



# FOCUS TO MNCs

*GEFONT study on The Status of JV/MNC Enterprises  
in Nepal, Employment and the Situation of Women*

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## ACRONYMS

CBA	collective bargaining agreements
CDR	Central Development Region
CNI	Confederation of Nepalese Industries
DOI	Department of Industry
EDR	Eastern MWDR
FDI	foreign direct investment
FITTA	Foreign Investment and Transfer of Technology Act 1992
FNCCI	Federation of Nepalese Chamber of Commerce and Industries
FWDR	Far Western Development Region
GDP	gross domestic product
GEFONT	General Federation of Nepalese Trade Unions
HRCT	hotel, restaurant, catering and trekking
HRD	human resource development
IIDS	Institute for Integrated Development Studies
IPB	Industrial Promotion Board
IPRAD	Institute for Policy Research and Development
JV	joint venture company/corporation
MNC	multinational company
MNE	multinational enterprise
MWDR	Mid-Western Development Region
NESOAE	Nepal Society for Applied Economics
NTUC	Nepal Trade Union Congress
OECD	Organization for Economic Co-operation and Development
OHS	occupational health and safety
OT	overtime
SAARC	South Asian Regional Cooperation
SOE	state owned enterprise
TNC	trans-national company/corporation
UN	United Nations
US	United States
WDR	Western Development Region
WTO	World Trade Organization

# EXECUTIVE SUMMARY

Foreign direct investment (FDI) is defined as a long term investment by a foreign investor in an enterprise resident in an economy other than that in which the foreign direct investor is based. FDI enterprises are categorized into multinational companies (MNC) or joint venture companies/corporations (JV).

This study examines the present status of foreign investment in Nepal and, more specifically: (i) examines the present status of JV/MNC enterprises and reviews the legal framework for foreign investment; (ii) analyzes the overall employment status in JV/MNC enterprises with a special focus on the employment of women; and (iii) identifies different labour issues in JV/MNC enterprises, particularly from a gender perspective.

The study draws on both primary and secondary sources of data. Primary data was collected from 11 out of the 395 JV/MNC enterprises operating in Nepal through group and individual discussions with various key informants, workers and union leaders, and management. This study is limited by the sample size, which is small and does not represent all sectors, and its gender perspective. Secondary data was collected from various sources, mainly the FNCCI and the DOI.

The history of JV/MNCs in Nepal started in 1936 with the Biratnagar Jute Mill. However, the registration of JV/MNCs with foreign investment started only in 1951. Nepal's Sixth Plan (1980-85) for the first time expressed the need for foreign investment and technology transfer for industrial growth. The current Tenth Plan (2002-2007) has given a high priority to industries that can create regional balance and in areas where the country has a comparative advantage. The Tenth Plan also encourages newly developed technology for industrial development.

This study is limited by the sample size, which is small and does not represent all sectors, and its gender perspective. Secondary data was collected from various sources, mainly the FNCCI and the DOI.

Legislation governing FDI in Nepal includes the Industrial Policy 1992, the Foreign Investment and One Window Policy 1992, the Foreign Investment and Transfer of Technology Act 1992 and the Industrial Enterprises Act 1992. The adoption of the One Window Policy has created a better environment for investment by simplifying registration and licensing procedures. The Industrial Promotion Board (IPB) has also been established to formulate and implement policies. Despite all these attempts Nepal has not yet been able to attract a significant level of foreign investment. The inflow of foreign investment to Nepal from 1991-2001 was the second lowest among South Asian Regional Cooperation (SAARC) countries, being US\$9.5 million annually.

The adoption of the One Window Policy has created a better environment for investment by simplifying registration and licensing procedures

The latest information from the DOI shows that, out of the 955 FDI enterprises registered with the DOI up to mid-April 2005, 122 or approximately 13 percent were closed or cancelled. Of the total number of enterprises registered with the DOI, less than half are in operation in a way that actually affects the national economy. The FNCCI has compiled information about a total of 833 JV/MNCs (excluding enterprises closed or cancelled) and grouped them into four categories—operating, under construction, licensed and approved—based on their status up to mid-April 2005. Operating enterprises make up 47 percent of the total number of enterprises and cover 57 percent of the total foreign investment.

The inflow of foreign investment in Nepal is concentrated only in 30 districts out of 75. About 83 percent of enterprises and 57 percent of investment is concentrated in only nine main districts (Kathmandu, Lalitpur, Kaski, Makawanpur, Chitwan, Bara, Morang, Bhaktapur and Parsa). Nearly three quarters (73 percent) of JV/MNCs are concentrated in hill districts covering 41 percent of foreign investment. Large enterprises are mainly concentrated in the mountains (hydropower enterprises), followed by the Terai. More than 58 percent of foreign invested industries are concentrated within the Kathmandu Valley, but the investment inflow in the Valley is very low (20 percent), and the CDR (80 percent), where there is well developed infrastructure and facilities.



There are 38 different countries investing in Nepal. India is the main investing countries. Seventy percent of enterprises are from only seven countries: India, USA, Japan, China, Republic of Korea, Germany and the UK. The total investment inflow from these countries accounts for 60 percent of the total foreign investment. India alone accounts for 29 percent of enterprises and 37 percent of investment.

Various forms of collaboration (financial, technical, managerial, trademark, marketing and leasing) are found in FDI enterprises. However, financial collaboration alone accounts for 80 percent of enterprises, and technical collaboration is found in only five percent of enterprises. Hence, technology transfer is far less than expected and Nepal has not been able to realise desired technological gains from FDI.

Foreign investment is allowed in all sectors in Nepal. The manufacturing sector has the most foreign investment, followed by the power sector, the service sector and HRCT. Nepal is mainly an agricultural country but has not been able to attract FDI in this area.

Even though foreign investment has played a beneficial role in Nepal's economic development, it has not contributed significantly to Nepal's economy. However, its effect on employee training, backward and forward linkages, infrastructure development, and its effect on local entrepreneurs cannot be totally ignored. Likewise, direct and indirect employment is generated by such investment.

Since 1990, the Government of Nepal has realized the need for FDI and given top priority to attracting FDI. However, in practice, all of the laws and policies relating to FDI have not been able to significantly increase foreign investment in Nepal. The One Window system has been reasonably successful in attracting FDI, sadly, this system remains on paper only. In practice, investors have to go to many places to get their application processed.

FDI of up to 100 percent foreign ownership is allowed in Nepal in almost all sectors. Nepal has signed Bilateral Investment Guarantee Agreements with some countries to protect FDI and is a member of the World Bank promoted

FDI of up to 100 percent foreign ownership is allowed in Nepal in almost all sectors.

Multilateral Investment Guarantee Agencies (MIGA). This provides guarantees to foreign investors against non-commercial risks such as currency transfer, expropriation, breach of contract, and war and civil disturbance in the host country. Similarly, agreements avoiding double taxation on dividends and return on FDI have been reached with a number of countries. All FDI, including reinvestment and matters relating to loans from abroad, require prior approval in Nepal. All applications are processed by the Department of Industry, for enterprises with an investment cost up to US\$12.5 million, or the Industrial Promotion Board (IPB), for large-scale investments of US\$12.5 million or more.

Academicians expressed the view that FDI is the best way to bridge the savings and investment gap. FDI not only brings in capital investment, it also brings managerial skills, new technologies, marketing networks and modern technical know-how.

The main legal and policy related stumbling blocks to FDI are infrastructure, control-oriented policy makers, rent-seeking government officers, ever-changing policies, unstable government and weak political will. The main structural constraints inhibiting the entry of FDI are: unstable business taxation; labour friendly regulations; non-transparent procedures; and inefficient staff. In addition, business operating conditions also play a vital role. In this respect, some of the major points to be considered are: foreign exchange regulation; the regulation of employment and the residence of non-citizens; inappropriate corporate and commercial laws; intellectual property protection; and environmental protection regulations.

Academicians expressed the view that FDI is the best way to bridge the savings and investment gap. FDI not only brings in capital investment, it also brings managerial skills, new technologies, marketing networks and modern technical know-how. They also pointed out that foreign investment comes with certain risks and adverse effects including: the tendency of investors to invest more in capital intensive industries, which are not a priority for Nepal; the operation of dirty or hazardous industries that are restricted in the investor's country of origin; and the ability of JV/MNCs to influence government to favour their interests, rather than the national interest. Academicians further pointed out that different stakeholders (the government, private sector, consumers and trade unions) could play an important role in attracting foreign investment.

Employers' organizations believe that foreign investment helps to fill the financial resource gap in Nepal; expand market networks; promote exports; import new technology, know-how and skills; and train human resources. The flow of foreign investment at desired level also helps to solve the unemployment problem of the country. Like the academicians, the employers' organizations pointed out the roles of different stakeholders in attracting JV/MNCs to Nepal.

The government officials believe that there is a bright future for JV/MNCs and foreign investment in Nepal. To realize this potential, Nepal must maintain political stability, good leadership, constant laws and policies, and create an environment conducive to foreign investment. The government officials identified three main areas suitable for JV/MNCs in Nepal: hydropower, tourism and agriculture.

According to employers, the current political instability and inconsistency in Government policy on JV/MNCs are the main problems in attracting FDI. Other problems include: industrial policy, tax policy (double taxation), the lack of competent Nepali partners, uncertain government policies, absence of a profit-sharing mentality among management, the pro-worker Labour Act and Trade Union Act, and insufficient infrastructure.

Some workers viewed JV/MNCs positively because the wages and facilities are better than in Nepali enterprises, they create employment and contribute to government revenue through taxes. On the other hand, some workers were more suspicious, stating that JV/MNCs exploited the working class and did not abide by prevailing laws.

One of the major motivations of the Government in allowing foreign investment was to reduce unemployment and improve the living standards of Nepali workers through better wages. The DOI reports that JV/MNC enterprises created employment for about 99,000 people by mid-April 2005. Indian investment provides more than two out of five jobs (DOI 2005b, p.24-25). However, contribution of foreign investment to employment generation is less than expected, but can not be evaluated on the basis of direct

According to employers, the current political instability and inconsistency in Government policy on JV/MNCs are the main problems in attracting FDI.

employment alone as it also generates a lot of indirect employment.

The 11 selected JV/MNCs have directly generated employment for 7,254 workers in total, including 86 (1.2%) guest workers. Female workers account for 17.9 percent of the Nepali workers in the enterprises studied. This figure is lower than the national figure (27.2%) for the non-agricultural sector and indicates that JV/MNCs are not as women friendly as claimed by the enterprises. By sector, the largest numbers are employed in the service sector where the trade union movement is very weak. The service sector also provides the highest employment to women (31 percent), followed by the food and beverage sector at 28 percent and the power and energy sector at 24 percent. The lowest employment generating sector is agriculture (where, interestingly, female employment is eight times more than male) followed by HRCT.

There are a high percentage of females working either as contract or casual workers with limited benefits. The percentage of contract workers in the low skilled category and casual workers is more than double for female workers, compared to their male counterparts.

In the establishments studied, 92 percent of workers are employed in production activities (only 8 percent in administration). Among production workers, the number of technical workers is very low. This means that expectations of attracting foreign investment to acquire technical skills have not been met in Nepal. Workers in JV/MNCs are categorized as either permanent, temporary or casual (i.e., contract, daily wage, piece rate, part-time, paid apprentice or substitute). Of the total number of workers employed, less than half are permanent workers, around 12 percent are temporary workers and the remainder are casual. There are a high percentage of females working either as contract or casual workers with limited benefits. The percentage of contract workers in the low skilled category and casual workers is more than double for female workers, compared to their male counterparts.

JV/MNCs operate in different sectors and produce different types of products. Some JV/MNCs use mostly Nepali raw materials, whereas others import raw materials. Most of the products produced by JV/MNC establishments are sold in Nepal. Some of the products have national and international markets. In some cases, all of the raw materials

are brought from a third country and the product is exported back to the third country and solely sold there.

Most of the enterprises studied recruit either through advertisements, personal contacts or referral by senior workers. A study conducted by GEFONT in 2001, based on 750 enterprises, found that only 11 percent of enterprises advertise before recruiting employees. Compared to this, the recruitment process of JV/MNCs is better than that of national enterprises. Most of the enterprises studied provide an appointment letter to all workers, except for casual workers.

The wages paid by JV/MNC enterprises are generally better than the minimum wage provided by law. While most of the JV/MNCs studied provided overtime, they do not pay according to the labour laws. Permanent employees in JV/MNCs also received benefits and facilities including gratuities, grade facilities, leave, provident fund and, in some cases, insurance. No specific facilities were provided for women, except for maternity leave and festival leave for festivals such as *Teej*. All of the JV/MNC enterprises studied followed the working hours of 8 hours per day and 48 hours per week set by the labour laws. While all of the enterprises studied said they did not discriminate against women in terms of the type of work, in practice, less hazardous and light work was assigned to female workers.

No specific facilities were provided for women, except for maternity leave and festival leave for festivals such as *Teej*.

In general, the workplace conditions in JV/MNC enterprises seemed to approach global standards. The workplace conditions in the JV/MNCs studied were found to be far better than those required by the Nepali labour laws. Despite this, both workers and the management agreed that there was room for improvement regarding the workplace environment.

According to management, there were no reported cases of harassment in their establishments. Contrary to this, almost all of the workers in Group 4 reported being harassed by the management regularly. Female workers also complained of frequently harassment, including sexual harassment, from both the management and their co-workers.

Gender discrimination was found in relation to the hiring of women, the nature of the work done by female employees, their status (permanent, temporary or casual), entitlement to benefits and facilities, and in relation to the promotion of women.

Women were also participating effectively as CBA representatives and playing an effective role. Of the demands made by workers in collective bargaining, demands relating to wages and other economic benefits were the most common.

Trade unions existed in about 80 percent of the JV/MNCs studied, but not all were effective. Ironically, casual, temporary and contract workers—who need unions the most—are barred from joining unions or participating in union activities by the management. The management of some enterprises have been playing a dual role: on the one hand claiming to support unions and on the other threatening workers to stop them from participating in union activities. The unionisation rate in JV/MNC enterprises ranges from zero to 90 percent of the permanent and temporary workers. Interestingly, the female proportion is also in this range (zero to 94 percent), although this rate is inflated by the nearly 100 percent unionization rate at Nepal Bayern Electric. The workers of those enterprises with effective unions had a fair knowledge of collective bargaining. The level of knowledge among female workers was low, compared to males. Women were also participating effectively as CBA representatives and playing an effective role. Of the demands made by workers in collective bargaining, demands relating to wages and other economic benefits were the most common. While the management of FDI enterprises appeared to be more progressive and met most of their workers' demands, the implementation rate of conceded demands was very low.

According to the workers and their union leaders, a few workers, mostly those involved in union activities and in Study Circle classes have knowledge of the labour laws. Female workers in the establishments studied were behind male workers in all respects and the same applies to this issue. Most did not know of any specific issues related to female workers addressed by the Nepali labour laws.

In all of the enterprises studied the workers had some knowledge of OSH and the management provided some level of safety equipment. Some workers claimed that they need more safety equipment, but the management claimed

that the workers did not use the safety equipment already provided. Many workers suffered from work related health issues including coughs and colds; fever; throat infection; lung infection; pain in the chest, back, limbs, joints, hands and muscles; and loss of eye sight.

Women working in JV/MNC enterprises complained of problems at home, in the workplace and in society, as well as in relation to social activities and the union movement.

All of the enterprises selected for study see a bright future for JV/MNCs in Nepal, if the security situation is improved, and if the Government really shows a willingness to attract FDI. In relation to trade unions and workers' rights in the studied enterprises, it was felt that a large numbers of foreign invested enterprises are violating labour laws to different degrees and in different ways.

Based on the research results the following recommendations can be made:

1. The management should not create obstacles to bar unions from organizing workers for the protection of their fundamental rights as provided by the Nepali labour laws.
2. The Government has to take firm steps to implement the provisions of the labour laws in all enterprises. There should be equal treatment and facilities for workers, including equal wages for both Nepali and guest workers performing the same job, to eliminate existing discrimination.
3. To create an investment climate, infrastructure development (electricity, transport and communication), a stable government and strong security provision are the basic elements. Thus, the Government should create a favourable environment to attract FDI at the desired level to bridge the resource gap.
4. There must be coordination among all social partners to attract FDI in areas beneficial for the economic development of the country where there is insufficient

Women working in JV/MNC enterprises complained of problems at home, in the workplace and in society, as well as in relation to social activities and the union movement.

local capital and where Nepal lacks the technical and managerial know-how to operate such enterprises.

5. Trade unions have to direct their policy to generate more employment by welcoming FDI. This may be possible by changing the traditional way of protecting a limited number of employees organized in a certain enterprises.
6. A study may be necessary to find out the extent of the employment opportunities indirectly generated by FDI enterprises.
7. FDI should be diverted from the periphery of the power block to areas that are backward from a development perspective. This would be helpful in facilitating the balanced regional development of this country.
8. Enterprise-level trade unions leaders need to be more sensitive in supporting and promoting workers' fundamental rights. They need to address workers' genuine demands. At the same time, national federations and confederations of trade unions should gear their efforts (through advocacy, lobbying and activism) to the framing of policies and laws to generate more employment.
9. The Government should develop a broad-based labour inspection system also covering JV/MNCs, in addition to other types of enterprises.
10. A gender audit should be introduced in JV/MNC enterprises in order to minimize and eliminate discriminatory practices against women workers.



## CHAPTER 1

# JV/MNCs in Nepal

### 1.1 Introduction

Foreign direct investment (FDI) is defined as a long-term investment by a foreign investor in an enterprise resident in an economy other than that in which the foreign direct investor is based. The FDI relationship consists of a parent enterprise and a foreign affiliate, which together form a trans-national company/corporation (TNC). In order to qualify as FDI the investment must afford the parent enterprise control over its foreign affiliate. The United Nations (UN) defines control in this case as owning 10 percent or more of the ordinary shares or voting power of an incorporated firm, or its equivalent for an unincorporated firm ([http://www.en.wikipedia.org/wiki/Foreign\\_direct\\_investment](http://www.en.wikipedia.org/wiki/Foreign_direct_investment)).

In the years after World War II, while much of the world recovered from the destruction wrought by the conflict, global FDI was dominated by the United States (US). The US accounted for around three-quarters of new FDI (including reinvested profits) between 1945 and 1960. Since that time, FDI has spread to become a truly global phenomenon, no longer the exclusive preserve of Organization for Economic Co-operation and Development (OECD) countries. FDI has grown in importance in the global economy and FDI stocks now constitute over 20 percent of global gross domestic product (GDP). In the last few years the emerging market countries, such as China and India, have become the most favoured destinations for FDI and investor confidence in these countries has soared. As per the FDI Confidence Index for 2005, compiled by A.T. Kearney, China and India hold the first and second position respectively, whereas the United States has slipped to third position.

In the last few years the emerging market countries, such as China and India, have become the most favoured destinations for FDI and investor confidence in these countries has soared.

FDI is a broad term used to denote different forms of foreign investment including financial, technical and managerial, including trade-mark. In specific terms, FDI enterprises are categorized into multinational companies (MNCs) or joint venture companies/corporations (JVs). A MNC or TNC is a company/corporation that spans multiple nations. These companies/corporations are often very large. Such companies have offices and/or factories in different countries. They usually have a centralized head office where they coordinate global management. Very large multinationals have budgets that exceed those of many countries. They can be seen as a power in global politics ([http://www.investordictionary.com/definition/multinational +corporation.aspx](http://www.investordictionary.com/definition/multinational+corporation.aspx)).

Critics regard multinational corporations as destructive of local economies abroad and prone to monopolistic practices.

In other words, a MNC is defined as any corporation registered and operating in more than one country at a time, usually with its headquarters in a single country. A firm's advantages in establishing itself multi-nationally include both vertical and horizontal economies of scale (reductions in cost from an expanded level of output). Critics regard multinational corporations as destructive of local economies abroad and prone to monopolistic practices.

Similarly, joint ventures between domestic companies and foreign companies have become a popular means for both to satisfy their objectives. They offer, at least in principle, an opportunity for each partner to benefit significantly from the comparative advantages of the other. Local partners bring knowledge of the domestic market; familiarity with government bureaucracies and regulations; an understanding of local labour markets; and, sometimes, existing manufacturing facilities. Foreign partners can offer advanced process and product technologies, management know-how and access to export markets. For either side, the possibility of joining with another company in the new venture lowers the capital requirements, compared to going it alone.

In conclusion, the term MNC or MNE denotes any company or enterprise that has opened up operations in more than one country with a national partner or as a sole enterprise by the foreign investor/s. JV enterprises are those in which two or more investors are present from two or

more countries. In JVs one partner must be from the recipient country, whatever the percentage share may be. However, there is no need for a local partner in the case of a MNC. The terms MNC and JV are often used interchangeably in this study, irrespective of their theoretical differences.

## 1.2 Objectives

In general, this study aims to highlight the present status of foreign investment in Nepal. More specifically, the study has the following objectives:

- i. To examine the present status of JV/MNC enterprises and to review the legal framework for foreign investment.
- ii. To analyze the overall employment status in JV/MNC enterprises with a special focus on the employment of women.
- iii. To identify different labour issues in the JV/MNC enterprises, particularly from a gender perspective.

## 1.3 Methodology

### 1.3.1 Research Approach

This study aims to explore foreign direct investment from various countries in JV/MNC enterprises in Nepal. In addition, the study also attempts to find out the status of female workers working in these enterprises and the status of labour issues. The research is based on information collected from different sources.

### 1.3.2 Data Sources

To fulfil the objectives of the study, both primary and secondary sources of information were used. Foreign investment in Nepal is concentrated in the formal sector, which employs only about 10 percent of the total workforce. The informal sector, employing more than 90 percent of workers, is outside the area open to foreign investors. Of these areas, agriculture is a priority sector for the overall development of Nepal. At present there is minimal foreign investment in agriculture. To enhance the general under-

Foreign investment in Nepal is concentrated in the formal sector, which employs only about 10 percent of the total workforce.

standing of the research topic, primary data was also collected.

### *Secondary Sources*

Secondary sources used include published and unpublished data and information from the Ministry of Industry, Department of Industry (DOI), Central Bureau of Statistics, FNCCI and other sources. Various articles by scholars, Government documents, laws and policies, books, booklets, pamphlets, research reports, seminars and workshop papers, and websites on FDI were used to examine the status of foreign investment in Nepal. This information was used to research the history and trends in relation to foreign investment in Nepal. Of the various source of secondary data, this study mainly concentrated on FNCCI records, which are a compilation of data from the DOI. Other information generated from various sources is also included in this study. Quantitative information generated by individuals and institutions is also used in the appropriate places.

Primary information was collected to find out the perception of employers, workers, union leaders, academicians, and management on the status of workers, in general, and female workers, in particular, in joint venture or multinational enterprises in Nepal.

### *Primary Sources*

Primary information was collected to support or refute the analysis of the secondary data and to fill the gaps in the secondary data. Primary information was collected to find out the perception of employers, workers, union leaders, academicians, and management on the status of workers, in general, and female workers, in particular, in joint venture or multinational enterprises in Nepal.

#### **1.3.3 Sample Design**

The following criteria were adopted for the selection of sample establishments to obtain primary data and information.

- concentration/location
- sector of production
- country representation
- size of investment
- women friendly

### 1.3.4 Selection of JV/MNC Establishments

Of the total 395 JV/MNC enterprises operating in 30 districts of Nepal (as per the DOI records up to mid-April 2005), 20 enterprises were selected for this study from different sectors.

**Table 1.1 Number of JV/MNC Establishments Studied (Planned and Actual)**

Sector	Number of Establishments Studied	
	Planned	Actual
Food and Beverage	5	3
Manufacturing	6	2
Service	2	2
Agriculture	1	1
HRCT	1	1
Power, Energy and Chemical	3	1
Construction	1	-
Banking and finance	1	1
<b>Total</b>	<b>20</b>	<b>11</b>

The research team were only able to cover 11 of the 20 selected enterprises due to various circumstances. The main two reasons were that some of the enterprises chosen for study were not located in the districts where they were registered (some had actually closed) and others chose not to participate in the study.

### 1.3.5 Information Collection Methods

Primary information was mainly collected by qualitative methods from different groups of people with the help of three separate checklists. Firstly, the research team held a discussion with various reputed academicians, representatives from employers' organizations, representatives from the bilateral chambers of commerce and concerned government officials. Secondly, the researchers met and held discussions with all of the management representatives from the enterprises selected for study. At the same time investigators collected employment data, wage rates paid, the authorized capital of the enterprise and the share of foreign investment from the JV/MNC records. Thirdly, group discussions were held with the workers and union

leaders from the selected enterprises. Discussion groups were organized, depending on the total number of workers employed by the enterprise, but mainly two groups (one female group and one male group) were formed from each enterprise.

