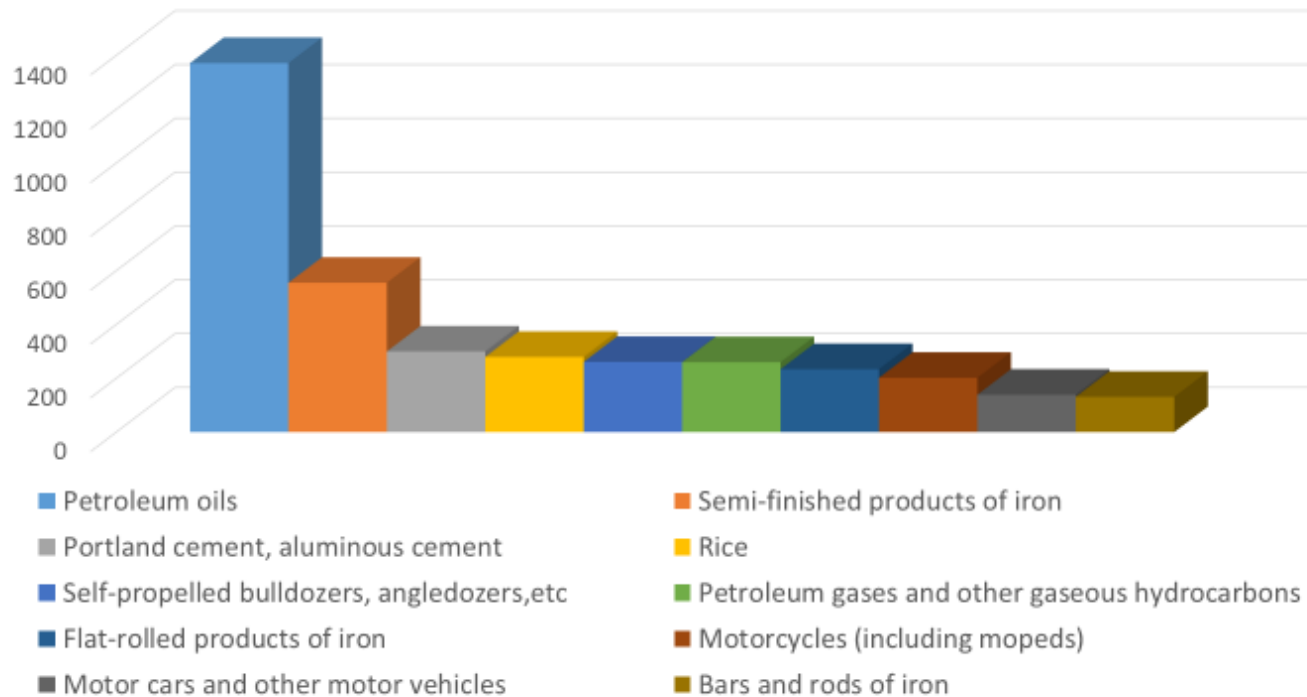
Trade performance 3 : import composition

Top imports from India in 2010(USD Million)



