

# Foreign Investment and One-window Policy, 1992

## 1. **Background:**

The wave of change in the world economic order has affected all nations, big and small. In the process of adjusting the economy in line with these changes, neighboring countries have also adapted an open and liberal policy for strengthening their economic system. Accordingly, it is necessary for Nepal to introduce timely changes and reforms in various sectors of its economy to introduce dynamism in the process of economic development. In this context, it is opportune for us to make foreign investment attractive by framing a timely, liberal and open policy. The elected government has expressed strong commitment to this goal from the very beginning. Accordingly, this policy document clearly explains the objectives of foreign investment, the forms of such investment, their procedural aspects, the facilities and concessions to be provided to them, the speedy and efficient administrative and institutional services to be made available through an one window system and such other aspects with the belief that implementation of this policy will lead to the import of capital, modern technology, management, technical skills, access to international markets, development of competitive attitudes and awareness about increasing productivity, and their help in the development of an industrial culture in the private sector.

## 2. **Objective:**

2.1 To build a strong and dynamic economy by generating additional opportunities for income and employment through expanding productive activities.

- 2.2 To increase private sector participation in the process of industrialization.
- 2.3 To increase productivity by mobilizing internal resources and materials in productive sectors and by importing foreign capital, modern technology management and technical skills
- 2.4 To increase the competitiveness of Nepalese industries in international markets.

### **3. Forms of Foreign Investment:**

- 3.1 Equity investment made by foreign investors in the form of foreign currencies of capital assets and reinvestment of the income there-from.
- 3.2 Loans obtained in the form of foreign currencies of capital assets.
- 3.3 Use of rights, specialization, formulae processes and patents relating to any technology of foreign origin.
- 3.4 Use of foreign owned trademarks, goodwill.
- 3.5 Use of foreign technical, consultancy, management and marketing services.

### **4. Permission for Industries to be Established Under Foreign Investment:**

- 4.1 Foreign investment in the industries classified as prohibitive (as specified in schedule-1) shall not be permitted. In case of other industries, permission for foreign investment should be obtained.
- 4.2 Foreign investment shall be permitted up to 100% in large and medium scale industries.
- 4.3 Technology transfer will be permitted in the cottage and small scale industries.

If an application is made for an investment, the Department shall, for the industries with a fixed asset up to five hundred million rupees, grant permission itself. However, in the case of industries exceeding above-mentioned limit, in accordance with the decision of the Board, grant permission within thirty days from the date of application. The department will communicate the decisions so made to the applicant. ?

## **5. Provision for Repatriation**

Foreign investors who have received permission to invest in convertible currency can repatriate the following amounts outside Nepal at the prevailing rate of exchange:-

- 5.1 The amount received by sale of the whole or any part of the equity investment.
- 5.2 The amount received as benefits or dividends from foreign investment.
- 5.3 The amount received as payment of principal and interest on foreign loans.
- 5.4 The amount received under an agreement for the transfer of technology.
- 5.5 The amount received as compensation for the acquisition of any property.
- 5.6 Foreign experts, working in Nepalese Industries with prior approval from countries where convertible currencies are in circulation, shall be permitted to repatriate in convertible currency up to 75% of the amount received by them as salaries, allowances, etc.

## **6. Facilities and Concessions:**

The following facilities shall be granted to industries established with foreign investment, without prejudice, to avail the additional facilities if any, available under the industrial Enterprises Act:-

- 6.1 Interest income on foreign loans shall be taxed at a rate of 15% only.
- 6.2 Royalties, technical and management fees shall be taxed at a rate of 15% only.
- 6.3 No income tax shall be levied on the income earned from exports. Income tax will be levied at 15% on the income earned from exports.
- 6.4 Industries established with foreign investment are entitled to enjoy all the facilities and incentives including income tax facilities provided to the industries established with local investment under the industrial Enterprises Act.

## **7. Other Facilities:**

- 7.1 Facilities on Electricity-industries shall be given priority in the supply of electricity. No fee shall be charged if an industry generates electricity for its own use.
- 7.2 Relief from Double Taxation- For the purpose of avoiding double taxation on incomes of foreign investors Government of Nepal shall take necessary action to conclude agreements for the avoidance of double taxation with the countries of the concerned foreign investors.
- 7.3 Custom duty, excise duty and sales taxes levied on raw materials and auxiliary raw materials of export oriented industries shall be reimbursed to the exporters on the basis of the quantum of

exports within 60 days from the receipt of the application for such reimbursement.