Mostly qualitative information was collected, but some quantitative data was also collected. For the purpose of collecting information from the field the respondents were divided into three groups: key informants (academicians, employers' organizations, government officials, bilateral chambers of commerce), employees (workers and union leaders) and management. As mentioned above, three sets of check lists were prepared. The first, second and third set were administered to the key informants, workers and union leaders, and management, respectively.

The research team also chose workers from different skill categories involved in production and administration to generate more information.

### *Key Informants*

To understand the importance, status and future of foreign investment in Nepal from the various perspectives, discussions were held with key informants, both individually and in groups, with the help of the set checklist. For the purpose of this study, key informants were defined as academicians, representatives from employers' organizations, representatives from the bilateral chambers of commerce and relevant government officials.

### *Workers and Union Leaders*

Two group discussions were conducted by the researchers with the workers and union leaders in each establishment selected for study. In some enterprises the males and females were separated; whereas in others they were combined into one group. While selecting the workers and union leaders for the group discussion, the research team tried to select knowledgeable workers and active union leaders in order to obtain more reliable information. The research team also chose workers from different skill categories involved in production and administration to generate more information.

## *Management*

The perception of employers towards JV/MNCs was obtained through discussions with the management personnel (individually with the owner, head manager, administrative chief, Human Resource Development officer or more than one of these) from all of the establishments studied. The discussions with management personnel were also conducted with the help of a checklist.

### **1.3.6 Limitations**

The sample establishments were selected from the FNCCI Directory of 2005. Some of the selected establishments were found to be closed. These establishments were not replaced by other enterprises. As a result, the research team could not follow the original plan to cover all types of establishments representing various sectors. Hence, the sample size is small and some of the sectors are not represented in the sample. However, the study is useful in understanding the trend of foreign investment and its contribution to employment and the economic development of Nepal. The effort to analyze the employment provided by JV/MNC enterprises from a gender perspective is also a specific limitation of this study.

The study is useful in understanding the trend of foreign investment and its contribution to employment and the economic development of Nepal.

### **1.3.7 Organization of the Study**

The study is divided into six chapters. Chapter 1 outlines the objectives and methodology of the study. Chapter 1 also analyzes the status of foreign investment and foreign invested enterprises (JV/MNCs) in Nepal based on data from the DOI for 2005, as compiled by the FNCCI. Chapter 1 deals with the number of JV/MNC enterprises; their status and category; the volume of capital invested; the regional distribution of such enterprises; the sector of investment; the countries investing; the share of foreign investment; the type of collaboration; and employment generated by foreign investment.

Chapter 2 is a brief review of the laws and policies directly or indirectly related to foreign investment and JV/MNCs. Chapter 3 highlights the perceptions of the key informants

(academicians, representatives from employers' organizations, representatives from bilateral chambers of commerce and concerned government officials). Chapter 4 mainly concentrates on employment issues in the sampled establishments. Chapter 5 examines different workers' issues, including workers' rights, from the point of view of the workers and the management. Chapter 6 contains a brief summary of the report and recommendations for the improvement of the situation of foreign investment and JV/MNCs in Nepal.

#### 1.4 History of JV/MNCs in Nepal

In the case of large-scale industries, the policies treated Nepali and foreign investors equally; whereas in medium-scale industries, the policies allowed joint ventures only.

The history of foreign investment in Nepal goes back to the establishment of the first modern mill (the Biratnagar Jute Mill) in 1936. The Indian industrialist Radha Krishna Chamadiya had invested a 60 percent share in the mill and the then Prime Minister Juddha Shamsher, other high class Ranas and high level non-Rana officials had invested 40 percent (Ojha (ed.) 2000, p.9). After the establishment of the jute mill, the same investor invested in a cotton mill, sugar mill, chemical industries and a rice mill (Ojha (ed.) 2000, p.7). A few other joint venture industries were also established during the Rana regime, but all these industries were nationalised with the introduction of democracy in 1951. Immediately after the establishment of democracy, the Nepal Commercial Corporation was registered as the first joint venture company with 67 percent equity held by Indian investors. During the interim period another two joint venture industries were also registered. The registration of joint venture industries up to the mid-1970s was slow (NESOAE 1995).

Only after the mid-1970s did joint venture industries start to increase. This growth may be due to the industrial policies of 1974 and 1981, which allowed foreign investment in large and medium industries. In the case of large-scale industries, the policies treated Nepali and foreign investors equally; whereas in medium-scale industries, the policies allowed joint ventures only. The planning processes of Nepal, in the Sixth Plan (1980-85), for the first time expressed the need for foreign investment and technology transfer for the industrial growth of the country. In subsequent plans, the



FDI policy continues to focus on attracting capital, modern technology, managerial and technical skills, access to international markets and development of commercial attributes into the country. The current Tenth Plan (2002-2007) has given a high priority to industries that can create regional balance and those in areas where the country has a comparative advantage. The Tenth Plan also encourages newly developed technology for industrial development.

The Government of Nepal has accorded top priority to attracting foreign investment in recent years. At present, all areas are open to foreign investment, with the exception of traditional cottage industries and a few other specific industries related to defence, public health and the environment. Foreign equity participation is limited to 66 percent in the banking and financial sector. JV/MNCs are protected from nationalisation. The repatriation of profits, dividends and principal, as well as interest payments in convertible currencies, has also been guaranteed. Moreover, foreign investors are entitled to receive national treatment in terms of the enjoyment of all the facilities and incentives provided by the Foreign Investment and Transfer of Technology Act and the One Window Policy 1992. Technology transfer is permitted in all types of industries. Attempts have also been made to attract foreign investment in infrastructure with the redefinition of this sector as a construction industry. In 1996, the prohibition on foreign investment below Rs.20 million in industries was lifted, and now foreign investment is allowed at every level of investment.

FDI policy continues to focus on attracting capital, modern technology, managerial and technical skills, access to international markets and development of commercial attributes into the country.

When the Government of Nepal introduced its foreign investment policy, many legal and institutional changes were made to facilitate the entry and expansion of foreign investment in Nepal in line with a more open and liberal economic policy. Legal structures supportive of foreign investment were established, foreign investment friendly policies were adopted, and international meetings were arranged to inform and attract potential investors to Nepal. Among the various legal provisions, the Industrial Policy 1992, the Foreign Investment and One Window Policy 1992, the Foreign Investment and Transfer of Technology Act 1992 and the Industrial Enterprises Act 1992 are signif-

icant in relation to attracting foreign investment to Nepal. These Acts have played a crucial role in importing capital and in the transfer of advanced technology and efficient management (Dahal and Aryal 2003, p.2). As a result of these efforts, a positive environment was created in early 1990s. Unfortunately, after 1992/93 political instability in the country discouraged foreign investors.

The adoption of the One Window Policy has created a better environment for investment, and registration and licensing procedures have been simplified. Attempts have been made to accelerate the process of registration within the stipulated timeframe of 30 days from receipt of application. Many legal provisions have been made, with the necessary changes to organizational set-up, to make Nepal an investment-friendly country. The Industrial Promotion Board (IPB) has been established, with representation from the private sector, to formulate and implement policies. The One Window Committee has been formed to provide facilities and concession within a single institutional framework.

Nepal has not only missed out on foreign capital and technology, but also missed opportunities to expand employment through foreign investment (NESOAE 2004).

Despite all these attempts Nepal has not yet been able to attract a significant level of foreign investment. Compared to other South Asian Regional Cooperation (SAARC) countries, the flow of foreign investment in Nepal from 1991-2001 was higher only than in Bhutan, which is relatively less open than Nepal. From 1991-2001, Bangladesh received 9 times more FDI annually (US\$82.8 million) and Sri Lanka received about twenty times more (US\$176.2 million)—the inflow in Nepal being US\$9.5 million annually. The Nepali economy was identified as the most open in the SAARC region during the period from 1990-2000, but the foreign investment attracted was not as high as in other SAARC countries. Nepal has not only missed out on foreign capital and technology, but also missed opportunities to expand employment through foreign investment (NESOAE 2004).

This clearly shows that policy reforms alone will not increase foreign investment. Many other factors are equally important for the successful entry of FDI. One factor preventing the attraction of FDI in Nepal seems to be the landlocked nature of the country, which creates a high-cost

position for the export of products. Another factor may be the restrictions on, or lack of easy entry for, Nepali products in Indian and Chinese markets. Another factor is that, at the moment, human-capital is weak in Nepal due to limited skills. Efforts need to be made to train Nepal's labour force to be more productive.

The existing bureaucracy and organizational set-up should be improved to facilitate the smooth adoption of Government policies. In addition, there should be some basic infrastructure, like a dry port, adequate power supply and transportation facilities.

## 1.5 Status and Categorization of JV/MNCs

### 1.5.1 Status of JV/MNCs

The registration of JV/MNCs with foreign investment started during the interim period (1951-59). During this period only three enterprises were registered in Nepal. The number reached 71 at the end of the *Panchayat* regime (1989). The registration of JV/MNCs has increased significantly since the restoration of multiparty democracy in Nepal in 1990. This is shown by the registration figures recorded by the Department of Industry (DOI). From 1990 to 1994, about 170 new MNCs were registered with the DOI (NESOAE 1995, p.9). The process of registration continued to accelerate, reaching 955 enterprises by mid-April 2005 (DOI 2005b, p.20). In 1991, about three quarters of the enterprises with foreign investment were concentrated in the manufacturing sector; this ratio declined as the flow of foreign investment increased in other sectors.

Historically, the flow of foreign investment in Nepal was very low. It naturally increased gradually with the growth of enterprise and recorded significant improvement during the 1990s. The bilateral trade treaty with India in 1991 and its renewal in 1996 contributed much to this increase, along with the liberalization of trade and exchange rate regimes, the implementation of bonded warehouses, the duty drawback system and an incentive structure favouring export-oriented industries. After peaking in 1997 at US\$23 million per annum, foreign investment declined sharply, and

The existing bureaucracy and organizational set-up should be improved to facilitate the smooth adoption of Government policies.

has been improving only since 2000. Frequent changes of government and uncertainty caused by the Maoist insurgency are considered to be the main factors responsible for the decline in FDI (UN 2003, p.3).

Government statistics show that the number of JV/MNCs and the amount of foreign investment is increasing gradually each year. However, these increments are only on paper. The DOI does not follow up to see if approved industries are actually operating, closed or cancelled. This is one of the main obstacles to analyzing the contribution of foreign investment in Nepal. The latest information shows that, out of the 955 FDI-based enterprises registered with the DOI up to mid-April 2005, 122 or approximately 13 percent were closed or cancelled. Similarly, the status of all other enterprises is not as recorded by the DOI. Of the total number of enterprises registered with the DOI, less than half are in operation in a way that actually affects the national economy.

Frequent changes of government and uncertainty caused by the Maoist insurgency are considered to be the main factors responsible for the decline in FDI.

### 1.5.2 Categorization of JV/MNCs

The Federation of Nepalese Chamber of Commerce and Industries (FNCCI) has compiled information about a total of 833 JV/MNCs (excluding enterprises closed or cancelled) and grouped them into four categories—operating, under construction, licensed and approved—based on their status up to mid-April 2005. Based on DOI records, out of the total 833 enterprises, forty-seven percent are now operating. However, based on observation, it appears that few are actually in operation (Table 1.2). Looking at these findings and the present situation in the country, it is difficult to be very optimistic about the prospect of all licensed and approved enterprises continuing to run in future.

JV/MNCs and foreign investment flow in Nepal are increasing each year. FDI has now reached 54,221 million rupees in total, which is 70 percent of the total authorized capital of the approved enterprises. Operating enterprises make up 47 percent of the total number of enterprises and cover 57 percent of the total foreign investment. If we assume that the 12 percent of operating enterprises that have not mentioned the percent of foreign investment have 100 percent equity, the percentage share in total FDI flow

**Table 1.2** Number of JV/MNCs and Foreign Direct Investment in Nepal by Status of Enterprises up to Mid-April 2005

Category	Number	Percent	Authorized Capital in Million Rs.	FDI in Million Rs.	FDI as% of Authorized Capital	Average FDI per Enterprise in Million Rs.
Operating	395	47.42	45576	31170	68.39	78.91
Under Construction	33	3.96	5107	3529	69.09	106.93
Licensed	119	14.29	11854	7828	66.04	65.78
Approved	286	34.33	14526	11694	80.50	40.89
<b>Total</b>	<b>833</b>	<b>100%</b>	<b>77063</b>	<b>54221</b>	<b>70.36%</b>	<b>65.09</b>

Source: Calculated from FNCCI data 2005

in Nepal would be 10 percent (Table 1.11). The overall average FDI per enterprise in Nepal is 65 million rupees. The average FDI per enterprise for operating enterprises is greater than this by 14 million rupees (nearly 79 million rupees). FDI per enterprise in approved enterprises is the lowest (41 million rupees), followed by licensed enterprises (66 million rupees), operating enterprises (79 million rupees) and under construction industries with the most (100 million rupees).

Of these categories, the only enterprises contributing to the national economy at present are operating enterprises. The enterprises under construction have been contributing less now. The country will benefit from the other categories of enterprise (approved and licensed) only after they commence operation. Thus, an analysis of all enterprises would be misleading. Hence, this report only analyzes operating enterprises, even though many of them were found to be closed. The size of foreign investment in Nepal shows that Nepal is lagging far behind in attracting foreign investors, despite the various efforts made over the last 25 years and more.

## 1.6 Characteristics and Distribution of JV/MNCs

### 1.6.1 Foreign Investment by District

The inflow of foreign investment in Nepal is concentrated only in 30 districts out of 75. In these 30 districts the

amount of investment varies significantly and is mainly concentrated in only a few districts. The lowest level of investment is in Taplejung (1.9 million rupees) where only one enterprise is in operation. The highest is found in Kathmandu (4,937 million rupees) spread over 176 enterprises. About 83 percent of enterprises and 57 percent of investment is concentrated in only nine main districts, all of which have ten or more operating enterprises. In contrast to this, 43 percent of foreign investment is found in 17 percent of enterprises in the other 21 districts. This clearly indicates that the average size of enterprises is larger in the other districts (where there are less enterprises) than in the main districts (where more enterprises are concentrated) (Table 1.3).

In the nine main districts, all of the operating enterprises are located in the Central Development Region (CDR), except for those in Kaski and Morang. Kathmandu is the main district, attracting approximately 45 percent of all operating enterprises and 16 percent of all foreign investment. Lalitpur and Kaski come in second and third, respectively, in relation to the number of operating enterprises. Sindhupalchowk (not one of the nine main districts)

**Table 1.3 Main Districts with 10 or More JV/MNCs**

Districts	Number of Operating Enterprises	% Total Operating Enterprises	FDI in Million Rs.	% of Total FDI
Kathmandu	176	44.56	4937	15.84
Lalitpur	44	11.14	1039	3.33
Kaski	22	5.57	4254	13.65
Makawanpur	20	5.06	1624	5.21
Chitwan	17	4.3	1690	5.42
Bara	15	3.8	2454	7.87
Morang	13	3.29	1111	3.56
Bhaktapur	11	2.78	244	0.78
Parsa	10	2.53	322	1.03
<b>Total</b>	<b>328</b>	<b>83.03</b>	<b>17675</b>	<b>56.71</b>
Other Districts	67	16.97	13495	43.29
<b>Total</b>	<b>395</b>	<b>100%</b>	<b>31170</b>	<b>100%</b>

Source: Calculated from FNCCI, 2005.

takes second place in relation to amount of investment (16 percent), although it only has five enterprises (Table 1.4).

As with the number of enterprises, foreign investment is also concentrated in few districts. More than 86 percent of investment is concentrated in 11 districts where 81 percent of enterprises are concentrated (Table 1.4). This indicates that balanced regional development through the mobilization of foreign investment is merely rhetorical.

Dolakha come in fourth position, in relation to investment, although the share of enterprises is low. Foreign investment in Sindhupalchowk & Dolakha districts is high only because two large hydro electricity enterprises (Himal Power Ltd in Dolakha and the Upper Bote Koshi Hydro Electric in Sindhupalchowk) are located there. These two enterprises alone cover 22 percent of the total foreign investment inflow in Nepal. The gap in the distribution of development benefits is further widened by the concentration of investment in and around Kathmandu.

**Table 1.4 Districts with Foreign Investment Inflow of more than 1000 Million Rupees**

Districts	Number of Enterprises	Foreign Investment in Million Rs.	% of Enterprises	% of Foreign Investment
Kathmandu	176	4937	44.56	15.84
Sindhupalchowk	5	4845	1.27	15.54
Kaski	22	4254	5.57	13.65
Dolakha	2	2484	0.51	7.97
Bara	15	2454	3.80	7.87
Chitwan	17	1690	4.30	5.42
Makawanpur	20	1624	5.06	5.21
Kapilvastu	1	1242	0.25	3.98
Sunsari	6	1137	1.52	3.65
Morang	13	1111	3.29	3.56
Lalitpur	44	1039	11.14	3.33
<b>Sub-Total</b>	<b>321</b>	<b>26817</b>	<b>81.27</b>	<b>86.04</b>
Other Districts	74	4353	18.73	13.96
<b>Total</b>	<b>395</b>	<b>31170</b>	<b>100%</b>	<b>100%</b>

Source: Calculated from FNCCI, 2005

### 1.6.2 Regional Distribution of JV/MNC and Foreign Investment

Nearly three quarters (73 percent) of JV/MNCs are concentrated in hill districts covering 41 percent of foreign investment and 44 percent of the population. In mountain zones the concentration of enterprises is very low (3.5 percent) but the proportion of foreign investment is more than one quarter (25.5 percent). This concentration is mainly due to power sector enterprises, which are mostly located in mountain districts and require high investment. In the Terai also, the proportion of foreign investment is high compared to the proportion of enterprises. This information demonstrates that large enterprises are mainly concentrated in the mountains (especially hydropower enterprises), followed by the Terai. The size of enterprises in the hills is small compared to in other zones. The average foreign investment per enterprise is Rs.914.27 million in the mountains, 58.80 million in the hills, 169.16 million in the Terai and 39.98 million in Kathmandu Valley. More than 58 percent of foreign invested industries are concentrated within Kathmandu Valley alone, but the investment inflow in the Valley is very low (20 percent), compared to the number enterprises. About 42 percent of enterprises are located in different districts outside the Valley. This figure shows that a large number of enterprises are concentrated around the periphery of the power hub, but their size is small with respect to investment.

On the other hand, enterprises are densely located in the CDR, which includes the Kathmandu Valley, where there

**Table 1.5 JV/MNCs and Foreign Investment by Ecological Zones**

Zone	% of Enterprises	Foreign Investment in Million Rs.	% of Foreign Investment	% Population (as at 2001)
Mountains	3.54	7966	25.56	7.3
Hills	72.66	12732	40.85	44.3
Terai	23.8	10472	33.60	48.4
<b>Nepal</b>	<b>395</b>	<b>31170</b>	<b>100%</b>	<b>23151423</b>
Kathmandu Valley	58.48	6220	19.96	7.1

Source: Calculated from FNCCI, 2005.



Table 1.6 Operating JV/MNCs and Investment by Development Region

Region	% of Enterprises	Foreign Investment in Million Rs.	% Foreign Investment	% Population (as at 2001)
EDR	6.84	2456	7.88	23.09
CDR	79.24	20454	65.62	34.69
WDR	11.14	7516	24.11	19.74
MWDR	1.77	153	0.49	13.01
FWDR	1.01	591	1.90	9.47
<b>Total</b>	<b>100%</b>	<b>31,170</b>	<b>100%</b>	<b>23,151,423</b>

Source: Calculated from FNCCI, 2005.

are well developed infrastructure facilities and access to the administrative decision making centre for business and other facilities. Four-fifths (or 80 percent) of enterprises and two thirds of investment are concentrated in the CDR alone, where only 35 percent of the population resides. The mid and far western development regions lag far behind in terms of mainstream development and poverty is also prevalent in these areas. Foreign investment inflow in these regions is extremely low. These regions account for less than three percent of enterprises and investment, but more than 22 percent of the population (Table 1.6). This sufficiently corroborates the statement that foreign investment has helped to create a further disparity among the regions in terms of the development process, rather than to achieve a regional balance.

### 1.6.3 Size of JV/MNCs

Up to mid-April 2005, 63 percent of foreign enterprises had been operating as small-scale enterprises, 21 percent medium-scale and the remaining 16 percent fall into the category of large enterprises. Hence, it appears that most of the foreign invested industries operating in Nepal are small-scale enterprises. Contrary to this, the share of foreign investment in large-scale industries is more than four-fifths (83 percent) of the total investment in Nepal. Medium and small-scale industries comprise only 17 percent of investment in 84 percent of the industries (Table 1.7).

Table 1.7 Number and Size of Enterprises

Size*	Enterprise	Authorised Capital	Foreign Investment	% of Enterprise	% of Capital	% of Foreign Investment	Foreign Investment as % of Authorized Capital
Small	248	2866	2128	62.78	6.29	6.83	74.26
Medium	82	4539	3324	20.76	9.96	10.66	73.24
Large	65	38171	25718	16.46	83.75	82.51	67.38
<b>Total</b>	<b>395</b>	<b>45576</b>	<b>31170</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>68.39</b>

\* Small-scale enterprises are those with capital up to Rs.30 million, medium have capital worth Rs.30-100 million and large enterprises have capital worth more than Rs.100 million.

Source: Calculated from FNCCI, 2005.

#### 1.6.4 Enterprises by Country

In the early period, only a few countries accounted for most of the foreign investment. India was the main investing country, contributing more than half of the foreign investment in Nepal up to the beginning of 1990s. Nepal's new economic policies have started to attract other foreign investors to Nepal. As a result, the number of countries investing in Nepal has been gradually increasing and reached 38, including three countries investing jointly with other countries, by mid-April 2005. As the number of countries increases, the proportion of total foreign investment contributed by India is declining, but India still occupies the top position among investing countries. Seventy percent of enterprises are from only seven countries: India, USA, Japan, China, Republic of Korea, Germany and the UK. The total investment inflow from these countries accounts for 60 percent of the total foreign investment. India alone accounts for 29 percent of enterprises and 37 percent of investment.

On average, per enterprise, foreign investment is 78.91 million rupees, although it ranges vastly from one enterprise to another. For example, foreign investment in the Consolidated Management Services Nepal Pvt. Ltd., a consultancy service in Kathmandu, is only Rs.0.3 million (assuming 100 percent equity share), financed by New Zealand. On the

Table 1.8 Number of Operating Enterprises and Amount of Investment by Country in 2005

Country	Number of Enterprises	Authorized Capital in Million Rs.	Foreign Investment in Million Rs.	% of Enterprise	% of Authorized Capital	% of Foreign Investment
India	114	14020	11546	28.86	30.76	37.04
USA	47	4787	4241	11.90	10.50	13.61
Japan	43	1571	1106	10.89	3.45	3.55
China	26	1775	1168	9.32	7.59	6.22
Korea (R)	22	655	416	7.89	2.80	2.21
Germany	14	237	136	5.02	1.01	0.72
UK	13	352	173	4.66	1.51	0.92
<b>Sub-Total</b>	<b>279</b>	<b>23397</b>	<b>18786</b>	<b>70.63%</b>	<b>51.34%</b>	<b>60.27%</b>
Other Countries	116	22179	12384	29.37	48.66	39.73

Source: Calculated from FNCCI, 2005.

other hand, 4248 million rupees of foreign investment has come in through the Upper Bhothe Koshi Hydro Electric Enterprise, located in Sindhupalchowk district, operating with 90 percent share from the USA and Germany. Countries investing in the power sector have a high proportion of investment, compared to countries investing in other sectors, even if they have less number of enterprises. About three percent of enterprises are running with less than one million rupees share in equity. Among the main investing countries, most have small enterprises. For example, in relation to German funded enterprises, the average foreign investment is only Rs.10 million and for the UK it is Rs.13 million (Table 1.8).

Of the 38 countries investing in Nepal, only seven countries (counting joint enterprises by two countries as equal to one country) are investing 85 percent of the total foreign investment in Nepal, while the remaining countries invest only 15 percent. India is the main investing country covering 31 percent of the total investment inflow in Nepal up to the mid-April 2005.