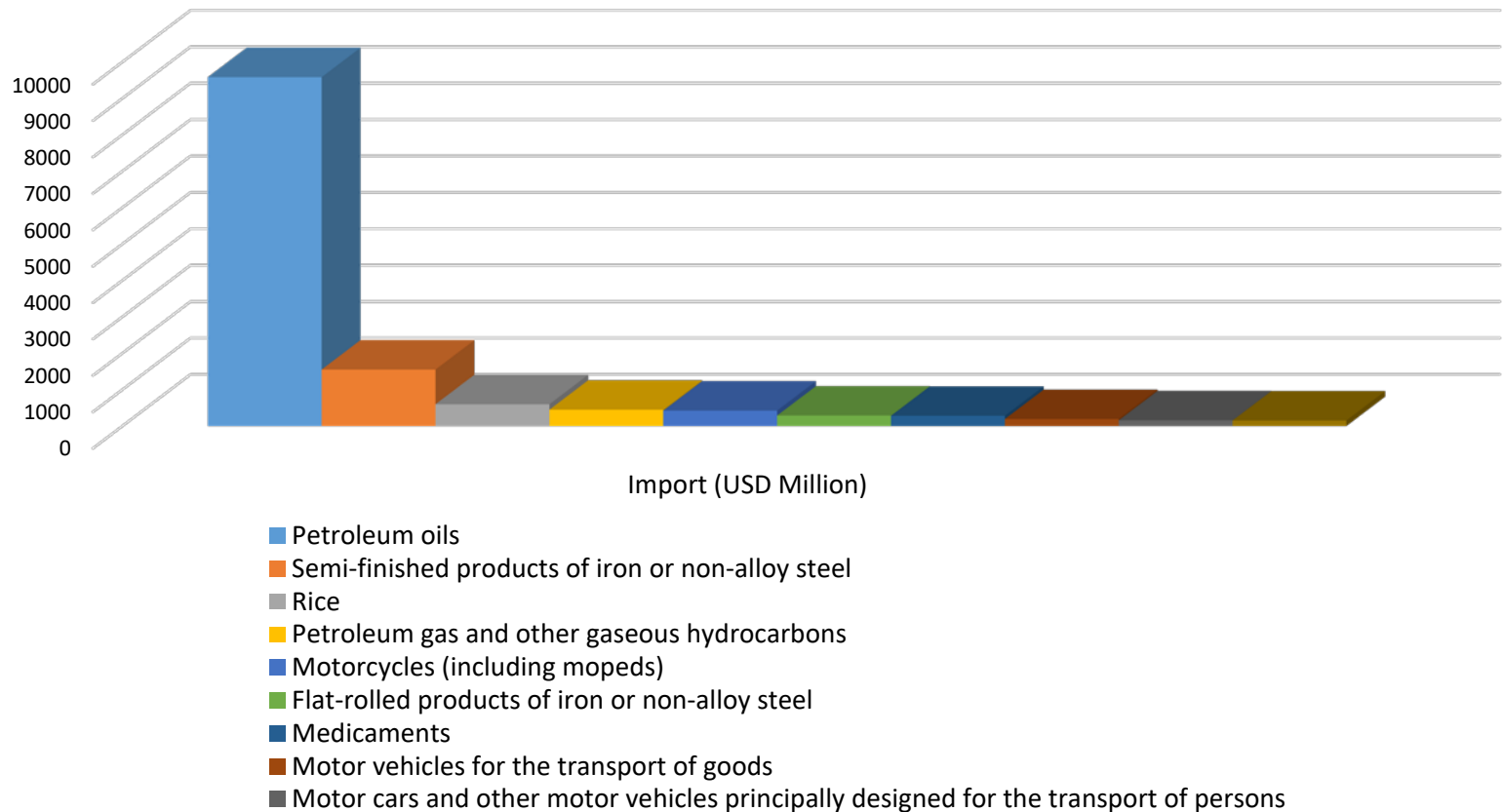
Trade performance 3 : import composition

Top imports from India in 2017/18(USD Million)



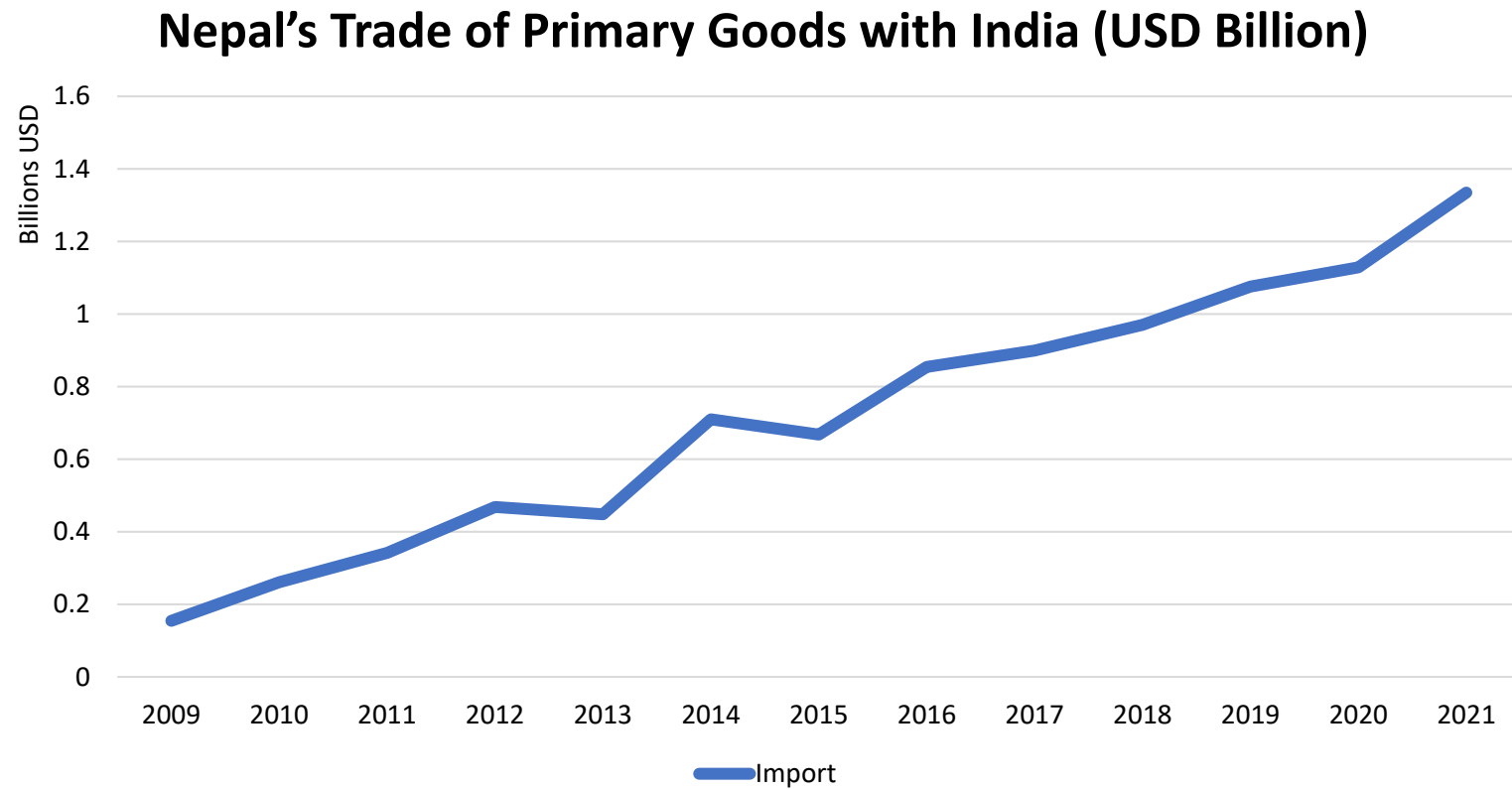
Trade performance 3 : import composition