- 7.4 Industries exporting 90% or more of its total production are entitled to enjoy the same facilities provided to industries established in the Export Processing Zone. The bonded warehouse facilities shall also be continued.
- 7.5 In case an industry sells its product within the country in foreign currency, the excise duty levied on the quantity of sold and the custom duty, excise and sales taxes levied on the raw materials used in such products shall be reimbursed to such industry within 60 days upon the receipt of application of such reimbursement.
- 7.6 Custom duty, excise duty and sales taxes levied on the production of intermediate goods used in the production of exportable goods and sales tax levied on the production shall be reimbursed to the exporter on the basis of the quantity of goods exported within 60 days from the receipt of the application for such reimbursement.
- 7.7 Priority shall given to arrange infrastructure facilities required for the establishment of industries.
- 7.8 Government land and land within the industrial districts shall be made available to industries for the establishment of industries on priority basis.
- 7.9 No intervention shall be made in fixing price of the products of the industry.
- 7.10 No taxes shall be levied on machinery and equipment, raw materials and finished exportable products of industries established within the Export Processing Zone.

**8. Visa Arrangement:**

- 8.1 A non-tourist visa will be granted to a foreign investor or his authorized representative as well as their dependents to stay in Nepal for the period during which a foreign investor maintains his/her investment.
- 8.2 A non-tourist visa up to a period of six months shall be granted to any foreign investor who has come to Nepal to undertake research and study with the purpose of investing in Nepal.
- 8.3 If any foreign investor makes a lump sum investment equivalent to more than US\$ 200,000 in convertible foreign currency, the investor and his/her dependants shall be granted permanent resident visa for the period he/she maintains his/her investment in the industry. No industries shall be nationalized.

**9. Not to be nationalized:** Industries not to be nationalized

**10. Arbitration:**

- 10.1 If the foreign investor, the concerned industry and the Department of industry fail to settle among them any dispute concerning foreign investment, it shall be settled by arbitration.
- 10.2 Arbitration shall be held according to the prevalent Arbitration rules of the United Nations Commission for International Trade Law (UNCITRAL).
- 10.3 The arbitration shall be held in Kathmandu.
- 10.4 Notwithstanding anything contained in sub-section 10.1, 10.2 and 10.3, disputes arising on a foreign investment with a specified investment may be settled as mentioned in foreign investment agreement.

## 11. Arrangements Relating to the One-window System:

The following arrangements will be made to provide services through an “One window” system to industries operating under foreign investment:

11.1.1 In order to provide in a quick and effective way the approvals, facilities and other administrative service to industries to be established under foreign investment of technology transfer agreement and in order to establish effective co-ordination among various agencies, the department of industries will be designated as the one window servicing agency with the industrial promotion Board as a focal point as spelt out in the industrial Enterprises Act.

11.1.2 The following One-Window Committee will be formed to provide infrastructure facilities such as registration, land electricity, water and facilities a taxation, etc, under an one window system for industries to be established with foreign investment.

### One-Window Committee

Convener -The Director General, the Department of Industries

Member -Joint Secretary, the Ministry of Industries

Member -Joint Secretary, the Ministry of Finance

Member -Joint Secretary, the Ministry of Commerce

Member - The Chief Controller, Nepal Rastra Bank

11.1.3 The Department of industries will inform the application of the decision of the Board on foreign investment and technology transform within 30 years from receipt of the application.

11.1.4 A license shall contain information as to facilities and concessions to which an industry is entitled.

11.15 Application for the registration of an industry should be submitted to the Department of industries within 35 years from the date of receipt of approval for foreign investment. The industry will be registered within 21 days from the date of receipt of the application.

## 11.2 Institutional Arrangements

11.2.1 The Department of industries will be reorganized and expanded with the objective of promoting foreign investment, granting approval and providing facilities and administrative service through the one window system. The Department will be upgraded and the status of the director General will be made equivalent to the position of an Additional Secretary.

11.2.2 The powers relating to the facilities and services provided by agencies such as the Ministry of Finance and its Departments, the department of Commerce, the Nepal Rastra Bank, and the Department of Immigration etc. will be delegated to the one window committee.

## 11.3 Other Arrangements

11.3.1 Industries established under this policy will continue to enjoy all time-bound facilities to which they are entitled even if any subsequent change is made in this policy. Industries prohibited for grant of Approval under Foreign Investment.

- 1 Defence related industries, which manufacture arms and ammunitions.
2. Cigarettes and *Bidi*.  
Alcohol (excluding 100% export oriented).