Norway has the second largest share in foreign investment at 14.7 percent (Table 1.9), investing mostly in hydropower and related enterprises. The USA also has significant percent

**Table 1.9 Countries With more than 1000 Million Rupees Investment**

Country	Number of Enterprises	Authorized Capital	Foreign Investment	% of Enterprise	% of Authorized Capital	% of Foreign Investment
India	114	14020	11546	28.86	30.76	37.04
USA/Germany	1	4760	4284	0.25	10.44	13.74
USA	47	4787	4241	11.90	10.50	13.61
Norway	6	6684	2897	1.52	14.66	9.29
China	26	1775	1168	6.58	3.90	3.75
Japan	43	1571	1106	10.89	3.45	3.55
India/UK	2	2176	1105	0.51	4.78	3.55
<b>Sub-Total</b>	<b>239</b>	<b>35773</b>	<b>26347</b>	<b>60.51</b>	<b>78.49</b>	<b>84.53</b>
Other Countries	156	9803	4823	39.49	21.51	15.47

Source: Calculated from FNCCI, 2005.

of investment in Nepal (10.5 percent). One enterprise alone (the Upper Bhothe Koshi Hydro Power Enterprise), operated with 90 percent equity share from the USA and Germany and ten percent equity share from Nepalese nationals, covers more than 10 percent of total foreign investment in Nepal.

Eighteen countries, including joint foreign partners, are operating only one enterprise, and nine countries are operating only two enterprises. India is the only country operating more than 50 enterprises.

**Table 1.10 Number of JV/MNCs and Countries Investing in Nepal**

Number of Enterprises	Countries*
1	18
2	9
3 to 5	8
6 to 10	7
11 to 20	2
21 to 50	4
50+	1
<b>Total</b>	<b>49</b>

\* Including countries jointly investing with another foreign partner.

Source: Calculated from FNCCI, 2005.

### 1.6.5 Share of Foreign Investment

Foreign shares in JV/MNCs operating in Nepal ranges from two percent to 100 percent. The share differs with the nature of the enterprise and the foreign partner. Twelve percent of enterprises do not have an amount recorded for foreign share in the FNCCI document. Twenty-seven percent of the total number of operating enterprises are fully run by

Table 1.11 Percentage of Foreign Share in Total Investment

Percentage Share	% of Operating Enterprises	Amount of Foreign Capital in Million Rs.	% of Foreign Investment
Less than 25	5.06	836	2.68
25-50	29.11	6219	19.95
51-74	10.89	2258	7.24
75-99	16.2	8187	26.27
100	27.09	10654	34.18
NA*	11.65	3016	9.68
<b>Total</b>	<b>395</b>	<b>31170</b>	<b>100%</b>

\* Not Available

Source: Calculated from FNCCI, 2005.

foreigners with 100 percent foreign equity worth Rs.10,655 million, which is 34.18 percent of the total inflow of foreign investment. Similarly, 29 percent of enterprises are running with 25 to 50 percent foreign investment, constituting 20 percent of total investment. The enterprises with less than 25 percent foreign share, make up only 5 percent of enterprises and account for 2.68 percent of total foreign investment (Table 1.11).

Various forms of collaboration like financial, technical, managerial, trademark, marketing and leasing are found in different enterprises. Collaboration can be in just one area, or in multiple areas. However, financial collaboration alone accounts for 80 percent of enterprises, and technical collaboration is only found in five percent of enterprises. Both of these collaborations are combined in a few enterprises and are also found, along with other types of collaboration (trade mark, management and marketing), in different enterprises. Thus, it is estimated that other types of collaboration do not exceed more than five percent of total investment. This indicates that the desire to acquire technology transfer is far less than expected. Nepal has not been able to realise technological gains, one of the most potentially beneficial aspects of an open economy.

### 1.6.6 Sectoral Distribution

Foreign investment is allowed in all sectors, but its inflow is not distributed evenly in each sector. The manufacturing sector is still an important area for foreign investment but power, tourism, and service sectors are growing and have attracted more foreign investment in recent years. Among the different sectors, the hotel, restaurant, catering and trekking (HRCT) sector, and manufacturing industries have an equal number of enterprises. However, the manufacturing sector attracts more than double the amount of foreign investment than the HRCT sector. The main reason for this is that in the HRCT sector a large number of enterprises are established with less investment, which is not possible in the manufacturing sector. An investor can establish HRCT enterprises with a low level of investment. In comparison, to open an enterprise in manufacturing requires a large investment. Service and fibre related enterprises ranked second and third in terms of number of enterprises. In terms of the amount of investment, the manufacturing sector has the most foreign investment, followed by power, and then by the service sector and HRCT. Nepal is mainly an agricultural country. Without the

**Table 1.12 Enterprises and Foreign Investment by Sector**

Sector	Number of Enterprises	Authorized Capital	Foreign Investment in Million Rs.	% of Enterprises	% of Capital	% of Foreign Investment
Fibre Related	53	2667	1551	13.42	5.85	4.98
Manufacturing	97	12198	8629	24.56	26.76	27.68
HRCT	97	6277	4089	24.56	13.77	13.12
Transport & Communication	12	910	792	3.04	2.00	2.54
Agriculture	13	427	284	3.29	0.94	0.91
Construction	12	1544	1006	3.04	3.39	3.23
Food & Beverage	33	3916	2024	8.35	8.59	6.49
Power, Energy & Chemical	14	11476	7157	3.54	25.18	22.96
Mining	1	323	161	0.25	0.71	0.52
Service	63	5838	5477	15.95	12.81	17.57
<b>Total</b>	<b>395</b>	<b>45576</b>	<b>31170</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: Calculated from FNCCI, 2005.

development of this sector, Nepal has been unable to achieve its holistic development goals. The inflow of foreign investment in the agriculture sector is negligible. Thus, policy makers should prioritise this sector for the attraction of foreign investment (Table 1.12).

The foreign investment inflow in the five main districts not only differs by country, but also by district. Half of the investment inflow in Kathmandu is in HRCT and the remaining half is distributed across various other sectors. Almost all investment inflow in Makawanpur district is invested in the manufacturing sector and the remaining in food and beverage industries. A major part of the investment inflow in Kaski and Chitwan districts goes to the service sector. In the service sector, the highest share is invested in health. Seventy percent of the total foreign investment in Kaski is utilized by the Manipal Medical College, and the Chitwan Medical College and Hospital covers 53 percent of the total investment in the Chitwan district. (Table 1.13).

**Table 1.13 Foreign Investment in Top Five Districts by Sector**

Sector	Kathmandu	Lalitpur	Kaski	Makawanpur	Chitwan	Sub-Total	Other Districts	Total
Fibre Related	6.38	10.88	-	-	8.34	10.38	0.82	4.98
Manufacturing	9.74	10.39	-	91.63	27.28	18.74	34.56	27.68
HRCT	50.48	19.06	19.68	-	2.60	20.19	7.69	13.12
Transport and Communication	2.65	0.19	-	-	0.18	1.00	3.72	2.54
Agriculture	0.63	2.41	-	0.12	-	0.43	1.28	0.91
Construction	6.34	19.25	1.41	-	0.65	4.31	2.39	3.23
Food and Beverage	9.80	14.92	0.52	5.11	7.69	6.45	6.52	6.49
Power, Energy and Chemical	0.65	8.18	-	0.62	-	0.94	39.88	22.96
Mining	-	-	-	-	-	-	0.91	0.52
Service	13.33	14.73	78.40	2.52	53.25	37.56	2.21	17.57
<b>Total (%)</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
<b>Total FDI in Million Rs.</b>	<b>4937</b>	<b>1039</b>	<b>4254</b>	<b>1624</b>	<b>1690</b>	<b>13544</b>	<b>17626</b>	<b>31170</b>

Source: Calculated from FNCCI, 2005.

While the Kathmandu Valley (Valley includes Kathmandu, Lalitpur and Bhaktapur Districts) attracted three out of five FDI enterprises, its share of foreign investment is only one-fifth. More than two-fifths of the funds in Kathmandu are invested in the HRCT sector. Other major sectors in Kathmandu on the basis of investment are service, food and beverage, and manufacturing, while outside the valley the major inflow of investment is in the manufacturing and power sectors (Table 1.14).

There is very little overall difference in the sectors invested in by all countries and the sectors invested in by the main seven countries, but there is a significant difference between the main seven countries in terms of the sectors that they chose to invest in. Chinese investors prefer HRCT, manufacturing, construction and service sectors; the Germans prefer fibre related and HRCT industries; India's major preference is for manufacturing and fibre related industries; Japan, the UK and USA prefer HRCT industries; while the Republic of Korea prefers the manufacturing sector (Table 1.15). Chinese, Japanese and British investors prefer the HRCT

**Table 1.14 Foreign Investment Investments in Kathmandu Valley by Sector**

Sector	Foreign Investment in Million Rs.			Percentage		
	Kathmandu Valley	Outside Valley	Total	Kathmandu Valley	Outside Valley	Total
Fibre Related	519	1032	1551	8.34	4.14	4.98
Manufacturing	677	7952	8629	10.88	31.87	27.68
HRCT	2690	1399	4089	43.23	5.61	13.12
Transport and Communication	133	659	792	2.14	2.64	2.54
Agriculture	56	228	284	0.90	0.91	0.91
Construction	513	493	1006	8.24	1.98	3.23
Food and Beverage	705	1319	2024	11.33	5.29	6.49
Power, Energy and Chemical	117	7040	7157	1.88	28.22	22.96
Mining	0	161	161	0.00	0.65	0.52
Service	812	4665	5477	13.05	18.70	17.57
<b>Total</b>	<b>6222</b>	<b>24948</b>	<b>31170</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: Calculated from FNCCI, 2005.



Table 1.15 Operating Enterprises by Sector for the Main Seven Countries Based on Number

Sector	China	Germany	India	Japan	Korea (R)	UK	USA	Total
Fibre Related	7.69	35.71	19.3	2.33	9.09	15.38	6.38	13.26
Manufacturing	19.23	7.14	43.86	13.95	36.36	7.69	10.64	27.24
HRCT	23.08	28.57	8.77	48.84	27.27	30.77	29.79	23.3
Transport and Communication	-	-	3.51	-	9.09	-	8.51	3.58
Agriculture		14.29	0.88	4.65		23.08	4.26	3.58
Construction	15.38		0.88	6.98	4.55			3.23
Food and Beverage	11.54		11.4	9.3	9.09		2.13	8.24
Power, Energy and Chemical	7.69	7.14	0.88	0			4.26	2.15
Service	15.38	7.14	10.53	13.95	4.55	23.08	34.04	15.41
<b>Total %</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
<b>Total Number of Enterprise</b>	<b>26</b>	<b>14</b>	<b>114</b>	<b>43</b>	<b>22</b>	<b>13</b>	<b>47</b>	<b>279</b>

Source: Calculated from FNCCI, 2005.

sector because tourism is still considered an attractive sector in Nepal and requires a low level of investment. They hope to capture the growing flow of tourist coming to Nepal from their countries. Germans prefer to invest in fibre related industries, particularly in carpets, because Nepalese carpets are renowned in Germany and Germany is still the main market for Nepalese carpets abroad. India and Republic of Korea prefer the manufacturing sector because of the cheap labour and because they have access to the huge markets of India and Nepal to sell manufactured goods.

The information presented in Table 1.16 indicates that the enterprises in which the main seven countries have invested is small. A large amount of investment is directed to the power sector, but these countries did not prefer this sector. In relation to the amount of funds invested, India remains the main investor, followed by Norway and the USA (see Annex II). However, Indian investment is low in terms of the number of enterprises.

Nearly half of the investment by China is concentrated in the manufacturing sector. Chinese investment has not yet

**Table 1.16 Percentage Foreign Investment by Sector and by Country**

Sector	China	Germany	India	Japan	Korea (R)	UK	USA	Other Countries	Total
Fibre Related	3.15	43.52	6.43	0.25	5.17	9.29	0.77	5.4	4.98
Manufacturing	48.25	0.00	36.07	18.42	37.57	2.21	20.09	17.6	27.68
HRCT	6.45	18.09	15.26	54.77	7.49	32.14	27.39	9.5	13.12
Transport and Communication	0.00	0.00	0.14	0.00	1.22	0.00	16.33	0.49	2.54
Agriculture	0.00	11.83	0.53	0.99	0.00	52.39	0.68	0.39	0.91
Construction	17.37	0.00	5.90	8.52	2.04	0.00	0.00	1.70	3.23
Food and Beverage	3.94	0.00	9.03	10.14	39.67	0.00	1.35	5.71	6.49
Power, Energy and Chemical	8.77	19.65	0.25	0.00	0.00	0.00	2.76	56.17	22.96
Mining								1.30	0.52
Service	12.08	6.91	26.38	6.90	6.84	3.98	30.63	1.72	17.57
<b>Total FDI in Million Rs.</b>	<b>1168.4</b>	<b>135.59</b>	<b>11545.76</b>	<b>1105.65</b>	<b>416.03</b>	<b>173.06</b>	<b>4241.1</b>	<b>12384.88</b>	<b>31170.46</b>

Source: Calculated from FNCCI, 2005

entered the transportation and communication sector or the agriculture sector. German investors have invested in fibre related industries, HRCT and power. A large share of Indian investment goes into the manufacturing and service sectors. Similarly, HRCT is the priority sector for Japanese investors, with more than half of Japanese investment in this sector. Food and beverage and manufacturing sectors are the main investment sectors for the Republic of Korea. The service sector, HRCT and the manufacturing sector are favoured by American investors and agriculture and HRCT by UK investors.

### 1.7 Impact of Foreign Investment in Nepal

Even though foreign investment has played a beneficial role in Nepal's economic development, it has not contributed significantly to Nepal's economy. However, its effect on employee training, backward and forward linkages, infrastructure development, and its demonstration effect on local entrepreneurs cannot be totally ignored. Due to the unavailability of relevant data, it is not possible to assess the extent

of the contribution of foreign investment to Nepal's international competitiveness, technological development, productivity enhancement, management improvement and human resource development. The visible impact is mostly in the fields of tourism and export trade, especially with India.

Likewise, limited employment is directly generated by such investment. However, it is not appropriate to evaluate the impact of foreign investment on employment only with respect to direct employment. Foreign investment has also created a lot of indirect employment, which is often overlooked. The effect of foreign investment on subsidiary occupations and employment is difficult to prove without empirical data or any study on the topic.

## CHAPTER 2

# Nepali Laws and Policies on FDI

### 2.1 Background

Juddha Shamsheer Rana, former Prime Minister of Nepal, established the *Udyog Parishad* (Industrial Council) in 1935. The intention was to create infrastructures conducive to the industrial development of the country. With the establishment of the *Udyog Parishad*, some joint venture companies were established under the Company Act 1936. In 1950 the Rana oligarchy ended and the democratic era began. The first industrial policy was announced in 1957 by the first elected Government. The policy underwent a series of amendments in subsequent years. Efforts were not systematic and, as a result Nepal's industrial policy was not cohesive.

Nepal's Sixth Plan (1980-85) recognized the need for foreign investment and technology for the industrial development of the country. The Sixth Plan was aimed at large-scale and mineral based industries. Accordingly, the Foreign Investment and Technology Act was enacted in 1982. Likewise, the Eighth Plan (1992-97) also highlights the role of foreign direct investment as a way of closing the gap in technical know-how and reducing resource deficiency in Nepal.

### 2.2 Policies Related to FDI

#### 2.2.1 FDI and Industrial Policy

Nepal followed had a mixed economy until the late 1970s, in which the public sector was supposed to provide infrastructural facilities and leadership, and the private sector was supposed to play a complementary role in the process of industrial development. Since the 1980s Nepal's overall development policy has tended toward privatization and liberalization.

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Nepal's objectives in the industrial sector are articulated in the Industrial Policy 1992 and its amendments. In addition, the Industrial Enterprises Act 1961 and the Foreign Investment and Technology Act 1982 are also vital in promoting industrial activity. The Industrial Policy 1987 has divided its objectives into two broad categories: one general and one specific.

The general objectives of the 1987 Industrial Policy focus on:

- self-reliance
- creating employment opportunities to transfer surplus labour from agriculture
- improving the balance of payments through import substitution and export promotion

The Industrial Enterprises Act 1961 and the Foreign Investment and Technology Act 1982 are also vital in promoting industrial activity.

The specific objectives of the 1987 Industrial Policy emphasize:

- protecting industries that utilize available resources
- promoting a regional balance and rural development
- encouraging entrepreneurs to establish and diversify industries in line with broad national interests
- national priority industries based on agriculture, energy, mining, tourism and services, in addition to manufacturing industries

In the Industrial Policy 1987, industries producing goods that meet the basic needs of the people are given national priority, together with the strengthening of public enterprises and productivity.

In relation to the Foreign Investment and Transfer of Technology 1992 the Government's policies can be summarised as follows:

- Investment is subject to Government approval.
- To encourage the transfer of technology, foreign investment of up to 50 percent equity is allowed in the case of large industries that export 90 percent of their products.
- Foreign investment is allowed only in medium and large-scale industries.

- The full repatriation of dividends abroad is allowed if the investment is made in foreign exchange or in capital goods.

The Government of Nepal also provided various protections and incentives for imports and exports. The import policies can be summarised as follows:

- Import licenses are issued with quota restrictions.
- Tariffs are levied generally with rates increasing from essential to luxury goods and with the degree of fabrication.
- Protection is allowed, ordinarily at 30 percent, through import duties.
- Customs duty, sales tax and excise duty are refunded to industries providing intermediate goods to be used in export industries.
- Various levels of exemption from income tax, excise duty and sale tax are offered to industries established at different geographic locations.

In relation to exports:

- An export licence is required (partly or totally).
- Exports of industrial products are fully exempted from sales and excise duty.
- No premium, customs duty, excise duty or sales tax is levied on raw materials to be used by industries established in export processing zones.

Lastly, Nepal's employment policy has incorporated the following three basic criteria:

- Employees must be Nepali nationals, with a few exceptions.
- The minimum wage for unskilled, semi-skilled and skilled labour should be fixed.
- Additional income tax exemptions are provided to industries employing disabled persons.

### 2.2.2 Investment Policy

Since 1990, the Government of Nepal has realized the need for FDI and given top priority to attracting FDI. This is also

Since 1990, the Government of Nepal has realized the need for FDI and given top priority to attracting FDI.

reflected in the 1990 Constitution of Nepal. Article 26(12) of the Constitution declares that “The state shall, for the purposes of national development, pursue a policy of taking measures necessary for the attraction of foreign capital and technology, while at the same time promoting indigenous investment”. The Constitution emphasizes that the state should welcome foreign investment as a priority sector with the objective of economic development.

The Eighth Five-Year Plan (1992-97) also mentions that the Government realizes the importance of FDI for the overall development of the country. Against such a backdrop, the Ninth Five-Year Plan (1997-2002) set its objectives as ensuring the safe entry of foreign capital, technology and managerial skills. The Ninth Plan was particularly geared toward the development of industry, tourism, water resources and infrastructure. With the intention of expediting the process of industrialization in Nepal, the Government aimed to mobilize and utilize foreign investment and private sector participation. One of the main aims of the Government was to promote exports on the international market by improving production, productivity and quality in order to raise the living standards of the people of Nepal. It was hoped that by enlarging the options and opportunities for livelihoods it would increase the income earning capacity of the people. Accordingly, the Ninth Five-Year Plan gave special emphasis to the mobilization of foreign investment to meet the increasing investment needs of Nepal through the creation of an investment-friendly environment (Ninth Plan 1997-2002).

The Tenth Plan, 2002-07 has the objective to develop Nepal as an attractive and reliable investment centre from an international perspective.

The Tenth Plan, 2002-07 has the objective to develop Nepal as an attractive and reliable investment centre from an international perspective. The plan states that the procedures to attract foreign investment will be made simple, comprehensive and transparent through administrative and legal reforms. The plan also reviewed the Foreign Investment and Transfer of Technology Act 1992, the Industrial Enterprises Act 1992, the Labour Act 1992, and the Labour Policy 2000. It suggested that the policies of the Government should be investment-friendly.

In order to attract FDI, the state formulated the Industrial Policy 1992, the Foreign Investment and One Window Policy 1992, the Foreign Investment and Transfer of Technology Act 1992 and the Industrial Enterprises Act 1992. These were significant steps. In addition to these, the Finance Act 2001, the Immigration Rules 1994, the Customs Act 1997, the Electricity Act 1992, the Copyright Act 1965, and the Patent Design and the Trade Mark Act 1996 have been instrumental in accelerating the pace of economic development in Nepal (Dahal and Aryal 2003, p.3). While this may be true, in practice, all of these laws and policies have not yet been able to significantly increase foreign investment in Nepal.

### 2.2.3 The Foreign Investment and Transfer of Technology Act (FITTA) 1992

The Foreign Investment and Transfer of Technology Act (FITTA) 1992 regulates regulate the entry of FDI. FDI is permitted in all industries in Nepal except for those reserved exclusively for national investors or legally under state monopolies. FDI is permitted in all areas except those specified in the ‘negative list’ such as: (a) sensitive industries related to national security; cottage industries; personal services of a kind that would normally be performed by self employed people; and real estate business, and (b) retail businesses; travel agencies; cigarette, tobacco and alcohol production other than for export; a range of small tourist related activities including tourist lodging but not hotels; some small-scale farming; and consultancy services. According to the needs of the country, parliament can amend the policies and laws in relation to FDI. The number of industries and other economic activities in Nepal open to FDI have been restricted. However, there have been changes in the situation recently with Nepal’s membership to the WTO.

Privatization is one of the cornerstones of the liberal economic policy pursued by the Government of Nepal after 1990.

Privatization is one of the cornerstones of the liberal economic policy pursued by the Government of Nepal after 1990. In line with this, policies and laws were formulated. The enactment of the Privatization Act 1994 is an example. With the help of privatization friendly regulations a number



of state owned enterprises have been either privatized or liquidated.

State owned enterprise (SOE) negatively impacts upon potential FDI. The existence of SOEs has been negatively associated with over-staffing, misuse of resources, political entrenchment and corruption. Under such circumstance, FDI investors may consider investing in privatized enterprises, instead of diversifying investment in emerging sectors that involve relatively high levels of risks and uncertainty at this critical juncture. Privatization ensures competition, which is instrumental in promoting FDI. This is applicable in even the worst cases such as sick cement factories and the Nepal Airlines Corporation.

The existence of SOEs has been negatively associated with over-staffing, misuse of resources, political entrenchment and corruption.

All FDI, including reinvestment and matters relating to loans from abroad, require prior approval in Nepal. All applications are processed by the Department of Industry, which approves FDI for enterprises with an investment cost up to US\$12.5 million. The Industrial Promotion Board (IPB) decides applications for large-scale investments of US\$12.5 million or more. The IPB is a high level Committee headed by the Minister for Industry and consisting of Heads of various ministries, the Nepal Rastra Bank (the central bank of Nepal) and representatives from the private sector. The FDI procedures are implemented through the One Window system. Applications for work permits, visas and investment-related foreign exchange control approval need prior sanction by the Department of Industry. The applicant is required to submit extensive information on inputs and outputs, financing, sources and uses of foreign exchange, and commercial agreements entered into it (Dahal and Aryal 2003, p.8).

The system for the acceptance or rejection of a proposal by the approving authorities is largely discretionary and, hence, not transparent. This is one of the factors discouraging FDI. This discretionary power gives ample opportunity to 'rent-seeking' bureaucrats and further discourages potential FDI. In addition, the bulky process of approval of things (such as agreements for the use of intellectual property for management, marketing and other services from abroad)

also has to pass through the same FDI procedures. According to modern international practice, such agreements should not require prior approval (UNCTAD 2003).

The general operating conditions for business are an equally important part of the investment climate that lures foreign investors. There are structural constraints in Nepal that inhibit the entry of FDI. Some of the major constraints are: unstable business taxation; labour friendly regulations; non-transparent procedures; and inefficient staff. In addition, business operating conditions also play a vital role. In this respect, some of the major points to be considered are: foreign exchange regulation; the regulation of employment and the residence of non-citizens; inappropriate corporate and commercial laws; intellectual property protection; and environmental protection regulations. In this regard, some important points are mentioned in the following section.

#### 2.2.4 Income Tax Act 2002

Income tax incentives in Nepal have been withdrawn from most sectors by the new Income Tax Act 2002. The major taxes that impact on business are: income tax, customs duties, excise duty and value-added tax (VAT). For all non-financial enterprises the income tax rate was 20 percent and dividend income was exempted from tax. Tax rebates were given on export income. Customs and excise duty relief was also offered on raw materials used to produce exports. It is to be noted that other tax rebates were offered for income derived from remote and disadvantaged areas, for significant employment generation and for specific national priority industries. However, in the present scenario, many supporting infrastructures, even in relatively accessible parts of the country, have broken down. In this situation it is worthless to talk about incentives to operate in remote and disadvantaged areas. In any case, it appears that the incentives provided were not able to attract a large amount of additional FDI.

In addition, corporate income taxation was fully adjusted along with the new Income Tax Act 2002. Attempts have been made to increase voluntary agreement of the tax provi-

Some of the major constraints are: unstable business taxation; labour friendly regulations; non-transparent procedures; and inefficient staff.