Top 10 Imports from India in 2021 (USD Million)





Trade performance 3 : import of primary products



Trade performance 3 : prevalence of non-tariff barriers

| Description | Example of products |
|--|---|
| TBT regulations on production processes | Mineral Products; Ball Points; electrical machineries and equipment |
| Product-quality or -performance requirement | Aluminium wire |
| Certification requirements | Garments and Textiles |
| Inspection requirements | Garments and Textiles |
| Processing history | Mineral Products; Ball Points; electrical machineries and equipment |
| Distribution and location of products after delivery | Chemicals; Pharmaceuticals |
| Traceability requirements | Mineral Products; Chemicals; Pharmaceuticals; Ball point pens |
| Product Identity requirements | Agricultural and food products |
| Special Authorization requirement for TBT reasons | Almost all agricultural products; Food products; Chemicals |
| Registration requirement for TBT reasons | Almost all products |
| Labelling requirements | Almost all products |
| Packaging Requirements | Almost all products |

Emerging trade issues

- ✓ Increasing trade deficits,
- ✓ Failure to participate in the value chain,
- ✓ Presence of non-tariff barriers,
- ✓ Preference erosion,
- ✓ Adverse impact of treaty on primary and agriculture sector,
- ✓ Inadequate trade facilitation measures
- ✓ Residual para-tariffs
- ✓ Lack of and slow targeted support on building trade capacities
- ✓ Export ban/restrictions
- ✓ Anti-dumping duty on jute

Avenues for review (1)

- ❑ Exclude primary agriculture products from reciprocal duty free market access list from the Protocol with reference to Article IV
 - ✓ 1. Agriculture, horticulture, floriculture and forest produce
 - ✓ 3. Rice pulses flour atta bran and husk
 - ✓ 6. Livestock, poultry bird and fish
 - ✓ 7. Bees, bee wax and honey
 - ✓ 9. Milk, home made products of milk and eggs

Specify HS codes; amend SAFTA sensitive list too

Avenues for review (2)

□ Review rules of origin provision

- ✓ Instead of requirement of simultaneous fulfillment of CHT and value addition, make fulfilling any of the two,
- ✓ Reduce domestic value addition requirement to 20 percent

□ Make policy space for trade negotiation

Add the following in Article 3

“The provision shall not apply to any preferences and advantages accorded to any customs union, a free trade area or similar arrangements which either of the two Governments has concluded or may conclude in the future.”

Avenues for review (3)

□ Operationalization of capacity building provision

Amend Protocol with reference to Article 1 No. 3

as:

“The Government of India, on request from the Government of Nepal, shall assist Nepal to increase its capacity to trade through improvement in technical standard, quarantine and testing facilities and related human resources capacity so as to conclude Mutual Recognition Agreement (MRA).”

Avenues for review (4)

- ❑ Address Some *procedural irritants* on the exports of some products such as pharmaceutical product, vegetables, medicinal and aromatic plants

Amend Protocol with reference to Article 1 no. 4 as:

“Both Contracting Parties will facilitate cross-border flow of trade through simplification, standardization and harmonization of customs, transport and other trade related procedures, including inspection, import licensing, certification, registration, and development of border infrastructure.”

- ❑ Remove the provision of tariff rate quota on vegetable fats, acrylic yarn, copper and zinc oxide

Avenues for review (5)

□ Other issues

- ✓ Exempt GST for the product produced by small unit
- ✓ Remove the time-bound nature of the trade treaty
- ✓ Withdrawal of anti-dumping duties
- ✓ Allow appointment of agent in India for exports (pharmaceutical products)
- ✓ Simplify procedures for return of defective and damaged products
- ✓ Provision for default in payments
- ✓ Simplify temporary export and import procedures
- ✓ Institute a dispute settlement mechanism/grievance redressal mechanism in the treaty
- ✓ Effectively operationalize the provision for joint meeting of local authorities
 - ✓ Clear mandate and ToR
- ✓ Implementation of export restriction conditions

Thank you