**Table 2.1 Comparison of Income Tax Regimes in 1992 and 2002**

Tax Headings	Income Tax Regime	
	1992	2002
Corporate Tax Rate	<ul style="list-style-type: none"> <li>- Standard 25%</li> <li>- Financial services 30%</li> <li>- 'Industries' 20%</li> </ul>	<ul style="list-style-type: none"> <li>- Standard 25%</li> <li>- Financial services 30%</li> <li>- Only manufacturing qualifies for 20%</li> <li>- Special fee of 1% on all of the above</li> </ul>
Corporate Tax Rebates	<ul style="list-style-type: none"> <li>- 10% for high local content</li> <li>- 10% for local employment &gt;600 in any industry</li> <li>- 50% for 'national priority industries' for 7-10 years</li> <li>- 20-30 % in disadvantaged areas</li> </ul>	<ul style="list-style-type: none"> <li>- Removed</li> <li>- 10% for manufacturing only</li> <li>- Improved to 10 years but apply to manufacturing</li> <li>- Removed</li> <li>- 20-30% for manufacturing only in disadvantaged areas</li> </ul>
Investment Allowances	<ul style="list-style-type: none"> <li>- 40% for reinvestment in significant expansion or modernization</li> </ul>	<ul style="list-style-type: none"> <li>- Removed</li> </ul>
Capital Allowances (Depreciation)	<ul style="list-style-type: none"> <li>- 5% buildings; 15-20% other assets</li> <li>- 1/3 acceleration for all industries</li> </ul>	<ul style="list-style-type: none"> <li>- 5% buildings; 15-25% others</li> <li>- 1/3 acceleration for manufacturing industry (only), power sector and infrastructure BOT</li> </ul>
Withholding Tax	<ul style="list-style-type: none"> <li>- No tax on dividends from industries</li> <li>- 15% on foreign services fee and royalties</li> </ul>	<ul style="list-style-type: none"> <li>- 10%</li> <li>- Same</li> </ul>

Source: *Industrial Enterprises Act 1992 and Income Tax Act 2002 as quoted in Dahal and Aryal 2003, p. 15*

sions. In most sectors, an increased tax was imposed on profits including a one percent special fee, which was added in 2001.

Table 2.1 shows a comparison between Nepal's corporate tax regime in 1992 and 2002. Since the Income Tax Act 2002, rates for corporate taxation have differed between 20 percent and 30 percent. Income tax rebates for the manufacturing industry are 10 percent. In disadvantaged areas the rebate is between 20 percent and 30 percent, according to the nature of the industry. Capital allowance is provided at the rate of 5 percent for buildings and from 15 to 25 percent for the depreciation of other assets.

### 2.2.5 Foreign Exchange Control Act

Nepal maintains a formal foreign exchange control regime. Current account transactions are authorized for the commercial banks, while capital account transactions require

the approval of the Nepal Rastra Bank (the central bank of Nepal). Investors willing to retain funds abroad in order to satisfy international enterprise loan requirements must put their case to the Nepal Rastra Bank. In the case of large investments (e.g. for large hydropower projects) arrangements are made by agreement between investors and the Government.

Provisions for convertibility on capital account, dividend repatriation and foreign debt service are in existence. However, they do not cover normal import and foreign services payments. The Bilateral Investment Promotion Treaties (BITs) gives wide assurances of convertibility in respect of foreign transfers in relation to debt, equity, service fees and royalties. But it does not cover import payments. Nepal has a traditional foreign exchange control regime. Instead of attracting FDI, it discourages it as it poses more risk for investors. However, current arrangements for foreign exchange controls are relatively effective and do not prevent eager foreign investors. Despite all these efforts, a new pragmatic approach is required to attract more FDI including: (a) the abolition of exchange controls; (b) stability agreements with selected foreign exchange provisions for large or strategic investments. The latter could take several forms. At its core, a contractual right to continuity of bankable foreign exchange arrangements is needed.

Instead of attracting FDI, it discourages it as it poses more risk for investors.

### 2.2.6 The Labour Act 1992

Some scholars and owner-managers of MNCs blame the Labour Act 1992 for the failure to attract FDI in Nepal claiming that the Act is too 'pro-worker'. They believe that the Labour Act 1992 is not compatible with the spirit of liberalization and, therefore, does not attract FDI to Nepal. The reasons are that: (a) the Labour office can direct a business as to job classifications, (b) a new owner of a business may not change the conditions of service of employees, (c) permission from the Department of Labour is required to displace workers when business is slow or production ceases (Dahal and Aryal 2003, p.12).

### Box 2.1 Mandatory Labour Payment

The Labour Act 1992 makes provision for minimum wage payments and a range of employee benefits as follows:

- **Minimum Wages** and related allowances are set for all categories of labour from unskilled to highly skilled.
- **Retirement Contribution** of 10 percent of wages is payable by the employer to each employee's retirement fund.
- **Annual Bonus** of 10 percent of net profit must be distributed to employees.
- **Employee Housing Levy** for employee accommodation must be paid by employers and is set as at least 5 percent of the gross profit.

Source: *Labour Act 1992; Labour Rules 1993; Regulations on Wages 1963; Regulations on Minimum Wages 2000; Bonus Act 1974 as amended; and Bonus Rules 1982 (quoted in Dahal and Aryal 2003, p.17).*

In order to attract FDI, Nepal should moderate its labour policies towards a more market oriented approach in which wages and benefits are more consensual and flexible. It is important to note that many MNCs respect the ILO Tripartite Declaration of Principles, especially conditions relating to work and life (ILO 2001a, p.7). Most MNCs are from countries that have ratified the ILO Tripartite Declaration of Principles and, therefore, naturally implement workplace policies that follow these globally accepted labour rules.

However, on the issue of business environment and manufacturing performance in Nepal, have clearly pointed out the obstacles. The most important are: i) depressed economic activity, and ii) low aggregate demand for products. These factors are followed by poor access to finance and inadequate infrastructure services as the second most often cited problems by the business community. The main problems cited by firms in relation to government policy and its implementation were excessive government red-tape, long delays in the provision of government services and corrupt government officials. The Labour Act 1992 was not cited as one of the core problems associated with the attraction of FDI (Biggs et al. 2000, pp.19-21).

### 2.2.7 Employment of Non-Citizens

Along with foreign investment, naturally a space will be created for foreign personnel with managerial and technical

skills. Foreign personnel intending to work in Nepal must obtain a work permit and visa from the Government to reside in Nepal. The work permit procedure is administratively comprehensive and cumbersome. Non-Nepali citizens may only be employed if the Department of Labour is satisfied that there is no appropriate Nepali citizen available to perform the particular work. This must be renewed annually. A renewable five-year business visa is available for approved foreign investors, which includes nominated representatives, owner-managers and their dependants. In addition, the Government can offer permanent resident visas to foreigners investing over US\$100,000.

To make it easier for FDI investors, holders of business visas should not be required to obtain a separate work permit. Also the duration of non-tourist visas and work permits should be harmonized to eliminate cumbersome administrative procedures for FDI investors. Fees for non-tourist visas and business visas should be the same and all FDI related persons should be given a business visa. FDI is a package of foreign capital and skills. This needs to be recognized in the Government's approach to visas and other requirements. For example, a non-tourist visa costs US\$60 per month for the first year and US\$100 per month for subsequent years; whereas a business visas cost only US\$100 annually. The work and residence rules make an excessively sharp distinction between foreign investment (the flexible business visa system) and foreign employment (the expensive and restrictive non-tourist visa and work permit system).

The work and residence rules make an excessively sharp distinction between foreign investment (the flexible business visa system) and foreign employment (the expensive and restrictive non-tourist visa and work permit system).

### 2.3 Implementation of Corporate and Commercial Laws

At present, there are 75 District Courts, 14 Appellate Courts and one Supreme Court in Nepal. The Supreme Court is the highest court in Nepal. The process of case settlement can take a long time; sometimes four or five years at one level of court. There are three different levels of courts and one can guess the time period for arriving at a final verdict. This is not compatible with the changing pace of world and international standards.

Dissolution of a corporation is possible under given circumstances, but there is no provision for reorganization. There are no regulations for secured transactions. International accounting standards are not required, even for listed companies. These factors have a discouraging effect on foreign investors.

#### 2.4 Observations about Investment Policy

With respect to investment policy, the context has changed since the early 1990s. The Foreign Investment and Transfer of Technology Act 1992 has given priority other than mentioned in the negative list. The One Window system has been reasonably successful in attracting FDI. The services provided through the One Window system should be available to investors without disruption. This is not the case in practice. Improvement in the treatment and protection of investors is urgently needed.

The services provided through the One Window system should be available to investors without disruption.

#### 2.5 Investment Linkages Vis-à-Vis Industry and Trade

The volume of investment depends on the nature of industries that Nepal is able to establish. It also depends on the nature and the extent of trade between Nepal and other countries. The Tenth Plan (2002-07) aims to increase industrial production through the participation of the private sector, and improve competitiveness of the industrial sector by inviting foreign investment and technology in the area of comparative advantages. The Tenth Plan set a target for industrial growth at 7.8 percent. In order to achieve this internal and external investment would need to be Rs.40 billion during the plan period. If this is achieved then it is anticipated that additional employment for 250,000 people will be created by the investment of foreign capital (Tenth Plan 2002, pp.23-24).

The gap between revenue and expenditure, exports and imports, and savings and investment have had an adverse impact on the economy. At the same time, the present fluid political scenario makes the economic situation of the country more fragile. Thus, it is essential to adopt policies to attract FDI. This requires improving economic, as well as political, relations with neighbours and other friendly coun-

tries. There are many policies, laws and regulations directly and indirectly related to FDI. Among them, the Foreign Investment and Transfer of Technology Act 1992 (amended in 1996), the Industrial Enterprises Act 1992, Labour Policy and Labour Act 1992, Foreign Investment and One Window Policy 1992, Industrial Policy 1992, Foreign Exchange Act 1962, Foreign Exchange Rules 1963, Privatization Act 1994, Income Tax Act 2002, Regulations on Wages 1963, Regulations on Minimum Wages 2000, Bonus Act 1974 and its amendment, Bonus Rules 1982, Tourism Act as amended in 1997, Electricity Regulations amended in 1992, Contract Act 1999, Corruption Elimination Act 2002, Finance Act, Immigration Rules 1994, Copyright Act 1965, and Patent Design and Trade Mark Act 1996 are all important.

## 2.6 Operating Conditions for JV/MNCs

FDI of up to 100 percent foreign ownership is allowed in Nepal in the form of equity and the reinvestment of earnings and loans. FDI is also allowed in almost all sectors of the economy, except as mentioned otherwise in the specified Act. Nepal has signed Bilateral Investment Guarantee Agreements with some countries to protect FDI from these countries. Nepal is a member of the World Bank promoted Multilateral Investment Guarantee Agencies (MIGA). This provides guarantees to foreign investors against non-commercial risks such as currency transfer, expropriation, breach of contract, and war and civil disturbance in the host country. Similarly, agreements avoiding double taxation on dividends and return on FDI have been reached with a number of countries including Thailand, India, China, Austria, the Republic of Korea, Mauritius, Pakistan and Sri Lanka. Foreign investors are entitled to all the facilities and incentives, including tax incentives and assisted access to infrastructure facilities (land, water supply, electricity connection, communication facilities), through the One Window system, which was set-up to expediting facilities and services. Financial institutions are required to pay 30 percent tax, while the general corporate tax rate is only 25 percent. VAT is levied at a flat rate of 13 percent. A few items are exempted from VAT. The abundance of unem-

Foreign investors are entitled to all the facilities and incentives, including tax incentives and assisted access to infrastructure facilities (land, water supply, electricity connection, communication facilities), through the One Window system, which was set-up to expediting facilities and services.



The number of FDI enterprises in Nepal is increasing gradually as liberalization policies are enacted.

employed and under employed people in Nepal provides a readily available workforce. With suitable training, the existing human resources would be an incentive for JV/MNCs to operate in Nepal. The FNCCI also claims that investment procedures are simple (FNCCI 2003).

The Tenth Plan includes the policy to provide facilities and infrastructure services to investors through the One Window system. According to this system, procedures for the repatriation of investment made by the investors will be simplified; facilities and incentives provided to attract FDI in Nepal will not be less than what is available in neighbouring countries; the Labour Act will be made more flexible; on the basis of feasibility studies and identification of areas of comparative advantage, information will be provided to investors to promote investment in Nepal; and the Nepal Embassies and Consulate offices abroad will be urged to promote foreign investment in Nepal by mobilizing investors in their respective countries (Tenth Plan 2002, pp.79-80). Now, four years into the Tenth Plan, none of the policies stipulated in the plan have been implemented and there is serious doubt as to whether or not they will be implemented within the remaining timeframe of the Plan.

Even though foreign investment has been welcome in Nepal since the inception of the modern industry in the mid-1930s, it has only been welcomed officially and in an organized way since the early 1980s with the introduction of FDI laws. The number of FDI enterprises in Nepal is increasing gradually as liberalization policies are enacted. It is also important to note that until the mid-1990s Nepal's policy regarding FDI was more liberal than its neighbouring countries, India and China. However, in the mid-1990s, India and China abandoned their protectionist policies and opened up their markets to foreign investment. Nepal has to be more liberal to attract FDI in order to close the resource gap in future. In this regard the main stumbling blocks are infrastructure, control-oriented policymakers and rent-seeking government officers, ever changing policies, unstable government and weak political will.

## CHAPTER 3

# Stakeholders Views

During the course of this study, the research team interacted with academicians, employers' organizations, government officers, management and workers. The views and perceptions expressed by these stakeholders are grouped into five separate categories. Some of the stakeholders provided information in a more detailed manner than others. The information collected from the different stakeholders is discussed in this Chapter.

### 3.1 Academicians

While discussing the need for JV/MNCs for the development of Nepal, the academicians briefly reviewed the situation of savings and investment in the country. They believe that there is a significant gap between savings and investment in Nepal and that foreign aid is one of the ways of bridging this gap. However, in relation to foreign aid, the grant percentage has been declining year after year, while the loan percentage has increased in the last four or more decades. As a consequence, the cost of debt servicing is gradually increasing. In the long run, such a trend is detrimental for developing countries like Nepal. Thus, using foreign aid to bridge the gap between savings and investment is not a desirable option. Other options include remittances from migrant workers (civil and armed service personnel) and Gorkha army pensions. Private sector investment also plays an important role and is increasing gradually. At present, these options are not enough to close the savings-investment gap.

Foreign investment is another way to bridge the savings-investment gap. Foreign investment can help to lessen the burden of debt and debt servicing. In other words, foreign investment in Nepal can substitute for foreign debt. It not only brings in capital investment, it also brings managerial

Foreign investment is another way to bridge the savings-investment gap. Foreign investment can help to lessen the burden of debt and debt servicing.

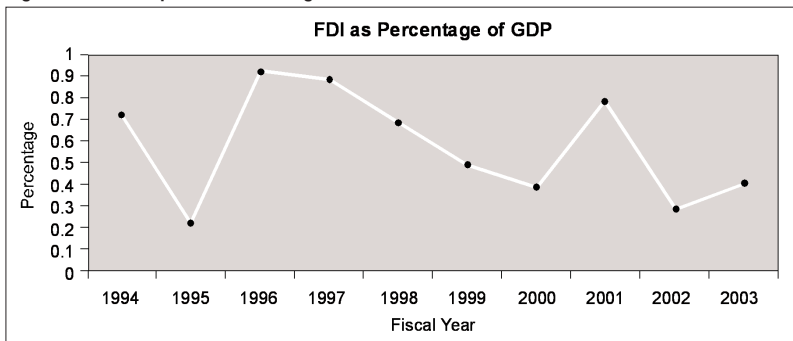
skills and new technologies to enhance the capabilities and skills of national investors. Similarly, foreign investment facilitates marketing networks and introduces modern technical know-how, both of which have immense value in Nepal. Foreign investment also helps to increase domestic investment, the transfer of new skills and knowledge, trade promotion and employment generation, and the supply of cheap goods and services through increased competition among investors.

In general, developing countries are expected to receive foreign investment equivalent to at least five percent of their total GDP. However, in Nepal foreign investment is less than one percent of GDP. According to a recent study, the ratio of FDI to GDP in Nepal was the highest (0.93%) in 1996 and the lowest (0.3%) in 2002. This ratio decreased continuously between 1996 and 2000, then increased sharply reaching 0.79 percent in 2001, and again dropped to 0.3 percent in 2002 (IPRAD and IIDS 2006, p.35).

Academicians summarized the main factors responsible for the low level of foreign investment in Nepal as:

- Poor infrastructure such as roads, power, communication network services and facilities.
- Very slow decision making processes (i.e., inefficient bureaucracy, political instability, lack of credibility of commitments, etc.)
- Compared to Nepal, China and India have opened up

Figure 1: FDI in Nepal as a Percentage of GDP



their policies in relation to foreign investment very quickly and have huge market potential.

- The decade-long conflict has given the wrong signal to foreign investors, instead of attracting them.
- The legal system and procedures are extremely slow and cumbersome. There are three levels to the judiciary and it takes two to ten years to settle any case.
- Nepal's existing capital market is small for a sizable MNC to operate in.
- The existing labour laws raise concern with foreign investors, but are not the sole determining factor discouraging foreign investment.

Academicians pointed out that, while foreign investment is desirable and necessary to bridge the existing savings-investment gap, it comes with certain risks and adverse effects. Firstly, human resources in Nepal are cheap compared to other countries and, hence, investment in labour intensive industries is preferable. However, investors seem to want to invest more in capital intensive industries, which are not a priority for Nepal. Secondly, in developed countries, environmental laws are very strict and dirty or hazardous industries are restricted or very expensive to run. Accordingly, corporations want to shift such industries to developing countries, like Nepal, where such restrictions are absent. Thirdly, JV/MNC establishments are from developed and influential countries with policy-backing from International Financial Institutions. Hence, they may influence the governance of developing countries like Nepal. As a result, the decision making process may favour their interests, rather than the national interest.

Academicians pointed out that, while foreign investment is desirable and necessary to bridge the existing savings-investment gap, it comes with certain risks and adverse effects.

Academicians further pointed out that different stakeholders (the government, private sector, consumers and trade unions) could play an important role in attracting foreign investment.

### *Government*

The role of the Government is very important as good governance is pivotal for development. It is also equally

The private sector is a vehicle for foreign investment promotion. It should develop collaborative strengths. It should also develop the capacity for competition, rather than always seeking protection

significant in attracting foreign investment. So far governance laws have not been fully formalized in Nepal (i.e., laws dealing with the separation of powers and the roles and responsibilities of politicians and bureaucrats). The absence of such laws could create an uncomfortable working environment. At the same time, in order to facilitate market-oriented liberal policies, the Government should be more facilitative than regulative. However, the mindset of the bureaucracy is not positive towards this. Furthermore, tax administration should be transparent and integrated. The Government should strongly discourage the rent-seeking attitude of its bureaucracy. A lot of time and resources have been spent discussing the One Window Policy, but it is yet to be practiced in reality. Setting up some areas as special economic zones (SEZs) with concessions on the provisions contained in the labour laws, may help to attract foreign investment.

### *Private Sector*

The private sector is a vehicle for foreign investment promotion. It should develop collaborative strengths. It should also develop the capacity for competition, rather than always seeking protection. The Government and the private sector should promote initiatives such as individual to individual; institution to institution; and government to government.

### *Consumers*

The crucial role of the consumer is to create more awareness and understanding among other consumers. A culture of appreciation needs to be promoted in relation to Nepali made products in the minds of consumers.

### *Trade Unions*

Most of the academicians made the observation that, so far, trade unions are inclined towards protecting their members, in particular, and the working class, in general. It is high time that they promote more employment generating strategies, rather than only protecting the currently employed labour force. They should also focus on links between wages and

productivity to help improve the productivity of workers. Hire and fire policies should be promoted as the domain of the employer, but compensation must be sufficient and implemented efficiently. Furthermore, trade union activities should be professional and flexible and considerate of the country's overall socio-economic situation.

### *Future of JV/MNCs and Foreign Investment*

Generally speaking, a bright future for FDI in Nepal is yet to be seen. However, possible viable sectors for FDI could include:

- light industry
- financial services
- power
- herbal industries

### **3.2 Employers' Organizations**

The Federation of Nepalese Chamber of Commerce and Industries (FNCCI), the Confederation of Nepalese Industries (CNI) and the various bilateral chambers of commerce (between Nepal and other countries) are considered employers' organizations. The representatives of these organizations expressed their views differently, but the main theme of all was the same. Thus, in this section their views are expressed as one common vision, that of employers' organizations.

Employers' organizations said that foreign investment started in Nepal in the 1980s when Nabil Bank and Surya Nepal were established. The liberal open market policy also started at that time. The democratic change of 1990 and the euphoric accelerated privatization efforts of the Government helped JV/MNCs gain momentum in a positive direction.

Employers' organizations believe that foreign investment helps to fill the financial resource gap in Nepal and also helps to expand marketing networks back and forth. Export promotion is another benefit of JV/MNCs. They also expressed the view that the importing of new technology,

Employers' organizations believe that foreign investment helps to fill the financial resource gap in Nepal and also helps to expand marketing networks back and forth.

know-how and skills, and the training of human resource could be done with the help of JV/MNCs. The flow of foreign investment at desired level helps to solve the unemployment problem of the country. All the stakeholders agreed on this.

Like the academicians, the employers' organizations pointed out the roles of different stakeholders in attracting JV/MNC to Nepal for the economic development of the country.

### *Government*

A transparent process of approving/disproving JV/MNCs and foreign investment is required.

Employers' organizations also agreed that the Government has a key role to play in attracting foreign investment to enhance the national economy, in general, and the living standard of the people, in particular. According to them, peace and security is vital to attract foreign investment. Similarly, a clean and efficient bureaucracy is another factor influencing foreign investors. There are many laws relating to JV/MNCs and foreign investment that are full of ambiguity. Judicial and semi-judicial actors have discretionary powers in the implementation of such laws. Sometimes their decisions and judgments are not objective. This can have a direct impact on the provision of justice to concerned parties. A transparent process of approving/disproving JV/MNCs and foreign investment is required. In policy documents, such matters are not clear, nor do they create a favourable investment climate. In practice, even in a clear cut situation, the implementation of these ambiguous laws is tricky. Therefore, a transparent process and the effective implementation of the One Window Policy, as well as a professional bureaucracy, is needed to promote JV/MNCs and foreign investment.

The Government should fix a minimum ceiling for foreign investment in JV/MNCs. This would help to check the negative impact of foreign investment on small-scale industries in Nepal and also help to promote small investors in the country in various sectors including the industrial sector. A clear and long-term tax policy should be formulated and implemented. On the basis of such laws, JV/MNCs and investors could predict business profitability. Such clarity

would also encourage new investors to invest in those sectors where there is a comparative advantage. A competitive and transparent policy regime could discourage bureaucratic corruption. Conversely, a fluid tax policy could impede potential foreign investment in JV/MNCs. Governments should improve these areas in order to attract more JV/MNCs to Nepal. Similarly, the Government needs to study its neighbours' policies and processes, with a view to providing a more attractive package to foreign investors in Nepal. Last, but not the least, the Government of Nepal must formulate a holistic policy instead of the ad-hoc policies that currently exist.

### *Trade Unions*

Trade unions are influential stakeholders in attracting JV/MNCs. They promote a culture of professionalism and, thus, their activities should be linked with productivity and wage rates. Trade unions should focus more on basic minimum occupational safety and health (OSH) facilities in the workplace to protect workers from health hazards and occupational diseases. According to employers' organizations, trade unions should concentrate more on broad-based strategies for employment generation, rather than on the protection of the few workers employed. This would lead to the participation of a huge number of prospective labourers. Employers' organizations have suggested following points to the trade unions to create an environment conducive to foreign investment:

Trade unions should focus more on basic minimum occupational safety and health (OSH) facilities in the workplace to protect workers from health hazards and occupational diseases.

- Labour under seasonal and contractual provisions should also be documented.
- Those who are at the decision making level of government should not participate in the trade union movement, but instead join professional organizations.
- There should be an equal right of action for both employees and employers.
- Trade unions should focus on the social security of employees in all JV/MNCs and foreign invested enterprises and implement provisions according to a set timeframe agreed upon by both the parties (employers and employee).



### *Consumers*

Consumers should promote ethical values, norms and the respect of taxpayers. The practice of corruption in any form needs to be condemned. Consumers should be aware of the national interest and encourage all citizens to work towards this purpose. They should demand inexpensive, quality products that are made in Nepal.

### *Private Sector*

The private sector should not demand any type of protection from the state. Fair competition should be the rule of the game for any investment regime. When there is fair competition among investors and transparent policies in the government there will be less corruption.

On the question of why Nepal is not attracting JV/MNCs and foreign investment, employers' organizations pointed out: the long conflict between the state and the Maoist insurgents, the unstable government and its policies, the low level of productivity of labour in Nepal, etc. Among the problems, some have more serious effects and than others. They are directly and indirectly related to JV/MNCs and foreign investment inflow in Nepal.

### *Future of JV/MNCs and Foreign Investment*

The CNI and FNCCI officials had different views on this issue. One was not very optimistic; whereas the other was just opposite to it. Nonetheless, both of them agreed that it was necessary to be practical and realistic while considering enterprise identification.

One needs to measure the success or failure of JV/MNC enterprises according to the employment of local people. JV/MNC enterprises which do not generate local employment can not improve the skills of the existing labour force to fit with modern technology. Such investment will not bridge the savings-investment gap or meet the other objectives outlined by the Government in allowing JV/MNCs and foreign investment. Hence, the Government should promote only foreign investment that achieves the above

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objectives. While giving licences, the negative consequences of JV/MNCs and foreign investment should be studied thoroughly and honestly.

Employers' organizations opined that the effect of JV/MNCs and foreign investment is not positive, despite the Government's positive attitude towards attracting it. They said that the Government is not appreciating national investors' efforts. In Nepal, the FDI percentage is very low, despite the various incentives and concessions provided by the Government to attract it. In the interests of the country, the Government should be far-sighted enough to promote more national investment. For a long time national investors have been playing a vital role in national development. The Government should treat national investors and foreign investors equally, whether they are JVs or MNCs. However, no one can ignore the contribution made by JV/MNCs and foreign investment bringing in expert professionals and new innovations. Therefore, naturally, products produced in JV/MNCs and foreign investment enterprises are less costly and better quality.

### 3.3 Government

The Government is the main actor responsible for attracting JV/MNCs and foreign investment at the desired level. At the same time, the Government is responsible for formulating, implementing and monitoring labour laws and policies. The Government also coordinates between employers and employees within the framework of the law. Like academicians and employers' organizations, discussions were held with concerned government officials. The government officials' perception of JV/MNCs and foreign investment related issues are presented in the following paragraphs.

According to the Government, the term JV refers to enterprises that have a Nepali partner. The term MNCs refers to an enterprise with a networking in more than one country and that can invest 100 percent solely in the enterprise or some share in the equity, technology or trade mark.

The Government is the main actor responsible for attracting JV/MNCs and foreign investment at the desired level. At the same time, the Government is responsible for formulating, implementing and monitoring labour laws and policies.

JV/MNCs are welcomed by the Government of Nepal to develop the national economy. The Government realizes that domestic capital is not sufficient to develop the country in the present globalized and competitive environment. Foreign investment is also welcome to make up the deficiency of capital in Nepal caused by the decline in bilateral and multilateral aid grants year after year. The Government has not fixed any limit for foreign investment to set up a JV/MNC and has generally accepted any amount. However, the recent trend shows that small amounts of foreign investment have not been encouraged.

The objective of encouraging JV/MNCs and foreign investment is to bridge the gap between savings and investment, to generate employment, improve the living standards of the working class through higher wages, improve the managerial capacity of Nepali investors, introduce new technology and exploit unused resources properly, and to narrow the trade deficit through export promotion.

The Government has not fixed any limit for foreign investment to set up a JV/MNC and has generally accepted any amount.

The Government formally started to welcome JV/MNCs and foreign investment only in 1981. In the beginning, the Government restricted the flow of JV/MNCs and foreign investment through various legal criteria. In present years the Government has become more liberal and has no any restrictive conditions. The Government is now trying to make its policies more conducive to JV/MNCs and foreign investment. Before 1981, JV/MNCs and foreign investment related policy was not systematically implemented in Nepal.

The objective of the Government in attracting JV/MNCs and foreign investment is to fill the resource gap in Nepal. However, foreign investors came to Nepal with different motives. Some of their motives are not favourable to Nepal and its people. The motives behind foreign investment in Nepal include: to generate profit from competitive advantage; to conduct genuine business; for personal reasons (i.e., a desire to stay in Nepal because of its natural beauty, for social work, or for religious or other reasons); to be involved in legal and even in some cases illegal activities; to exploit the benefit of the Nepal-India trade treaty; and to stay with relatives in Nepal.

The Government does not have any mechanism to verify whether approved JV/MNCs are actually operating or not. In the past, the Government has permitted any size enterprise or investment, from small to large-scale. Now, in practice, the Government is discouraging investments of less than US\$20,000. This is as a result of analyzing the defects of small-scale investment in Nepal. Some foreign investors have sought permission in the past for investments of Rs.50,000 or less. The Government discourages such investors, but at the policy level there is no lower limit for investment.

There are both positive and negative effects from JV/MNCs and foreign investment in Nepal. Foreign investment is positive in the sense that it has helped to reduce the savings-investment gap. Directly or indirectly it has also opened up more employment opportunities in Nepal. Foreign investment has also promoted exports and increased gross national income and other economic indicators.

All types of enterprises are given priority, except for those on the negative list. However, these days the Government is trying to encourage only large enterprises in sectors where Nepali investors would not be able to invest and where Nepal lacks the technology to perform the enterprise. This is the case, although the law allows foreign investment in all types and sizes of the enterprises.

JV/MNCs and foreign investment enterprises have contributed directly and indirectly to the generation of employment. The Government documents show figures of the probable employment generated, but there has been no information recorded about the actual employment generated by JV/MNCs. From a review of past studies and through direct observation, the Government claims that JV/MNCs have had a positive impact on both the direct and indirect employment of Nepali nationals.

It is a well accepted fact that JV/MNCs are an important vehicle for the economic development of developing countries like Nepal. However, their contribution to the

From a review of past studies and through direct observation, the Government claims that JV/MNCs have had a positive impact on both the direct and indirect employment of Nepali nationals.

economic development of Nepal, as noticed by the Government, is insignificant compared to expectations.

JV/MNCs and foreign investment enterprises also have a direct and indirect effect on the socio-cultural setting in the country. Although aware of this, the Government was not able to quantify the effect. It is very difficult to know the actual effect (direct and indirect) on the socio-cultural setting. A separate study would need to be conducted in detail on this.

The consumer can help to attract JV/MNC by creating awareness among consumers and focusing on the use of national products, as much as they are available, to facilitate the sustainability of local enterprises.

Government officials also accepted that different stakeholders could play various roles in attracting JV/MNC and foreign investment to Nepal. The major responsibility of the Government is to provide income tax incentives, at least on par with neighbouring countries; sufficient and cheap infrastructure; cheap and necessary electricity; and market facilities, among other things. Similarly the private sector can play a key role in identifying honest and appropriate business partners and the private sector itself should be sincere and honest. The private sector's role is also the selection of appropriate areas, considering foreign trends. The consumer can help to attract JV/MNC by creating awareness among consumers and focusing on the use of national products, as much as they are available, to facilitate the sustainability of local enterprises. Government officials did not directly blame the workers' union, but they did blame the labour laws for discouraging foreign investment. According to the Government, the present world trend is based on owner/managers having the discretion to hire and fire workers. The pro-worker labour policies in Nepal will not attract JV/MNCs and foreign investment. The fact is that, these days, many countries have adopted more liberal labour policies than Nepal, which they are in opinion that they could lure investors away. Many Nepali and foreign investors prefer foreign cheap labour, instead of Nepali labour, to escape from union activities. Hence, it appears that the Government is also against the existing labour laws.

On the issue of wages, their main thesis was that wages should be linked directly to productivity. This is also the demand of the employers. However, it is extremely difficult

in present context to measure productivity of labour. Thus, participation of workers in management, to ensure the transparency of the enterprises, would be one of the possible solutions to this problem.

There are many deficiencies in the present JV/MNC and foreign investment policy, which needs to be corrected as per demand of the time. Priority should be given to those enterprises that are more competitive and where there is more comparative advantage for the national interest.

One section of Nepali investors and academicians are raising their voices saying that JV/MNCs and foreign investment hinder national industries, directly and indirectly. Government officials flatly rejected this claim, saying that Nepali investors should become more competitive, rather than seeking protection. In the present globalise context, national protection and subsidies are not possible. However, it also is true that the Government should not provide any facilities to JV/MNCs where Nepali capital and technology is sufficient and where Nepali investors are capable of operating and providing goods and services to consumers at competitive prices.

In the past several years the security of enterprises has become a major problem. Security is of vital concern for all institutions, including the Government and JV/MNCs. In addition; investors are facing visa problems due to a lack of coordination among Government ministries and departments. Also, in practice, the Government has not been able to provide the facilities promised to foreign investors in the foreign investment laws and policies.

### *Future of JV/MNCs and Foreign Investment*

The Government of Nepal believes that there is a bright future for JV/MNCs and foreign investment in Nepal. To realize this potential, Nepal must maintain political stability, good leadership, constant laws and policies, and create an environment conducive to foreign investment. There are three main areas suitable for JV/MNCs in Nepal: hydropower, tourism and agriculture. In relation to hydropower, the national market can be extended if we can

One section of Nepali investors and academicians are raising their voices saying that JV/MNCs and foreign investment hinder national industries, directly and indirectly.

provide cheap electricity to consumers, which will help to reduce the consumption of energy imported from India (especially cooking gas and kerosene). However, electricity tariffs are very high in Nepal compared to global tariffs and also compared to tariffs in neighbouring countries. This is due to the increasing verification costs caused by the fact that enterprises have not been able to complete the construction of new hydropower schemes on time and within budget. On the other hand, power production is very small, which makes the per unit production cost high. Tourism is another sector that has the potential to attract JV/MNCs. Nepal is located in the beautiful Himalayas and has many prospects for tourism development. Lastly, market-oriented agriculture, as opposed to traditional agriculture, may be another viable sector. The mass production of goods and services, such as in the neighbouring countries of China and India, could reduce the cost per unit to compete in international markets.

The mass production of goods and services, such as in the neighbouring countries of China and India, could reduce the cost per unit to compete in international markets.

### 3.4 Employers

According to employers, the current political instability and inconsistency in Government policy on JV/MNCs are the main problems. Other problems include: industrial policy, tax policy (double taxation), the lack of competent & honest Nepali partners, uncertain government policies, absence of a profit-sharing mentality among management, the pro-worker Labour Act and Trade Union Act, and insufficient infrastructure. As a result of such problems Nepal has not been successful in attracting JV/MNCs and foreign investment as was initially envisaged.

While discussing the future of JV/MNCs in Nepal, the employers from studied enterprises identified various conditions for effectiveness in future. Some issues were common to all establishments, whereas some related only to one in particular. The main issues raised by employers are listed below:

- Peace, security and stable government are fundamental pre-conditions to attract foreign investment at the desired level.

- Infrastructure (such as transport, communications, electricity, etc.) is the most important factor and is very poor in Nepal.
- Seriousness and strong will, rather than just lip-service, on the part of decision makers and policy implementers is important and a necessary condition for the successful operation of JV/MNCs. Rent-seeking officials should be punished.
- Doubled taxation (both on raw materials and finished products) increases the cost of products making them non-competitive against similar goods and materials produced in other countries. Hence, double taxation should be abolished.
- Double taxation on the profits earned by JV/MNCs levied by both the Government of Nepal and the investor's country should be abolished. The Government of Nepal should initiate a system for a single tax payment on earnings by JV/MNC enterprises from India and the like. This problem can be solved through dialogue and negotiations between respective governments.
- The efficiency and productivity of workers, and the sustainability and profitability of the enterprise are some of the vital factors in the successful operation of JV/MNCs.
- Training and retraining of workers to improve their efficiency and competitive skills is one of the most important factors in enabling them to handle JV/MNC enterprises effectively.

The efficiency and productivity of workers, and the sustainability and profitability of the enterprise are some of the vital factors in the successful operation of JV/MNCs.

Case 3.1 illustrates the problems caused by the Government's taxation policy. If a farmer produces cereal crops s/he does not need to pay any tax. However, if s/he farms herbal products s/he has to pay 13 percent of the total crop value to the Government. Dabur Nepal (Banepa) decided to plant *Chiraito* (a medicinal herb). Initially, farmers were enthusiastic about farming *Chiraito*. However, when they were ready to harvest the Government imposed a tax on this product. The farmers were then reluctant to expand and



continue farming *Chiraito*. The tax ultimately discouraged this type of JV/MNC in Nepal.

Government policy is one of the main hurdles to medicinal plant production in Nepal. Medicinal plant production has a huge potential for production in Nepal considering the skills of the rural farmers. The cultivation of medicinal plants generates rural employment, preserves bio-diversity and strengthens the ecological balance. It requires less investment and gives a good rate of return on investment to farmers. It is one of the areas with a high potential for foreign investment. Foreign investors have shown a keen interest to further invest in this area. However, due to the Government's short-sighted policy, foreign investment has not been attracted as expected. Consequently, the root of the potential foreign investment has been uprooted. Case 3.1 shows how Government policy is a stumbling block for foreign investors.

**Case: 3.1**

Government of Nepal  
Ministry of Forest and Soil Conservation  
Department of Forest  
District Forest Office, Ramechhap.

Reference No: 062/063:550

Date: 2063/2/17 (May 31, 2006)

**Subject: Regarding approval**

To Uprendra Ghimire  
(A *Chiraito* producing farmer)  
Banti VDC, 2  
Ramechhap

Regarding the mentioned subject, you are authorized to carry a total of 1255 kg of *Chiraito*, produced on your own private land, to Dabur Nepal-Banepa within 21 days from today. This farming activity is facilitated by Dabur Nepal. You are required to pay 13% of the total amount as a production tax (sale tax) in the sum of Rs.2447 to the Government of Nepal. You are allowed to carry the mentioned load by the concerned authorities in route.

Sd

District Forest Officer,  
Date: 2063/2/17

(Unofficial translation from the original Nepali letter)

### 3.5 Workers

The majority of workers knew that they were working for a JV/MNC, however, they did not know whether the enterprise was operated solely by foreigners or as a joint venture with a Nepali partner. In some of the establishments operating as JV/MNCs the workers were well briefed about that nature of the establishment. Other establishments did not have such policy, so the workers did not know how the enterprise was operated.

The workers did not have a uniform view or perception about JV/MNC enterprises. There was a sharp difference in their views from one enterprise to another. Views also varied greatly from worker to worker within the same enterprise. Some workers viewed JV/MNCs positively, whereas others viewed them negatively. Those who were positive about JV/MNCs said that wages and facilities are better in JV/MNCs compared to Nepali enterprises. Some also commented that JV/MNCs have a positive effect on employment and believe that JV/MNCs contribute to government revenue through taxes. On the other hand, a group of workers viewed JV/MNCs suspiciously, stating that they exploited the working class skilfully and that there was a gap between prevailing laws and actual practice.

The workers said that the Government should keep records as to whether or not approved enterprises are operating as agreed. It is the responsibility of the Government to protect workers' rights, as it is a signatory to the ILO declaration. Thus, the Government should monitor all JV/MNC enterprises as to whether or not they are following and respecting current labour laws and regulations. Most of the enterprises pay workers at least the minimum wage, but one of the foreign invested enterprises studied (Group 4 Securities) has been paying its workers far below the minimum wage. The Government has not taken any action against such exploitation. The workers strongly expressed the opinion that this is the Government's responsibility. This shows a lack of responsibility on the part of the Government towards the working class.

The Government should monitor all JV/MNC enterprises as to whether or not they are following and respecting current labour laws and regulations.

# Employment and Related Issues

## 4.1 Employment Generation by JV/MNCs

One of the major motivations of the Government in allowing foreign investment was to reduce unemployment and improve the living standards of Nepali workers through better wages. Foreign investment has played some role in employment generation. Out of 293,000 workers employed in the manufacturing sector in 1999/2000, 53,000 were estimated to be in JV/MNC enterprises. This is about 18 percent of the total labour force working in the manufacturing sector in Nepal. This represents 65 percent of the total employment created by JV/MNC enterprises (NESOAE 2004) and reflects the focus of foreign investment on manufacturing.

The Department of Industry (DOI) reports that JV/MNC enterprises created employment for about 20,000 employees prior to the reinstatement of multiparty democracy in 1990, 50,000 in 1994/95 and about 78,000 by 1999. This figure reached 99,000 in mid-April 2005. The employment records at the DOI relate to the 955 industrial units approved by it. According to this information, on average, a JV/MNC establishment provides employment to approximately 103 people. Considering only operating enterprises, as recorded by the FNCCI, the employment figure is estimated to be only 40,881. As with the total authorized capital of JV/MNC establishments, the share of foreign investment is estimated at 68 percent, based on FNCCI information. Thus, actual employment generated by foreign investment in Nepal is not more than 28,000. This is very low compared to national expectations. In considering the DOI information, the employment figure will be further reduced because the rate of foreign investment to total authorized capital of all approved enterprises is only 29 percent.

actual employment generated by foreign investment in Nepal is not more than 28,000. This is very low compared to national expectations.

**Table 4.1 Employment Generated by FDI in Nepal 1988/89–2002/03**

Fiscal Year	Employment in Million Rupees
Up to 1989/90	20101
1990/91–1994/95	29582
1995/96–1999/00	28564
2000/01–2004/05	20592
<b>Total</b>	<b>98839</b>

Source: Department of Industry, Government of Nepal, *Industrial Statistics*, June 2005.

Among the main investors from different countries, Indian investment is more labour intensive, with a ratio of 4.8 workers employed per one million rupees of investment, in comparison to the average ratio of 1.33. This data indicates that employment opportunities are associated more with Indian investment (NESOAE 2004) and that Indian investment provides more than two out of five jobs (DOI 2005b, p.24-25).

In terms of employment generation, it seems that the Nepali labour force is not enjoying significant employment opportunities directly created by JV/MNC enterprises. The indirect job opportunities created by foreign invested enterprises, particularly in related support service industries, across the country are still unaccounted for. It is not possible to figure out the actual employment impact of such enterprises on the economy. However, the number of employment opportunities generated by these establishments is so low that it could not absorb even a tiny fraction of the existing unemployed labour force in the country. On the other hand, JV/MNC enterprises are providing employment to the non-Nepali labour force, in violation of Nepali labour laws, to avoid laws relating to workers' rights. This reduces employment opportunities for Nepali people. Consequently, the contribution of foreign investment to employment generation for the Nepali labour force is not remarkable when compared to expectations. Hence, it can be concluded that direct employment generation by foreign invested establishments is illusory in the Nepali context. However, looking at indirect employment generation, there is hope that, as the volume of foreign investment increases,

employment of the Nepali labour force will increase to some extent.

There is no any scientific formula for projecting employment on the basis of the capital investment of an enterprise. A rough estimate made by Khatiwada et al. (1999) mentioned that one job can be generate by investing Rs.500,000 in an MNC, whereas other industries, fully invested by Nepali investors, can create one job per Rs.90,000, and cottage and small-scale industries can create one job with investment of only Rs.10,000. Based on the records of authorized capital and employment generated by the establishment studied, it is estimated that on an average Rs.926,017 is needed to generate one job in the enterprises studied. This indicates that a huge amount of investment, which can not be fulfilled by Nepal, is needed to solve the country's current unemployment problems. The contribution of foreign investment can not be evaluated on the basis of direct employment because it also generates a lot of employment indirectly.

A recent study of the manufacturing sector by Institute for Integrated Development Studies (IIDS) and Institute for Policy Research and Development (IPRAD, 2006) shows that employment is positively related to investment and value added. Hence, the variables investment and value added have a significant effect on increasing employment in foreign invested, as well as nationally invested, industrial firms in Nepal. The estimated coefficients of both these variables are statistically significant at 1 percent level. The estimated slope coefficients, which are the respective employment elasticities, show that employment is inelastic with respect to the concerned variables. While comparing the investment elasticity of employment in foreign invested as well as nationally invested firms, the elasticity value is higher in foreign invested firms (0.324) than in nationally invested firms (0.280). This means that a one percent increases in investment will lead to more employment in FDI firms than in non-FDI firms. This means that attracting more foreign investment will help to generate more employment. However, the case is different with respect to value adding. The value added elasticity value of

A recent study of the manufacturing sector by Institute for Integrated Development Studies (IIDS) and Institute for Policy Research and Development (IPRAD, 2006) shows that employment is positively related to investment and value added.

employment is higher in non JV/MNC firms (0.502) than in JV/MNC firms (0.425). Hence, more employment can be generated by value adding in non-JV/MNC firms than in JV/MNC firms. This result may be true in a particular sector, but can not be generalized to all sectors.

#### 4.2 Employment Generation by Enterprises Studied

The JV/MNCs studied are from seven different sectors: food and beverages; manufacturing; service; agriculture; hotel, restaurant, catering and trekking (HRCT); power, energy and chemical; and banking and finance. The 11 selected JV/MNCs have directly generated employment for 7,254 workers in total, including 86 (1.2%) guest workers. The average number of people employed in the selected enterprises is 659 people per establishment. Of the total number of workers employment, about 99 percent are Nepali citizen and the remaining one percent are guest workers. The guest workers are mostly from other South Asian countries. This indicates that the issue of migrant workers in JV/MNCs is not as serious as feared. The number of female guest workers is minimal and could not be quoted in percentage terms. Female workers account for 17.9 percent of Nepali workers. This figure is lower by nearly 10 percent than the national figure (27.2%) for female employment in the non-agricultural sector, according to the census of 2001. This indicates that JV/MNCs are not as women friendly as claimed by the owner/managers of these enterprises.

The number of female guest workers is minimal and could not be quoted in percentage terms. Female workers account for 17.9 percent of Nepali workers.

The disaggregated figures for the employment of Nepali citizens by sector reveal that the largest number of people are employed in the service sector where the trade union movement is very weak. This sector provides more than 31 percent of all employment for females and 72 percent for males in all sectors in the surveyed establishments. Based on the information from the field, all sectors showed a wide gap between male and female employment generation. The service sector not only provides employment for a significant number of Nepali workers, but also for about 71 percent of guest workers. Hence, it appears that the service sector is one of the largest sectors for employment generation in Nepal. However, this figure cannot be generalized

across the whole of Nepal due to the small sample size studied.

The food and beverage sector provides the second highest employment to females at 28 percent of the total number of females employed. The power and energy sector comes in third place with 24 percent. In relation to men, after the service sector, the manufacturing sector provides the second highest level of employment at 14.1 per cent.

Overall, the service sector alone provides 65 percent of all employment. The lowest employment generating sector is agriculture (where, interestingly, female employment is eight times more than male) followed by HRCT. The reasons behind the variation in the proportion of employment in different sectors may be the difference in the sizes of establishments in different sectors or the fact that establishments were selected without considering whether they were capital intensive or labour intensive. During the fieldwork some of the key informants (CNI, FNCCI, government official and academicians) suggested that the service sector generates the most female employment, however, this is not supported by the field data (Table 4.2). But in banking and finance sector proportion of female is higher than male.

**Table 4.2 Percentage Employment Generation by Sample Enterprises in Different Sectors**

Sector	Employment Generation				Grand Total
	Nepali			Migrant	
	Total Employment	Male	Female		
Food and Beverage	11.9	8.4	28.0	10.5	11.9
Manufacturing	11.6	14.1	0.0	12.8	11.6
Service	64.9	72.2	31.4	70.9	64.9
Agriculture	0.4	0.2	1.6	1.2	0.4
HRCT	0.5	0.6	0.5	3.5	0.6
Banking and Finance	6.0	4.1	14.8	1.2	5.9
Power, Energy and Chemical	4.7	0.5	23.7	0.0	4.6
Total (%)	100%	100%	100%	100%	100%
<b>Total (N)</b>	<b>7168</b>	<b>5886</b>	<b>1282</b>	<b>86</b>	<b>7254</b>

Source: Field Study, 2006.

A study by Bista (2005), based on the five foreign invested industries, recorded 4.3 percent guest workers in these enterprises and, among the Nepali workers, only about five percent were female. This shows an even worse situation of female employment in such enterprises.

### 4.3 Nature of Employment

The human resources in the studied establishments are divided broadly into administrative and production. Production workers can be further divided into technical and non-technical workers and by their different skill categories. A large proportion of the human resources (92 percent) employed in these establishments are involved in production activities. Only eight percent are employed in administrative jobs by the establishments. Of the total number of production workers, the number of technical workers is very low. This means that expectations of attracting foreign investment to acquire technical skills have not been met in Nepal.

Of the total number of females employed by JV/MNC establishments, about 13 percent are employed as administrative workers, which is only seven percent less than male employee. However, considering the low level of female employment, only a negligible percentage of female workers are successful in holding non technical executive positions, and many of them remain below middle level management or support staff positions. This is contrary to the assertion by all of the managers from the enterprises studied that they have provided equal opportunities for male and female workers, without any discrimination. In reality this is not true. There is discrimination in the hiring of workers by establishments, especially for permanent jobs.

**Table 4.3 Percentage Distribution of Human Resources (Nepali) by Job Type**

Type of Job	Total	Male	Female
Administration	7.8	6.7	12.9
Operation	92.2	93.3	87.1
Total (%)	100%	100%	100%
<b>Total (N)</b>	<b>7168</b>	<b>5886</b>	<b>1282</b>

Source: Field Study, 2006.



The employment status of workers in JV/MNCs is categorized as either permanent, temporary, contract, daily wage, piece rate, part-time, paid apprentice or substitute. For simplicity, in this study, the workers working for a daily wage, on a piece rate, part-time, as a paid apprentice or substitute are all categorized as causal workers. From the field information it is revealed that there are a high percentage of females compared to males working either as contract or causal workers with limited benefits. In some of the food and beverage industries, more than 64 percent of females have been employed as causal workers for more than 12 years, despite legal provisions. The Labour Act has a provision requiring the management of any establishment to provide permanent appointment to workers who have worked 240 days in a year. This example does not corroborate the statements made by management who claim that they provide equal opportunity to both sexes for promotion, as well as benefits. Many managers argue that they are unable to provide permanent employment to workers as the work is seasonal.

Of the total number of workers employed, less than half are permanent workers and around 12 percent are temporary workers for either short or long periods. The proportion of contract and causal workers (working for short and long durations) in JV/MNCs is also remarkable. There are two types of contract workers: highly skilled workers contracted by the management directly and low skilled workers hired through a labour contractor. Looking at the division of employees by sex, males are more likely to

**Table 4.4 Status of Nepali Workers in FDI Establishments**

Status of Employment	Total	Male	Female
Permanent	46.1	52.0	19.2
Temporary	12.3	13.0	9.2
Contract	26.3	21.8	47.0
Causal	15.3	13.2	24.7
Total (%)	100%	100%	100%
<b>Total (N)</b>	<b>7168</b>	<b>5886</b>	<b>1282</b>

Source: *Field Study, 2006.*

#### **Box 4.1 Indirect Employment Generated by Manipal Education and Medical Group**

The Manipal Education and Medical Group is a multinational company (MNC) working in the medical sector in the city of Pokhara, Nepal. This establishment provides medical services to the people of Nepal and abroad through its hospital wing, and also produces various grades of health technicians through its college wing. The college wing also provides free education to about 80 Nepali students selected by the Government of Nepal under the 10 percent free quota.

With regard to employment, this institution directly employs more than 700 staff at different skill levels from the Nepali and non-Nepali labour force. In addition, the institution generates indirect employment (self and paid employment) not less than that of direct employment through the development of market places around the institution. About four dozen different business activities can be observed servicing the hospital. The following goods and services are used by the hospital creating indirect employment in the area: transport and communications, medical shops, hotels/restaurants/lodges, groceries, cold drinks, tailors, readymade garments, hospital accessories, fruit and vegetables, barbers, street vendors, stationery, furniture, and more.

be employed on a permanent basis, whereas less than one-fifth of the total numbers of female workers are permanent. The percentage of contract workers in the low skilled category and of casual workers is more than double for female workers, compared to their male counterparts.

There is no empirical study on the indirect generation of employment by enterprises operating as JV/MNCs in Nepal. However, it was observed that the enterprises established in Nepal (with national or foreign capital) not only directly generate employment, but indirectly generate employment by the establishment of subsidiary industries to supply necessary materials, equipment and raw materials. At the same time, market or business centres develop, adding more employment by creating self employment and paid employment. All of these factors have a chain effect on employment generation. On the basis of this observation it is estimated that, on average, all of the establishments generate as much indirect employment as direct employment.

#### **4.4 Employment Policy**

The employment policy of JV/MNCs is guided by the law of the land. An individual establishment has to respect

Nepali laws and regulations when formulating the employment policy of their enterprise. With reference to this, the majority of foreign invested industries reported that they have their own employment policy. However, 25 percent of JV/MNCs said that they were yet to prepare an employment policy, although they are, of course, employing labour as needed, either through personal contacts or through advertisements.

#### 4.5 Area of Collaboration

Nepal has welcomed foreign investment in the form of financial, technical, managerial, trade marks and so on, both separately and in combination. The foreign investment flow in Nepal for the enterprises studied was mostly financial and managerial. Many of the establishments are involved in all types of collaborations such as finance, managerial and technical. Some of them provide hands on training to Nepali workers in order to improve and upgrade their knowledge and skills.

#### 4.6 Ownership Category

The ownership of the JV/MNCs can be divided into two categories: public and private. From the information provided by the Government it is known that among these establishments, two thirds are registered as private limited companies and the remainder are public limited companies. There is no significant difference between public and private limited companies with regard to labour. However, there is a difference in these categories from the point of view of investment.

#### 4.7 Share in JV/MNCs

From the first chapter it is clearly that the foreign investment by JV/MNC establishments in Nepal ranges from 2 to 100 percent equity share. This implies generally two or more investors. However, in some enterprises studied, there was found to be only one foreign investor whose equity share accounted for 100 percent. The foreign investment share in sampled establishments ranged from 11 percent (Gorkha

The foreign investment flow in Nepal for the enterprises studied was mostly financial and managerial. Many of the establishments are involved in all types of collaborations such as finance, managerial and technical.

Brewery) to 100 percent (Manipal Education and Medical Group).

**Table 4.5 Foreign Investment Share in JV/MNCs by Establishment and Type of Collaboration**

Name of Establishment	District	Nepali Partner	Foreign Partner	Authorized Capital in Million Rs.	Foreign Share (%)	Type of Collaboration
Rijal Tashi Industries Pvt. Ltd.	Sunsari	Rijal Group	Tashi Commercial Corporation Ltd., Bhutan	5.1	46	Financial
Gorkha Brewery Pvt. Ltd.	Nawalparasi	Khetan Group	United Breweries and DAN Brew Consult Ltd.	257.62	11	Financial, managerial & technical
Nepal Bayern Electric Pvt. Ltd.	Lalitpur	Various entrepreneurs	Mr. Josef Wust Werkzeubbau, Germany	46.61	51	Financial & technical
Dabur Nepal-Banepa	Kavre	Dabur Nepal	Dabur India, India	Not Available	Not Available	Not Available
Manipal Education and Medical Group	Kaski	None	Manipal Education and Medical Institute, India	3324.65	100	Financial, managerial & technical
Uni Lever Ltd.	Makawanpur	Various entrepreneurs	Hindustan Lever Ltd., India	346.30	80	Financial & trade mark
Surya Tobacco Company Pvt. Ltd.	Bara	30 individual partner	ITC Ltd. India/UK	2100	51	Financial, technical & trade marks
Hotel Phewa Prince Ltd.	Kaski	Various entrepreneurs	Mr Yusu Omori, Japan	30.02	80	Financial
Group 4 Securities Nepal Pvt. Ltd	Kathmandu	Not Available	Group 4 Security International Ltd., Netherlands	22.50	30	Finance
Bottlers Nepal Pvt. Ltd.	Kathmandu	Various entrepreneurs	Coca-Cola South Asia Holding Inc., USA	64.75	98.2	Finance
Nepal Arab Bank (Nabil) Ltd.	Kathmandu	Various entrepreneurs	National Bank Ltd., Bangladesh	492	50	-

#### 4.8 Products

JV/MNCs operate in different sectors and produce different types of products. Often these products were either not previously produced in Nepal, or not produced in sufficient quantities to satisfy national and international demand for such products. The enterprises studied could not cover the whole spectrums of products within the sectoral classification. For example, some service sector establishments produce human resources such as medical doctors, nurses and health assistants. Other service sector establishments produce security personnel. Likewise, the food and beverage sector produces many types of products including juice, jams, squash and jelly. The same sector also produces carbonated and non-carbonated soft-drinks. The finance and banking sector and the HRCT sector provides financial services and tourism services. The power energy & chemical sector produces mini-transformers and manufacturing sectors produces cigarettes. The agriculture sector produces saplings of different varieties of herbs used for medicinal purpose and other market-oriented agricultural products. Similarly, the education sector produces a skilled and competitive labour force to meet the demands of national and foreign invested institutions for human resources, with the aim to provide employment to Nepali citizen as much as possible. Thus it is difficult to prepare a comprehensive list of the products produced by JV/MNC establishments.

#### 4.9 Source of Raw Materials

The sources of the raw materials used in different industries could not be divided by sector. For example, in some food and beverage sector industries they use mostly Nepali raw materials, whereas others import raw materials. Imported raw materials used in JV/MNCs are generally from India, Ireland, Australia, Germany, Japan and the UK. Part of the raw materials produced in Nepal is used in many establishments while those are used especially for agriculture and the food and beverage industry.

Imported raw materials used in JV/MNCs are generally from India, Ireland, Australia, Germany, Japan and the UK. Part of the raw materials produced in Nepal is used in many establishments while those are used especially for agriculture and the food and beverage industry.

#### 4.10 Market for Products

Most of the products produced by JV/MNC establishments are sold in Nepal. Some of the products have national and international markets. In some cases, all of the raw materials are brought from a third country and the product is exported back to the third country and solely sold there. In the early 1990s, some foreign investors established businesses in Nepal to evade the tax regime in their country of origin. However, most of these have since closed, either due to the conflict or the changing tax laws in Nepal. Most establishments are now attracted by low labour costs, compared to their country of origin.

**Table 4.6 Sources of Raw Materials and Markets for Products**

Name of Establishment	Source of Raw Material	Market for the Product
Rijal Tashi Industries Pvt. Ltd.	Mostly Nepal, some from India, China and Bangladesh	Nepal
Gorkha Brewery Pvt. Ltd.	Australia and UK	Nepal
Nepal Bayern Electric Pvt. Ltd.	Germany	Germany
Dabur Nepal–Banepa	Mostly Nepal	Nepal and India
Manipal Education and Medical Group	Mostly India, some from Nepal and other countries	Nepal and India
Uni Lever Ltd.	India	Nepal and India
Surya Tobacco Company Pvt. Ltd.	Nepal and other countries	Nepal
Hotel Phewa Prince Ltd.	Nepal and other countries	Tourists, mostly from Japan
Group 4 Securities Nepal Pvt. Ltd	Nepal	Nepal
Bottlers Nepal Pvt. Ltd.	Mostly Ireland (95%), the remainder from Nepal and India	Nepal
Nepal Arab Bank (Nabil) Ltd.	Nepal and Bangladesh	Nepali & non-Nepali customer

## CHAPTER 5

# Situation of Workers in JV/MNCs

In the studied JV/MNCs, some of the workers rights are better represented than in nationally invested enterprises. However, in other JV/MNCs, some of the workers are deprived of the rights enjoying by their counterparts at the same level in nationally invested enterprises. This Chapter describes the recruitment process; the wages, benefits and facilities provided to workers; workplace conditions; evaluation practices; unionisation; occupational safety and health; and more.

### 5.1 Recruitment

#### 5.1.1 Recruitment Process

The process of recruitment differs among enterprises. In most of the enterprises studied workers were recruited either through advertisements, personal contacts or referral by senior workers. Some managers also claimed that they recruit for some senior positions by internal promotion and on the job training. However, the status of employees recruited through advertisements, personal contact and internal promotion differed from one enterprise to another depending on the nature of the work and the employer's attitude. About 27 percent of enterprises claim to follow Nepali labour laws when appointing employees. On this issue, the views of employers and employees did not seem to differ. Most of the enterprises with a large number of contract and daily wage workers obtained their workers through labour contractors (either individual contractors or institutions). The process of recruitment in the surveyed enterprises is summarized in Table 5.1.

A study conducted by GEFONT in 2001, based on 750 enterprises, found that only 11 percent of enterprises advertise before recruiting employees. Compared to this, the

Most of the enterprises with a large number of contract and daily wage workers obtained their workers through labour contractors (either individual contractors or institutions).

**Table 5.1 Process of Recruitment**

SN	Name of the Enterprise	Process of Recruitment
1	Rijal Tashi Industries Pvt. Ltd.	Advertisement and personal contact
2	Gorkha Brewery Pvt. Ltd.	As per labour laws
3	Nepal Bayern Electric Pvt. Ltd.	Advertisement and personal contact, mostly through advertisement
4	Dabur Nepal–Banepa	Advertisement and personal contact
5	Manipal Education and Medical Group	Advertisement, personal contact and labour contractors (contract and casual workers are mostly employed through labour contractors or personal contact)
6	Uni Lever Ltd.	Advertisement and personal contact
7	Surya Tobacco Company Pvt. Ltd.	Advertisement and selection from trainees from apprenticeship training
8	Hotel Phewa Prince Ltd.	Advertisement and individual basis
9	Group 4 Securities Nepal Pvt. Ltd	Advertisement and individual basis
10	Bottlers Nepal Pvt. Ltd.	As per labour laws for regular workers and contractors and a few by personal contact for seasonal workers
11	Nepal Arab Bank (Nabil) Ltd.	Advertisement

recruitment process of JV/MNCs appears to be better than that of national enterprises.

### 5.1.2 Appointment Letter

The employees working in Dabur Nepal-Banepa (at the green house plant) were not fully aware of appointment letters. In most of the other establishments, an appointment letter is provided to all workers, except for casual workers, whether they are employed directly by the management, through a contracting agency or individual contractor. The number of workers who reported receiving an appointment letter was a significant proportion of the total number of employees in the enterprises studied. However, the workers in some of the plants did not know the actual number of permanent employees working in the plant. There was a slight difference of opinion among the workers and management on the issue of an appointment letter. The management of Dabur Nepal-Banepa claimed that they recently gave appointment letters to permanent employees.



Almost all establishments claimed that they have provided letters of appointment to all employees, except daily wage workers. Only a few establishments admitted providing such letters to permanent employees only. In practice, the appointment of permanent workers is not an issue. Appointment letters are needed to protect employees working on a temporary, contract, casual or piece rate basis.

In Nepal, employers usually do not offer appointment letters or identity cards to their employees. There are two reasons for this: firstly, it is easier to fire employees not officially recognized and, secondly, to save overheads by denying employees their legal entitlements. Permanent employees are eligible for other financial and real benefits like provident fund, grade and bonuses, etc. Employers want to save these costs to increase their profits. Employers also fear (based on past experience) that productivity will decline once an employee becomes permanent as they can then participate in activities within and outside the enterprise without fear of being fired. Permanent appointment is the main way of ensuring social security for Nepalese workers. Thus, unions are always struggling for permanent appointments to secure their members.

It is not only JV/MNC that deny appointment letters, other establishments also do not give employees appointment letters.

It is not only JV/MNC that deny appointment letters, other establishments also do not give employees appointment letters. This is shown by the GEFONT study in 2001 which found that only 38 percent of enterprises provide appointment letters and only 21 percent make employees permanent after 240 days work.

There is also a provision for the promotion of workers based on the recommendation of the concerned department chief. However, this is not considered a right of the worker, but a kindness of the employer.

## 5.2 Wages, Benefits and Facilities

### 5.2.1 Wages and Other Facilities

Wages paid by the enterprises studied differed according to the level and type of job. Likewise, wages also differed by skill category. This variation is continuously declining legally

as a result of pressure by trade unions. The Nepali Government has started to fix the minimum wage for workers in different skill categories (highly skilled, skilled, semi-skilled and unskilled). Since 1965, such laws concentrated only on the manufacturing sector. At the beginning of the 1990s the Government fixed the minimum wage for tea estate workers and at the end of the 20th century it also fixed the minimum wage for agricultural workers. Prior to the recent adjustment (August 2006) the minimum wage for unskilled workers was Rs.2,560 monthly and Rs.90 daily in the manufacturing sector; for tea estate workers, Rs.2,083 monthly or Rs.74 daily; and for agricultural workers Rs.60 daily. The monthly wage also includes a dearness allowance when the maximum wage is Rs.2,910.

At the beginning of the 1990s the Government fixed the minimum wage for tea estate workers and at the end of the 20th century it also fixed the minimum wage for agricultural workers.

The wage/salary paid by JV/MNC establishments is generally better than the minimum wage provided by law. However, it varies greatly for more or less same level and type of job according to the type of enterprise, the investor's country of origin, etc. Among the surveyed JV/MNCs, the wages of the junior most Nepali workers varied between Rs.1,750 (Group 4) to Rs.6,500 (Surya Tobacco). Similarly, in the case of daily wage workers, wages generally varied from Rs.100 to Rs.110 per day. This was applicable whether they were employed in agriculture, manufacturing or service sectors in foreign invested establishments.

Of the surveyed JV/MNC enterprises, Group 4 is paying below the legal minimum wage. Wage rates in this enterprise, in general, were far below the minimum legal level, but some workers working in the same organizations were paid more than others, even though they performed the same type of job with the same skill level. These differences are based on the degree of pressure exerted by the client organization on the supplying company. Group 4 divides its employees into two categories: UN and others. Employees earned less when guarding private institutions and homes, and more when guarding UN offices or INGOs, due to pressure exerted by the client. The wage gap between maximum and minimum is very wide in all JV/MNCs. Some enterprises have developed a system of regular wage incre-

ments made annually (usually 5 to 10%), which helps to increase the productivity of the workers.

Besides wages, some enterprises have provided various facilities. Such facilities differ according to the nature of the enterprise, the employer, type of job and workplace. In the hotel and restaurant sector, usually a meal is provided free of cost during duty hours. Similarly, a rain coat, jacket, shoes or water boots are provided to those who work outdoors. The provision of a uniform in most of the enterprises was considered mandatory to maintain discipline in the establishment. Some of the establishments provided a daily allowance, a transport allowance per month, a night allowance by the number of days and a monthly house rent. Some of the establishments provided a token amount for funeral leave. No specific facilities were provided for female workers in any enterprise, except for maternity leave and festival leave for festivals such as *Teej*. Daily wage workers were not entitled to such allowances. Contract workers could get only the allowances written in their contracts, and in general they receive fewer facilities than permanent and temporary employees.

Gender discrimination in relation to wages/salary for the same type of job was not highlighted in the discussion with permanent and temporary workers, but it does exist in practice in the case of casual workers.

The management of JV/MNCs declined to disclose the salary of their expatriate employees. However, informally, it is known that their earnings range from Rs.60,000 to more than Rs.0.4 million per month, not including benefits and facilities. From discussions with workers and management it can be concluded that, in most foreign invested enterprises, whether they are JVs or MNCs, wages/salaries are comparatively higher than in establishments fully invested by Nepali investors, with some exceptions.

Permanent and temporary employees receive their wage on a monthly basis. This also applies to contractors. However, daily wage workers mostly receive their salary on a fortnightly basis, and in some cases on a monthly, bi-weekly,

No specific facilities were provided for female workers in any enterprise, except for maternity leave and festival leave for festivals such as *Teej*.

weekly and daily basis, according to the nature and duration of their work.

### 5.2.2 Overtime

Most of the enterprises studied had a provision for the payment of overtime (OT) to employees. The rate of overtime was not the same in all enterprises. Most enterprises gave 150 percent of the basic salary or as mentioned in the labour laws. Group 4 pays OT to workers at a rate more or less equivalent to their normal wage, which is less than that stipulated in the labour laws. Similarly, Hotel Phewa Prince converts OT hours into paid leave and pays it annually at the end of the fiscal year. This is also less than the legal rate set for OT by the labour laws. In both cases workers are being exploited. In Group 4, workers are also compelled to work a full day on their weekly day off, but are only paid OT for this at a rate equal to their normal wage. However, this is still better than the situation nationally, where only 44 percent of all enterprises (both national and foreign invested) are paying OT to their workers and less than half of those that pay OT are paying at the legal rate. Employees in all the enterprises were compelled to work OT as and when the employer required without taking into consideration the need for a balance between work, rest and entertainment. The general norm in relation to working hours is the 'three-eight' rule (8 hours for work, 8 hours for rest and 8 hours for entertainment). The labour laws do not permit employers to require workers to work indefinite overtime, forcefully or willingly. Also, leave is leave and it should not be paid out. JV/MNCs have a duty to educate their workers about the 'three-eight' rule to ensure productivity. It appears that employers from most of the enterprises studied are violating labour laws and practices in relation to overtime.

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### 5.2.3 Gratuities

Gratuities were provided to employees by almost all the enterprises studied, as per the provisions of the labour laws. Gratuities are usually determined on the basis of discussions between the workers and employers. However, in some companies, the management had unilaterally determined the

Table 5.2 Provision of Grade

SN	Name of the Enterprise	Provision of Grade
1	Rijal Tashi Industries Pvt. Ltd.	Permanent employees
2	Gorkha Brewery Pvt. Ltd.	Permanent employees
3	Nepal Bayern Electric Pvt. Ltd.	Permanent employees, after completing one year of service
4	Dabur Nepal-Banepa	Permanent workers
5	Manipal Education and Medical Group	All employees, except casual workers
6	Uni Lever Ltd.	All employees
7	Surya Tobacco Company Pvt. Ltd.	All employees, except casual workers (at 5 percent of base salary)
8	Hotel Phewa Prince Ltd.	All employees (at an increasing rate according to years of service)
9	Group 4 Securities Nepal Pvt. Ltd	All permanent employees
10	Bottlers Nepal Pvt. Ltd.	All employees except casual
11	Nepal Arab Bank Ltd.	All employees

gratuities by themselves. Workers in a few enterprises were unaware of the provision of gratuities by their employer. In some companies only permanent workers were considered eligible for gratuities, while other categories of workers were deprived of this benefit.

#### 5.2.4 Grade Facilities

Almost all enterprises studied provided grade facilities to their employees. The management claimed that they provide grade to both permanent and temporary workers after they complete one year of service. However, the majority of enterprises only provide this facility to permanent employees and all other workers are deprived of grade facilities.

#### 5.2.5 Leave

Leave facilities are enjoying by all permanent and temporary employees and contract- workers working in the JV/MNC enterprises studied. However, leave is not available to other

**Table 5.3 Leave Facility**

Type of Leave	Description
Weekly Holidays	One day in a week to all workers except casual workers.
Public Holidays	As per the labour laws, except for local holidays (most enterprises fixed 13 days in a year).
House Leave	18 days per annum as per the labour laws. However, when employees are unaware of this right, some enterprises do not provide home leave, even though they claim to (e.g., the employees of the security service have been deprived of such a facility).
Sick Leave	7 to 15 days per year.
Compassionate Leave	13 to 16 days only for those who have to actually observe funeral rituals. Workers were entitled to such leave for the death of their parents. Women could only get compassionate leave twice in their service period In a few establishments studied
Condolence Leave	One day only on the death of a co-worker or employee of the establishment. The Manipal management claimed that they provide 5 days condolence leave to the employees on the death of their family members.
Maternity Leave	52 to 60 days, two times during the service period.
Maternity Leave for Unmarried Girls or for Miscarriage	Establishments had no policy and said that no case had been reported to date, but that if such a situation occurred they would react positively.
Paternity Leave	Not available in any enterprise, except for Nabil Bank, which provided 7 days paternity leave.
Other Leave	Nepal Bayern Electric have a special leave facilities under their Service Rule for permanent employees to take up to six months leave over the total service period until retirement age. To date no one has taken this type of leave. This leave is provided on the discretion of the employer

categories of workers. This depends on the nature of the establishment. Permanent workers are entitled to more leave than temporary workers. Contract workers can only receive leave as per their contract and this may vary from person to person. All casual workers are deprived of any leave facility. Normally, permanent employees enjoy the leave facilities described in Table 5.3.

### 5.2.6 Provident Fund

Provident funds are only applicable to permanent workers. All the enterprises studied provided provident funds, as per

the labour laws, which require employers to contribute 20 percent of the employee's monthly salary to the fund (10 percent is deducted from the employees salary and the other 10 percent is contributed by the employer). The provident fund is set up and managed separately earning interest as per the bank interest rate for savings accounts. The workers can draw on their personal account within the provident fund only after leaving the job, although they can draw a certain amount as a loan in certain circumstances, as per the rules of the institution.

### 5.2.7 Insurance

Almost all JV/MNCs provide some insurance benefits to their employees. In comparison, less than one-fifth of nationally invested enterprises provide this benefit. There was a difference in the insurance scheme for employees in the different JV/MNC enterprises. Most employees have only health insurance. Some have both health and life insurance. All enterprises claimed that they have insurance for their workers, although the type of insurance may vary from enterprises to enterprise. Some of enterprises provide life insurance, medical insurance and accident insurance. Others provide life insurance and medical insurance. The rest provide life insurance or medical insurance or accident insurance. The management of Dabur Nepal-Banepa said it also provided group insurance for daily wage workers covering accident and health insurance.

All enterprises claimed that they have insurance for their workers, although the type of insurance may vary from enterprises to enterprise.

### 5.2.8 Social Protection

Very few workers knew about social protection provisions. Most workers could not explain the social protection provisions in detailed. Female workers were far behind on this issue. However, during the course of the discussion on social protection, one by one, most of the workers realised that they did have some knowledge about it. The various components relating to the social protection of workers in FDI enterprises are summarized in Table 5.4.

**Table 5.4 Description of Social Protection Provisions**

Components	Status
Provident Fund	Establishments studied had provident funds for their permanent workers, as per the labour laws.
Gratuity	<p>Establishments had no common rule. Gratuities seem to depend on the mood of the employer. The views expressed on this issue by the workers and managements in their own words are:</p> <ul style="list-style-type: none"> <li>• No rule. Depends on the mood of the management.</li> <li>• The workers had only heard about the provision of gratuity in their establishment, but did not know of any rules and regulations.</li> <li>• The gratuity provision is only applicable to permanent employees.</li> <li>• Gratuities are provided as per the labour laws.</li> <li>• Gratuities are provided on the basis of service period.</li> <li>• Additional benefit is also provided in some establishments after completing 15 years service in the enterprises.</li> <li>• Those who complete at least three years of service are eligible for gratuity and it increases as the service year increases.</li> </ul>
Workplace Injury	<p>Procedures for workplace injury differed among the surveyed establishments. Some of the provisions made by establishments include:</p> <ul style="list-style-type: none"> <li>• All of the hospital medical expenses covered by the management.</li> <li>• First aid treatment only at the workplace, dispensary or elsewhere.</li> <li>• Full treatment facility available.</li> <li>• Only medical check-up in the hospital or concerned medical technicians.</li> <li>• First aid as well as full payment of hospital expenses.</li> <li>• Covered by medical allowance.</li> <li>• When leave is due to workplace injury, full paid leave while in hospital and half paid leave from special leave while recovering at home.</li> </ul>
Dependent benefit	No provision of dependent benefit was mentioned by most of the studied establishments. Bottlers Nepal provides up to Rs.30,000 to the employee's family on the basis of a prescription from a medical practitioner and an authentic bill; and up to Rs.8,500 for funeral expenses.
Sickness Benefit	Only some establishments provided medical check-ups and other benefits, such as sickness benefits, and these were nominal.
Medicare	All of the establishments have Medicare facilities for their workers to some degree.
Maternity Benefit	Leave for 52 to 60 days, no any other facilities.
Integrated Social Security Fund	None, up to now, but the union of Bayern Electric created a Member Welfare Fund by collecting Rs.200 each month from their members. The Fund provides loans to members on demand for up to Rs.10,000 without any collateral at 10 percent interest per annum. There are currently 265 members involved in this programme and they find it very effective.
Welfare Fund	Many enterprises claimed they have a Workers' Welfare Fund, but its utilization, rules and regulations were not clear, usually because there are no specific rules and regulations. In the beginning, some of the enterprises created a workers' welfare fund. In some cases the enterprise union is now managing the fund as a revolving fund. Similarly, in other enterprises, the fund is used according to the decision of the Labour Relation Committee.



Table 5.4 (contd...)

Components	Status
Workers' Demands for Social Protection	<p>Only once, in Manipal Education and Medical Group, did workers raise the issue of social protection by means of a collective demand. The management refused to provide any facility in the name of social security except for a provident fund for permanent workers and gratuities to selected workers.</p> <p>Some workers from other establishments have also raised the issue but not in concrete way. The management of less than 30 percent of enterprises said that workers were not concerned about social protection issues and did not make demands in relation to this. The major issues raised in collective demands were economic.</p>
Response of the Management	<p>Almost all establishments were negative about social protection issues. A few were positive to some extent in favour of the workers. However, all management claimed to be positive about the social protection of workers. Nonetheless, the lack of implementation of social protection reflected less concern than the management claimed.</p>
Suggestions to Solve this Problem	<p>The workers have suggested two ways to solve the problem of social security: (i) There should be strong union of the workers; (ii) The Government must ensure the implementation of the provisions of the labour laws and should make a mechanism for regular monitoring.</p> <p>Managements said that, at a national level, policy should be made and circulated to all JV/MNCs to follow the provisions strictly</p>

### 5.3 Workplace Conditions and Environment

#### 5.3.1 Working Hours

All of the JV/MNC enterprises studied followed the working hours set by the labour laws of Nepal (8 hours per day and 48 hours per week). The management of Bottlers Nepal and Nepal Bayern Electric had set a working week of 44 hours, which is better than the 48 hours stated in the labour laws. The employees of Nabil Bank also worked only 42.5 hours per week (8.5 hours per day for five days). This indicates that some of the JV/MNCs are more liberal than national enterprises regarding working hours.

#### 5.3.2 Job Classification and Employee Rules

In the enterprises studied, job classifications were made on the basis of the type of work, as well as the grade of the worker. All of the enterprises studied proudly claimed that there was no gender discrimination in their establishments in terms of the distribution of different types of work,

whether manual or mental. However, it was observed that generally, in practice, less hazardous and light work was assigned to female workers. As the nature of work differs from one establishment to another, there was no common job classification.

Only about 40 percent of enterprises studied had their own set of employee rules. Some of them followed the labour laws while preparing their employee rules, while others made their own rules. Despite the legal requirement for employee rules, more than three-fifths of establishments did not have a set of employee rules. Those who had prepared a set of rules, had not implemented them properly. From this it appears that employee rules are not taken seriously by either the workers or employers.

### 5.3.3 Workplace Environment

Depending on the nature of plant, in general, conditions were normal and above average in some companies.

Of the total JV/MNC enterprises studied, less than half had Labour Relations Committees. Of the ones with Labour Relations Committees, only a few were functioning as per the objectives of the committee prescribed by the labour laws. Functioning of such committees were found in only seven percent of non-JV/MNC enterprises, formation of this reflects better position in JV/MNCs in relation to Labour Relation Committee.

The workplace environment in general was found to be very good in JV/MNC enterprises. Some JV/MNC enterprises had ISO certificates. When compared to establishments operating with national investment, managerial and technological support, the workplace conditions were far better in foreign invested enterprises. There was generally enough light and sound levels were acceptable. Depending on the nature of plant, in general, conditions were normal and above average in some companies. In the security industry light, sound, ventilation and space for workers depended upon the clients. In other types of establishments space for workers was sufficient, and ventilation and the condition of the air was good (in some workplaces there was air conditioning). Garbage management system in the establishments studied was good. While no establishment was operating a separate school for employees' children, some of the estab-

lishments were supporting the local schools by providing regular financial assistance. For example, Surya Tobacco supports local schools, and Dabur Nepal-Banepa is supporting the local hospital, particularly for the welfare of their workers and the community in general. Despite legal provisions requiring a child care centre within establishments where 50 or more women are employed, most of the establishments had no such facility. Nepal Bayern Electric has managed it well, but they were also not free from problems. Working mothers claimed that well-managed child care centres were monopolised by centre wardens and that the centres discriminate among children based on the centre's relation with the mother. Women from such enterprises complained that if the warden does not like the mother she returns her child when suffering from minor illnesses like the common cold or a cough. On the other hand, if the warden gets along well with a mother, she accepted her children no matter how ill. No matter how much discriminated workers complained to the management, the management did not respond. The situation of the female workers in Manipal was even worse. There are around 350 female workers at Manipal but no child care centre. Manipal is not only violating labour laws, it is forcing female employees to take leave to care for their children. Manipal bars women from coming to work if they come with their children.

Working mothers claimed that well-managed child care centres were monopolised by centre wardens and that the centres discriminate among children based on the centre's relation with the mother.

All enterprises studied claimed that nearly all of their employees were aware of the use of safety equipment. However, some employees ignored employees ignored the use of safety equipment and some were worried about their health. The management of the enterprises studied said that they were aware of occupational safety and health (OSH) issues from the media and from training programmes conducted by the company and workers' organizations. Nevertheless, they expressed concern that such training should be made available to all workers, as soon as possible, to save workers from injury. The management perceived that, in their establishment, facilities like drinking water, toilets, canteens and restroom are better compared to other national establishments. Workers also agreed with the management in this regard. They further opined that the

degree and quality of OSH facilities varies in different JV/MNC establishments.

The health services provided by JV/MNC enterprises ranged from first aid facilities to more comprehensive facilities. Most companies bore all of their employees' hospital medical expenses. Regular medical checkups were conducted by trained health personnel in the workplace. Medical benefits were also provided by the management to the workers. On this, the workers did not fully agree with the views expressed by their managers. They claim that they are not receiving the facilities that the management described to the research team. In various enterprises the medical facilities were found to be better on paper than in practice. In some cases the workers never got to utilize such facilities, except for first aid services. In some establishments, workers were receiving a medical allowance on annual basis or lump sum. Annual health checkups by health technicians available in some enterprises. Likewise, some enterprises were providing health services to their permanent and temporary workers, categorizing them into three groups (A, B and C). The facilities differed from one group to another.

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The risk factors depend on the nature of the establishments and the product. In some establishments the risk factors were high, whereas in others there was no appreciable risk. All establishments tried to reduce the risk to workers from machines at the lowest level. But the workers of Uni Lever claimed that there was a high risk of injury from an old machine. In Bottlers Nepal, there is a risk of injury from broken glass. No single establishment was free from risk. Some plants had only minor risk factors, whereas other plants, even within the same premises, had high risk factors. All establishments stressed that they provide safety equipment to concerned workers, but claimed that some workers neglect to use it, sometimes suffering badly. The view of the workers on this issue differed slightly from the management. According to the workers, although they were given safety equipment, the quality and quantity of the safety equipment was not satisfactory. They agreed with the management, to some extent, that all workers did not use the safety equipment provided. Very few establishments and

workers were concerned about diseases or conditions that can be caused by work, such as eye problems, back pain, headaches, joint pain, etc.

In general, the workplace conditions in JV/MNC enterprises seemed to approach global standards. Workplace conditions in the JV/MNCs studied were found to be far better than those required by the Nepali labour laws and all of the establishments studied were trying to further improve workplace conditions. Despite this, both workers and the management agreed that there was room for improvements regarding the workplace environment. The following suggestions were the most important:

- A Workers' Welfare Fund should be established as soon as possible in those enterprises where such a fund has not yet been established.
- The Government should request the Health Council and Medical Council to monitor and ensure that enterprises maintain health levels according to the norms developed for the workplace.
- The HRD department should work to improve the workers' skill and maintain good relationships between employers and employees.
- The management should install air conditioning to protect workers from extreme heat and cold at plants where fans and heaters can not be installed.

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Based on general observations, it can be concluded that, in general, the workplace environment of JV/MNCs is far better than that of local companies.

### 5.3.4 Harassment in the Workplace

According to management, there were no reported cases of harassment in their establishments, including sexual harassment. Some mutually consensual sexual activities had taken place on factory premises in the past, but such activities had been stopped through the common effort of the workers and management (i.e., by not employing women workers).

Contrary to the claims of the management, almost all of the workers in Group 4 reported being harassed by the management regularly. Female workers complained of frequent harassment, including sexual harassment, from both the management and their co-workers. So far, no offender had been punished. Females were victimized physically, mentally and economically by such harassment and particularly by the management. In the absence of a workers' union and code of conduct, workers can not raised their voice against such harassment. Hence, they are compelled to either leave the job or put up with the harassment. In addition to this, some of the management of enterprises studied treated workers as their personal domestic servants. If a worker failed to comply with the boss's orders, s/he would be directly or indirectly punished. In such cases, harassment took many different forms.

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### 5.3.5 Gender-Based Differences

The impression given by JV/MNC establishments is that they are providing equal opportunities to all workers in their establishments, with no gender differences. However, it is an accepted truth that, in many establishments, the nature of work done by males and females varies. Generally, light and less hazardous work is assigned to female employees. In this situation the question of gender differences in work is not valid. However, there were some differences in the way workers were treated, not only by gender, but also among same sex workers doing the same job based on the degree to which they were favoured or disfavoured by the management. Such discrimination was reported in all types of work, but the degree of discrimination was high among contract workers. It is important to note here that the majority of contract workers were supplied by contracting agencies or individual contractors, who exploit all of these workers as much as possible. Individual contractors and contracting agencies take a large margin between the payments made by the establishment and that actually given to the workers. In general, workers were not aware of such differences. Those who knew could not raise their voice for fear of being fired.

In practice, for various reasons, it appears that most employers are not interested in providing employment to women, if a male can do the job. This is also reflected in the employment figures for JV/MNCs, where only 18 percent of employees are women. This is very low compared to national figures for the non-agriculture sector in which the proportion of women employees is 27 percent. This is despite the fact the employment rules, regulations and rhetoric of JV/MNCs are in favour of gender equality. When the entry gate is closed for women, it is difficult to raise the question of gender discrimination in the workplace, as there are no women to discriminate against. Gender discrimination is found, not only in the hiring of women, but also in relation to their promotion. This is reflected in the fact that a negligible proportion of women hold executive positions. This is despite the fact that many qualified women are employed by JV/MNCs. Similarly, there is also religion and caste-based discrimination especially in relation to funeral leave. Funeral leave is not provided equally to female workers in the enterprises studied, except in Bottlers Nepal.

Gender-based differences were observed in a few establishments and, according to the workers, were gradually increasing. Such a trend could be stopped through regular monitoring by the concerned labour offices of the Government. In some establishments, female workers were not employed on a permanent basis. The management of Bottlers Terai originally appointed both female and male workers, but sometime ago they changed their policy and employ only male workers. This is because some clandestine sexual activities took place within the factory premises, which caused serious social issues and discredited the company. However, this is an example of gender-based discrimination, as both males and females were equally responsible for the problem. However, the action of the management was only against female employees. The management of Uni Lever claims that they do not employ females due to security reasons. In most the establishments females are hired only as casual workers, although they are often employed for many years doing the same work as permanent employees. This may be one of the tactics of

This is despite the fact the employment rules, regulations and rhetoric of JV/MNCs are in favour of gender equality. When the entry gate is closed for women, it is difficult to raise the question of gender discrimination in the workplace, as there are no women to discriminate against.

management to avoid providing women with workers' rights and facilities as prescribed in the labour laws, which are more onerous in relation to female employees.

## 5.4 Evaluation Practices

### 5.4.1 Performance Evaluation

The performance evaluation of workers in JV/MNCs varied widely among establishments. Performance evaluation also differed according to the nature of product produced, the partner country or investor and the nature of the management, etc. The management of *Rijal Tasbi* and *Dabur Nepal-Banepa* said that they have no specific method for evaluating the performance of workers. Others said they were very transparent in their evaluation methods. Similarly, the timing of evaluations varied from company to company. The majority of establishments used annual evaluations and the remainder used quarterly and half-yearly evaluations. In general, the process of evaluation involves, firstly, an evaluation by the concerned supervisor, then the concerned unit chief or department chief reviews the evaluation of the supervisor, finalizes it, and sends it to the final authority.

### 5.4.2 Productivity of Workers and Union Leaders

According to JV/MNC establishments, it was not an easy task to rate the productivity of workers and there was no specific method. Productivity was generally measured on the basis of the worker's efficiency in the workplace. The measuring gauge for workers' efficiency was express as a score by the evaluator. JV/MNC enterprises rated the performance of their workers as good on average, although the performance of some workers was not satisfactory, and some were above average.

By and large, all the union leaders were found to be honest, rational and sincere in their duties and in advancing the interests of the establishment. They encouraged members to be more productive. As a result most enterprises unofficially allow union leaders to conduct union activities within and outside the factory premises. Very few JV/MNCs avoided commenting on the productivity of union leaders,

The measuring gauge for workers' efficiency was express as a score by the evaluator. JV/MNC enterprises rated the performance of their workers as good on average, although the performance of some workers was not satisfactory, and some were above average.



from which we can infer that they were not happy with the productivity of their workers or with the union activities.

### 5.4.3 Rewards and Punishment

Systems for giving rewards to workers and punishing workers were not the same in the various enterprises studied. Some enterprises simply said that they had provisions for rewards and punishment, but they avoided giving details. Rewards given by enterprises included: promotions, salary increments and cash awards on the basis of performance. Some establishments said that they punished those workers who did wrong, according to the labour laws. Very few JV/MNC establishments said that they fired worker when they did not comply with a written warning and final notice. Other establishments hesitated to disclose the form of rewards and punishments used. In general, JV/MNC enterprises were far behind in providing rewards and were in favour of using hire and fire methods to control employees, although they claimed that the punishments they used were minimal compared to the rewards.

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### 5.5 Guest Workers

Only a few employers utilized guest workers from the investors' country of origin in their establishment. The Manimal Education and Medical Group employs a significant number of Indian workers, mostly in teaching and highly remunerative administrative and technical posts in the hospital. Nepali workers were found in the low level administrative, as well as in technical posts. All contract workers involved in low level job were Nepali and were not eligible for the facilities mentioned in the labour laws whereas some of the professionals from India are also working on contract basis drawing better facilities.

### 5.6 Unionisation

#### 5.6.1 Presence of Unions

About half of the workers in JV/MNC enterprises had some knowledge about trade unions. Only a few of them said that they knew about trade unions from the time they

**Box 5.1: Formation of Trade Union in Group 4**

Group 4 Securities Nepal Pvt. Ltd. is a multinational company (MNC) with a 30 percent share held by Group 4 Securities International Ltd., Netherlands. Its head office is located in Kathmandu. It employs approximately 5000 workers and provides security services to many national and international institutions and individuals all over the country.

In 1998 the workers of Group 4 tried to form a workers' union. The management fired 60 workers who were actively involved in the process of union formation. After the success of the people's movement II in April 2006, again the workers decided to organize a union for combined welfare. Towards this end the active workers of Group 4 started a dialogue with the central level executive of GEFONT about the process of union registration. The management tried to stop the registration of the union, threatening both workers and GEFONT as an institution. They threatened the individual GEFONT executives who were assisting the workers through different means including a media campaign.

Despite the various effort of the management to prevent the formation of the trade union, the courageous workers ultimately registered an establishment-level trade union in the name *Group 4 Falke Nepal* at the Regional Labour Office, Bagmati on 25th August 2006. Their united efforts made this possible. This is the first trade union in the security service sector in Nepal.

were employed. The majority only found out after the people's movement II in 2006. For this reason, Nepali trade unions played a key role in the people's movement II in 2006. Looking at the sample enterprises, it is estimated that in JV/MNCs trade unions exist in about 80 percent of enterprises. However, the effective unions can be counted. Some unions even were formed by the management themselves and are ineffective in addressing genuine workers' issues. Contrary to this, more than 90 percent of establishments claimed that trade unions existed in their enterprises and that the management is positive towards the unions. The 10 percent of establishments that did not have a union argued that none of their workers felt the need for a union and that if the workers did want a union they would respect their right to form one. According to the workers, the reason for the absence of unions in some enterprises is the high-handedness of management and the fear of being fired. The management of Group 4 threatened workers who tried to form a union. When the workers approached GEFONT for help to register a union, Group 4 also pres-

**Box 5.2: Yellow Union in Manipal**

The Manipal Hospital and Medical College has one union. It is a yellow union formed by the management themselves to create an illusion of a democratic culture to the outside world, the Government of Nepal and even to the workers. The union belongs to the NTUC. The union does not work for the welfare of the workers, but instead spies on workers on behalf of the management.

As a result, the workers at Manipal have suffered a lot. The workers are eager to form a strong trade union to support the workers but they have no idea of how to form and register a union, or how to run a union. Most of the employees want a union but cannot express this desire freely for fear of management, who are anti-unions. Most of the workers at Manipal do not have the courage to admit to being a union member.

In this situation, local union leaders should take the initiative to lead workers. However, it appears that the local union leaders are not as motivated as they should be.

sured GEFONT. It is interesting to note that none of the workers in these enterprises openly admitted having union membership. In such enterprises, employees had little or no knowledge about how to form a union.

The majority of establishments had one union per enterprises. However, some (Gorkha Brewery and Bottlers Nepal's Terai plant in Chitwan) had two unions. Generally, in the enterprises where genuine unions existed, they played a positive role in the welfare of the workers. Ironically, casual, temporary and contract workers—who need unions the most—are barred from joining unions or participating in union activities by the management of such establishments. The yellow unions are backing the management in their bid to allow only permanent workers to form unions (e.g., Manipal Education and Medical Group).

Dabur Nepal-Banepa did not have a union because none of the workers their, whether permanent or casual, had any knowledge of trade unions. The long struggle of workers from Group 4 against their management recently resulted in the successful formation of an enterprise level union.

**Box 5.3: For Rs.10, Women Workers Form Union at Nepal Bayern Electric**

Nepal Bayern Electric Pvt. Ltd. has been operating in Nepal since 1993. It is a JV with financial and managerial collaboration from Germany. This company provides employment to 336 people; of these 304 are female. This company produces micro transformers, using 100 percent raw materials from Germany and exporting all finished goods to Germany. Prior to 2002, the Bayern management increased wages annually by Rs.5. This was not a right of all workers, but a kindness bestowed by the management on certain favoured workers who were especially supportive of the management. Workers were also employed only on a daily wage basis, although many had worked for the company for many years. Hence, they were deprived of the rights and facilities that they would have received if they had been permanent employees.

In 2002 the workers requested the management to increase the wages of all workers by Rs.10 annually. The management did not agree to this demand. As a consequence the female workers decided to establish a trade union to work for the welfare of the workers at Nepal Bayern. They formed a union, which is affiliated to the Nepal Independent Chemical Iron Workers' Union (a GEFONT affiliate).

The union successfully negotiated on their behalf for the following:

- Permanent appointment of 300 workers
- 52 days maternity leave
- Dearness allowance of Rs.60 for all workers
- 18 days home leave per year
- 15 days sick leave per year
- 13 days public holidays per year
- One day off per weekly

This story clearly shows that unity is strength. Workers have to unite to get their fundamental rights in the workplace.

### 5.6.2 Membership of Unions

During the field work it was discovered that the management of some enterprises had been playing a dual role. On the one hand, they claimed to support the workers' right to organize a union and on the other hand, they were threatening workers to stop them from participating in union activities. While the management of the enterprises studied claimed that there is a good or very good relationship

between the management and the workers. The majority of workers, regardless of the size of the establishment, did not agree with this. Most management accepted that their workers had both individual and collective grievances on a regular basis, but thought that there were more collective than individual grievances.

The unionisation rate in JV/MNC enterprises ranges from zero to 90 percent of the permanent and temporary workers. Interestingly, the female proportion is also in this range (zero to 94 percent), although this rate is inflated by the nearly 100 percent unionization rate at Nepal Bayern Electric. If we look at all workers, the percentage goes down remarkably. The management of establishments are not the only ones responsible for low unionization, union leaders are equally responsible. For example, the union leaders at Rijal Tashi are not providing membership to temporary, contract and casual workers, even though they have been working for the company for several years and are eager to join union.

Generally, in any union, female representation as an executive member was very low (less than 10 percent token female representation) in establishments where both male and females are working. Most female workers were less interested than men in participating in union activities, mainly due to their responsibilities at home. The role of female workers in unions will not improve until union activities are more effective in enterprises. The contemporary patriarchal values, beliefs and social structure that make females subordinate to males has to change.

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### 5.6.3 Collective Bargaining

Collective bargaining has been used as a weapon by workers to make management agree to their collective demands. Collective bargaining can help to maintain harmonious industrial relations between workers and management. However, some of the JV/MNCs had a bad impression of it. They believed that it was misused by a small number of workers to increase wages and other benefits. The management also blamed political parties saying that they provoked

workers against the management of the establishment for their own vested interest, without reason or proof.

The workers of those enterprises with effective unions had a fair knowledge about collective bargaining agreements (CBA). In recent years a large number of union members associated with GEFONT received training about collective bargaining in a training programme known as 'Study Circle'. The level of knowledge among female workers was low, compared to males. However, women in establishments where 'Study Circle' classes were running knew more about collective bargaining. Women were also participating effectively as CBA representatives and playing an effective role.

The workers of those enterprises with effective unions had a fair knowledge about collective bargaining agreements (CBA). In recent years a large number of union members associated with GEFONT received training about collective bargaining in a training programme known as 'Study Circle'.

A sizeable number of enterprises had not faced a single case of collective bargaining by their workers. Some of the enterprises studied had received collective demands once. The main demands made by workers in collective bargaining were for: i) the payment of financial increments, including wage increments and other allowances, ii) permanent appointment, iii) training to improve workers' skills, iv) facilities for further study, v) quarter facilities, vi) the dismissal of fake court cases filed against workers to harass them, vii) permission to be involved in major union activities, viii) a reduction in the difference between wages/salaries paid to workers performing more or less similar types of work, and ix) the provision of compassionate leave to female workers. Demands in relation to wages and other economic benefits were the most common. The management of Gorkha Brewery even suggested to their employees that they submit their collective demands in relation to women workers.

Women from establishments where almost all the workers are female are actively participating in the collective bargaining process and performing an effective role in bilateral discussions with management. Contrary to this, in establishments where both males and females are working together, no matter what the proportion is, women felt marginalised to some extent. However, it is to be noted that this is not same for all women. In some enterprises women are participating, along with their male counterparts, in the collective bargaining process and playing a more effective

role than that of their male colleagues. The last two most common demands listed in the above paragraph are directly related to female workers. Women workers' issues were also raised, with high priority, in the CBA process in many enterprises studied.

Generally, all employers try to exploit their workers to some extent in order to increase profits. The management of FDI enterprises appeared to be more progressive in this respect. They expressed their reactions according to the situation and seemed supportive of their workers. They met most of their workers' demands when the situation seemed critical, but the implementation rate of conceded demands is very low. According to the Labour Act 1992, workers can not submit the same demand within two years of the date of the previous negotiation. But if previously conceded demands are not implemented workers are compelled to raise the same demands year after year. Hence, to improve the CBA process, for the welfare of both the workers and enterprises, workers should organize a strong and rational trade union in all enterprises, whether established by national investors (public or private) or by foreign investors. Unions should promote all rights and represent all workers. In other words they should address social security related and employment promotion issues, not just traditional financial demands, and they should represent all types of workers. Similarly, management suggested that trade unions should be responsible for sound industrial relations. Frequent 'wild cat' strikes harass companies. In the JV/MNCs studied, both the management and workers agreed that negotiations in relation to disputes were settled through bilateral discussions in a friendly atmosphere and hoped that this will continue in future.

In most of the enterprises studied, workers had tried to complain, individually or collectively, about their grievances. However, their success rate was very limited. This indicates that attitude of the management of foreign invested establishments to workers' rights is not positive.

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### 5.7 Knowledge and Implementation of Labour Laws

On the issue of knowledge and implementation of labour laws, the workers and management had different views. According to the workers and their union leaders, only a few workers have knowledge of the labour laws (mostly those involved in union activities and in Study Circle classes).

The workers (men and women) active in unions, had better knowledge of labour laws, whereas others had a fair knowledge, mostly gained through interventions like Study Circle by GEFONT and other organizations. Some of the workers in these establishments still did not know about such laws.

Looking at each specific establishment, the research team received a mixed answer. The workers at Hotel Phewa Prince and Dabur Nepal had no knowledge of labour laws. This is mainly due to the absence of a union at Dabur Nepal and a union in name only at Phewa Prince. In Dabur Nepal-Banepa, not a single worker had heard about the labour laws. A majority of the workers at Gorkha Brewery, Uni Lever, Surya Tobacco and Bottlers Nepal (both at their Terai and Kathmandu plants) had knowledge about the labour laws. The workers (men and women) active in unions, had better knowledge of labour laws, whereas others had a fair knowledge, mostly gained through interventions like Study Circle by GEFONT and other organizations. Some of the workers in these establishments still did not know about such laws. Only a limited number of workers from the remaining companies studied had knowledge of labour laws. Female workers in the establishments studied were behind male workers in all respects and the same applies to this issue. Most did not know of any specific issues related to female workers addressed by the Nepali labour laws.

The workers in all of the enterprises studied, who were aware of the existence of labour laws, rated the implementation of labour laws as fairly good. This is except for Group 4 where the labour laws are not implemented at all, although the company's management claimed to be following the labour laws. The management of Group 4 is not refusing to implement labour laws, it simply creates obstacles to prevent workers from obtaining their rights, e.g., by preventing them from forming a union.

Some of the union executives suggested that the following points be considered to improve the labour laws in favour of the working class:



- The contract system should be eliminated or contract workers should be given the same rights as regular workers.
- The present labour laws are ambiguous as to who has the right to join a trade union; this should be clarified and corrected.

All of the management officials interviewed by the research team claimed that they had fully and effectively implemented all of the provisions of the labour laws. Some of them further claimed that they had also implemented the labour laws in their subsidiary plants or establishments. The workers from such establishments did not fully agree with the management on this.

### 5.8 Occupational Safety and Health

The awareness of workers about occupational safety and health (OSH) depended on the nature of workplace. In all of the enterprises studied the workers had some knowledge of OSH. Nevertheless, workers' opinions about OSH varied greatly from one establishment to another. The maximum awareness was 100 percent, for those who had received training from different training programmes organized by various institutions including GEFONT, both locally and abroad. The management of some establishments also sent their workers on such training course on a rotational basis. The level of awareness on this issue was also related to the strength of unionization in the establishment. Workers in establishments where unions were active were more aware and motivated about OSH than in establishments where unions were not present or where there was a yellow union. This is because active unionists themselves organized and managed in-house training programmes or requested experts from the central trade union organizations, or elsewhere, to conduct training.

The maximum awareness was 100 percent, for those who had received training from different training programmes organized by various institutions including GEFONT, both locally and abroad.

Various factors affected the health of workers. These factors differed depending on the nature of the institution and the working environment. They include: standing for eight hours a day, harassment by the management, and the use of dangerous machinery, glass and chemicals. All of the enter-

prises studied provide some level of safety equipment. Some workers said that they asked for more safety equipment, but that the management ignored their request. On this issue the management placed the blame back on the workers, saying that the workers did not use the safety equipment already provided. They said that the workers neglect to use even an apron. Some of the workers agreed with the management on this, and some didn't.

The work related diseases complained of by workers include coughs and colds; fever; throat infection; lung infection; pain in the chest, back, limbs, joints, hands and muscles; loss of eye sight, etc. For example, the workers at Nepal Bayern Electric complained of pain in the chest, back, leg, joints, hands and muscles; and eye sight loss. The workers at Surya Tobacco complained of lung infection. Only a few enterprises provided hospital medical expenses for major diseases like lung and chest infections. Many others kept silent, despite their workers' demands and made no improvement at all over the years. Some establishments argued that there were no factors present in their workplaces that would affect worker health.

Financial support to create awareness on this issue among workers in general, and for victims in particular, was applied in only a few establishments. All establishments verbally agreed that they were serious about OSH. Among the establishments where workers had received financial support for OSH, some were provided with training. Others explained that their medical insurance covers this issue too. In some establishments, when an accident had occurred, the management had personally sent the injured worker to hospital and paid all of the hospital bills. They had also arranged for other necessary measures for the victims, in consultation with the plant supervisor and union leaders. This indicated that the rules and regulations of establishments are directly affected by the presence or absence of unions. Hence there

is management resistance to unions as they place more financial burden on establishments.

Workers had raised OSH issues several times, mostly verbally. However, in a limited number of cases they submitted their demands in writing. Most establishments had been playing a diplomatic role—positive in discussion but negative in implementation. Management also tried to explain that they treated genuine demands positively and took OSH seriously. Thus, both the workers and employers suggested the following measures be taken in relation to OHS:

- The management of all establishments should be positive towards the safety and health of the workers.
- The enterprise (with support from concerned organizations) should organize awareness programmes for all workers in the establishment, no matter what their type or status.
- Management should be entirely responsible for victims injured at work during service hours.
- Workers and their leaders should be serious about OSH and motivate all workers to use available safety equipment, follow safety measures and demand other necessary equipment.

Workers had raised OSH issues several times, mostly verbally. However, in a limited number of cases they submitted their demands in writing.

### 5.9 Problems Faced by Female Workers

Females usually have more responsibilities in comparison to males. They have more responsibilities at home and are also subject to more restrictions and expectations place upon them by society. Women working in JV/MNC enterprises complained of problems at home, in the workplace and in society, as well as in relation to social activities and the union movement.

**Table 5.5 Problems Faced by the Women Workers**

Place	Problems
Home	At home, female workers have to bear almost all of the responsibility. Their duties start from early morning and finish late at night including fetching water, cooking for the whole family, child bearing and taking care of the children. When they also work outside the home they have problems managing their time.
Workplace	<p>In the workplace, female workers suffer from harassment, including sexual harassment, by management, co-workers and outsiders.</p> <p>None of the female workers interviewed were allowed to bring their small children with them during duty hours. No feeding time was allocated during work hours. Often there were no child care centres, even if there were more than 50 workers.</p> <p>In some establishments, female workers were harassed by not being permitted to enter from the main gate if they reached work even five minute late, or if they forget their ID card, even though they were recognized by the security and management.</p> <p>Some female workers said that they sometimes had to work under pressure to fulfil an order on time, but were unable to do so due to management delays in the supply raw of materials.</p> <p>A large number of female workers who had been working for more than 10 years were still employed as temporary or contract workers, contrary to the provisions of the labour laws.</p> <p>Women also suffered from discrimination in relation to promotion. No female worker reached a decision-making level.</p> <p>Management said that the frequent absence of female staff was the major common problem faced by the enterprises.</p>
Society	Nepali society is conservative and does not accept women working outside the home in the work force. Women, especially those working in the HRCT sector and security services, suffer harassment from society. In some cases women working at medical institution as nurses or in other capacities have also been harassed. In some areas, especially urban areas, education has changed traditional thinking and they have started to respect women employed outside home. However, they still experience problems caused by jealousy from their unemployed friends.
Social Activities & Union Movement	Female workers do not have enough time to be involved in social activities or the union movement due to their household responsibilities. If they do become involved, their co-workers, especially male but also female, started to criticize or gossip about them.
Methods to Solve the Problem	To solve the problems of working women, we need to respect workers rights, eliminate discrimination between working women and men. We also need to change the traditional thinking of society on employment and with respect to all types of jobs/employment.

### 5.10 Management Views on the Future of JV/MNCs

Discussions were held with the management of the enterprises studied about the future of JV/MNCs in Nepal.

Their view on this topic differed widely, as did their main concerns. Many of their concerns were directly related to the present political insecurity and instability of the country. Their perceptions are summarized as follows:

- The Government must have a clear, concrete and constant policy, and rules and regulations on JV/MNCs. The present trend of frequent changes to the policies, rules and regulations confuse interested investors.
- The major constraint faced by JV/MNCs in Nepal is the present political and security situation. When the situation improves the flow of foreign investment will increase.
- The future of JV/MNCs will be bright if the Government removes the present double taxation system through dialogue with other governments.
- The Government should create an investment friendly environment by reducing bureaucratic delay and corruption.
- The private sector is the major partner of foreign investors, hence, they should be honest and ready to work honestly, whether making a profit or a loss.
- The current leave facility is one of the obstacles to running JV/MNC enterprises effectively. Hence, the number of leave days in a year should be reduced, and workers compensated by more wages in place of leave to increase labour productivity.
- Lack of skilled and capable manpower is another constraint. Nepali manpower needs to be developed to meet market demand, through capacity building training and retraining. Trade unions should help enterprises to train workers more effectively, to maintain the productivity and the sustainability of the enterprise, and to make the institution profitable.
- The trade unions and pro-worker labour laws are a major constraints of JV/MNCs. Thus, the Government should make timely amendments to the labour laws and flexibility should be provided to employers on a condi-

tional basis, such as the right to fire workers who are not able to work or for negligence in their work. The increase in the number of casual workers being hired, instead of permanent workers, is a result of the present rigid labour laws. The trade unions should be ready to control strikes and other disturbances instigated by the workers.

- As a trade-off against the liberty to hire and fire workers, the unions are demanding social security package for workers.
- The Company Act should also be amended to bring it in line with the global and national situation.
- The Government must give top priority to developing infrastructure in the country as this is a pre-condition for attracting foreign investment.

In conclusion, all of the employers in the enterprises selected for study see a bright future for JV/MNCs in Nepal, if the security situation is improved, and if the Government really shows a willingness to attract FDI. In relation to trade unions and workers' rights in the studied enterprises, it was felt that a large numbers of foreign invested enterprises are violating labour laws to different degrees, and the nature of the violation differs from one establishment to another.

# Summary and Recommendations

## 6.1 Summary

Nepal has felt a strong need for industrialization for the economic development of the nation. However, despite various efforts, the process of industrialization has been very slow. Industrial development was further negatively affected by the introduction of an open economic policy by the Government. The history of modern industry in Nepal started with joint ventures by Nepali and Indian entrepreneurs in 1936, but these efforts were considered ad hoc, considering JV/MNCs in the contemporary sense.

It is accepted that the modern history of JV/MNCs in Nepal started at the beginning of the 1980s when the Government allowed foreign direct investment (FDI) in large and medium size industries. After that, a systematic concept of JV/MNCs was developed in Nepal to accelerate industrial activity with a view to achieving high economic growth. At the same time, foreign investment was welcomed to narrow the growing savings-investment gap. The Sixth Plan (1980-1985) mentioned the need for foreign investment and technology for industrial development, especially in large-scale and mineral-based industries. As a result, the Foreign Investment and Technology Act was enacted in 1982. Nepal's foreign investment policy has continued to evolve over the last decade with the Ninth and Tenth Plans placing more emphasis on FDI by making it more liberal. By the beginning of the 1990s, the Government of Nepal had started implementing privatization and liberalization policies without doing adequate homework. The Government handed over a number of public industrial units to the private sector in the name of privatization. The Government's liberalization policies have also harmed Nepali industry. A Census of Manufacturing Establishments shows a gradual decline in industrial units since the 1990s because

The history of modern industry in Nepal started with joint ventures by Nepali and Indian entrepreneurs in 1936, but these efforts were considered ad hoc, considering JV/MNCs in the contemporary sense.

of the unrestricted import of cheap foreign products due to the open market policy.

The Government has invited foreign investors in all sectors, with a few exceptions, with a view to reducing the shortage of capital and in an attempt to acquire modern technological know-how, managerial skills and access to foreign markets. To attract foreign investment, Nepal has enacted various laws and policies and tried to create an employment-friendly environment. Despite various efforts, the inflow of foreign investment in Nepal is very low in comparison to other SAARC countries, except for Bhutan.

The Mid-Western and Far Western Development Region accounts for less than three percent of enterprises and foreign investment, but has more than 22 percent of population.

Government information about JV/MNCs is not reliable because the Department of Industry has no mechanism to monitor and validate the number of JV/MNCs and their operating status. Initially, JV/MNCs were concentrated in the manufacturing sector. Gradually, it has declined as the flow of investment has been diverted to other sectors to achieve competitive advantage. At present, foreign invested enterprises are concentrated in only 30 out of the 75 districts in Nepal. Of these 30 districts, 83 percent of enterprises are concentrated in only nine districts. The concentration is centred around the Kathmandu Valley, where the state power and other services are present and where enterprise has been historically rooted in Nepal. In terms of regional distribution, eighty percent of enterprises and nearly 70 percent of foreign investment are concentrated in the Central Development Region (CDR) alone, where only 35 percent of the population resides. The Mid-Western and Far Western Development Region accounts for less than three percent of enterprises and foreign investment, but has more than 22 percent of population.

Up to mid-April 2005, sixty-three percent of foreign enterprises were operating as small-scale enterprises. Contrary to this, the share of investment in large-scale industries accounted for more than 80 percent of the total foreign investment in Nepal. Indian investment accounted for more than half of foreign investment up to 1990, but this proportion has declined as third countries have also started to invest in Nepal. The share of foreign investment in enterprises ranges from two percent to 100 percent equity, in



different forms, but the contribution in terms of technology transfer has been insignificant.

Foreign investment in Nepal has been in many different sectors and its flow has varied according to the sector. It is an accepted truth that, without the development of the agriculture sector and its integration with markets, the development of the Nepali economy is not possible in the present context. However, this sector is seen as the lowest priority sector for foreign investors. To promote this sector government policy and laws need to be changed. The manufacturing sector is still the predominant one and still attracts the most foreign investment, followed by the power sector, the HRCT sector and the service sector. Investment priority is given to small enterprises, where less investment is needed. This is reflected in the data which shows less than one million rupees of investment across a reasonable number of enterprises. The contribution of foreign investment to the generation of direct employment is negligible, although it has created a significant amount of indirect employment; however, this is difficult to prove by empirical data. Analyzing all of the available evidence, it can be concluded that Nepal, so far, has not been able to harness substantial benefits from foreign investment.

Approving authorities are different according to the amount of investment. Small amounts of investment are processed by the Department of Industry. Enterprises with an investment of US\$12.5 million or more are processed by the Industrial Promotion Board (IPB), which has the right to approve or disapprove. In order to attract more JVs/MNCs, the One Window Policy has been implemented to provide efficient and effective processing of applications in one place. Sadly, this system remains on paper only. In practice, the investors have to go to many places to get their application processed. This is due to non-transparent processes and the discretionary power of the approving authority. In addition, Nepal's obscure and non-transparent taxation laws are a serious obstacle to attracting foreign investment.

The official sources show a significant number of joint ventures and multinational enterprises approved by the Government, but less than half of these are actually oper-

The contribution of foreign investment to the generation of direct employment is negligible, although it has created a significant amount of indirect employment; however, this is difficult to prove by empirical data.

ating on paper. In practice, it is estimated that not more than one in four of the JV/MNCs registered are in operation at present. As a result the contribution of JV/MNCs to the Nepali economy is insignificant. Similarly, most of the enterprises are concentrated in and around the power centre, which creates further regional disparity, rather than a regional balance, in development.

The present status of JV/MNCs is not very encouraging in relation to employment generation, and there is no mechanism in place to monitor the number of people actually employed in JV/MNCs.

The key informants interviewed perceive foreign investment as one of the ways to close the savings-investment gap in Nepal. They believe that FDI is desirable to reduce the burden of foreign debt and debt servicing. In general, developing countries are expected to have at least five percent foreign investment as a proportion of total GDP. In Nepal, this proportion is less than one percent. During the 1980s and the first half of the 1990s, more investors from abroad showed interest in investing in Nepal. But after mid-1990s, China and India opened up their FDI policy to attract FDI. China and India also have huge potential markets compared to Nepal and their FDI policy is considered to be more liberal than Nepal's. Their infrastructure is also better, their governments more stable and national security better. In addition, their labour is not very costly in comparison to their skill and productivity. In addition to closing the resource gap, foreign investment is need in Nepal to generate more gainful employment, directly and indirectly, to help solve the growing unemployment situation in Nepal. However, the present status of JV/MNCs is not very encouraging in relation to employment generation, and there is no mechanism in place to monitor the number of people actually employed in JV/MNCs.

Government efforts are vital, but they are not the sole agent responsible for attracting JV/MNCs. The different stakeholders also play various roles in attracting FDI. The role of the Government should be to maintain stability, construct or promote infrastructure and implement policies conducive to FDI and competitive with our neighbours. The private sector should come forward as a competitive sector. Similarly, consumers play a role by being appreciative and demanding quality goods and services at an affordable price. Multinational enterprises should be encouraging only where

a huge investment is required and where there is a lack of skills in Nepal to undertake such activities without foreign investment. Foreign investment should generate employment and maximize the use of domestic raw materials.

The JV/MNCs studied are grouped into six different sectors. These establishments have generated employment for Nepali citizens (about 98.8% of people employed in JV/MNCs are Nepali nationals). In relation to the employment of women, only 18 percent of employees of JV/MNCs are female. The proportion of migrant workers employed in JV/MNCs is slightly higher than one percent. The major sector generating employment for both males and females is the service sector, which employs 31 and 72 percent of the total number of males and females employ, respectively.

Individual JV/MNCs have different salary scales for workers basically in the same category. This variation exists according to the individual establishment, not by sector or type of job. In the surveyed establishments, junior Nepali workers' wages ranged from Rs.1750 to Rs.6500. The management of the surveyed establishments declined to disclose expatriates' salaries, however, informally it was revealed that their salaries range from Rs.60,000 to more than 0.4 million per month. With regard to areas of collaboration in the studied establishments, it was mostly financial and managerial.

Foreign invested establishments are required to respect Nepali laws, rules and regulations when framing their employment policy and employee rules. With reference to this, the majority of the JV/MNC reported that they have their own employment policy. However, 25 percent of enterprises said that they are yet to prepare one. It is a claim of the employers, and accepted by employees, that wages and the workplace environment are better than in the same type of industry run by domestic investment, although far below international norms.

There was no uniform view or perception among workers on JV/MNCs. Some workers were positive about JV/MNCs, whereas others were silent. Investors perceived

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that stable and transparent state policy are necessary conditions for the sustainability and profitability of JV/MNCs in Nepal. Likewise, the training and retraining of workers was also considered important to improve their efficiency and competitive skills.

With reference to the process of recruitment, enterprises used personal connections and, in only a few cases, advertisements. Almost all enterprises claimed to have provided all workers, except casual workers, with an appointment letter. This was not fully corroborated by workers. In the same way, in relation to the provision of grade, minimum wage, job classification, employee rules, labour relation committees, etc., employers and workers had contradictory views. Issue by issue their perceptions varied from close to wide apart. The issues discussed and perceptions formed were mostly based on the case of permanent and temporary workers, even though in the same establishment a sizable percentage of the employees were contract and daily wage workers who, in some cases, had been working for the enterprise for more than ten years.

Trade unions were present in only a limited number of the enterprises selected for study. Among them, only very few were able to raise genuine issues on behalf of the workers.

Trade unions were present in only a limited number of the enterprises selected for study. Among them, only very few were able to raise genuine issues on behalf of the workers. Establishment-level trade union leaders were also found to be hesitant to allow membership to temporary, contract and casual workers, even though some had been working for the establishment for many years. In general, workers' fundamental right to organize and participate in CBA was recognized in theory, but not in practice. Only permanent workers enjoyed the rights given by the labour laws, to some extent, but had few options for addressing personal and collective grievances.

In one establishment that had almost all female workers, the women had showed their courage by establishing a union in that enterprise. All workers need to be aware of their fundamental rights in order to pressure management to provide these rights. At the same time, the Government should ensure their fundamental rights by implementing a regular and effective monitoring system.

The workplace environment, in general, was found to be very good in studied enterprises, compared to nationally invested enterprises. These establishments were spacious and well ventilated or air conditioned. Their garbage management system was also good. All managements claimed that almost all of the workers were aware of OSH issues and the use of safety equipment. The workers had a somewhat different opinion on this issue. The managements stressed that they provide safety equipment to concerned workers, but the workers did not agree. Generally, light and less hazardous work was assigned to female workers in all of the establishments.

The method used for worker evaluation varied across the studied establishments. Females were mostly placed on contract and daily wages, which can be seen as discrimination. No mentionable harassment was reported by informants involved in the discussions, except in the security service sector, where almost all workers suffered from regular harassment by the management. In the case of female workers, they suffered more from all types of harassment, including sexual harassment, by the management, other staff and co-workers.

Wages were paid on a monthly basis for permanent, temporary and contract workers. Workers engaged on a daily wage basis were paid either daily, weekly or bi-weekly. Entitlement to different types of leave varied. Permanent workers were entitled to more leave facilities, whereas contract workers received few leave facilities. This also depended on the nature of the establishment. Normally, permanent workers enjoyed the leave facilities mentioned in the labour laws.

Most of the workers were not well aware of the labour laws. Only a few of them had a general knowledge of labour laws in the establishments studied. In some of the enterprises, not a single worker had heard about such laws. Normally, female workers were behind male workers in all respects, and also on this issue. No single worker could describe any specific issues relating to female workers incorporated in the Nepali labour laws. In this situation, the question of implementation seemed irrelevant to the workers.

Normally, female workers were behind male workers in all respects, and also on this issue. No single worker could describe any specific issues relating to female workers incorporated in the Nepali labour laws.

The nature of the problems faced by females working in foreign invested enterprises were found to be different at home, in the workplace and in society. However, in some of the establishments female workers did not face any specific problem.

Trade unions should help enterprises to train their workers more effectively, insist that workers increase their productivity, conduct union activities keeping in mind the sustainability of the enterprise and generally help to make the enterprise profitable. The existing fluid political situation, short-sighted policies, insufficient infrastructure, lack of proper implementation of the One Window policy and problems relating to a corrupt bureaucracy were some of the problems faced by FDI enterprises in Nepal. The trade union and pro-worker labour laws only represented a small part of the problem for FDI enterprises. Forging alliances with other stakeholders, the trade unions should come forward with policies and strategies to create more employment for potential job seekers.

There should be equal treatment and facilities for workers, including equal wages for both Nepali and guest workers performing the same job, to eliminate existing discrimination.

## 6.2 Recommendations

Based on the research results the following recommendations can be made:

1. The management should not create obstacles to bar unions from organizing workers for the protection of their fundamental rights as provided by the Nepali labour laws.
2. The Government should take firm steps to implement the provisions of the labour laws in all enterprises. There should be equal treatment and facilities for workers, including equal wages for both Nepali and guest workers performing the same job, to eliminate existing discrimination.
3. To create an investment climate, infrastructure development (electricity, transport and communications), a stable government and strong security provisions are the basic elements required. The Government should

create a favourable environment to attract FDI at the desired level to bridge the resource gap.

4. There must be coordination among all social partners to attract FDI in areas beneficial for the economic development of the country where there is insufficient local capital and where Nepal lacks the technical and managerial know-how to operate such enterprises.
5. Trade unions have to direct their policy to generate more employment by welcoming FDI. This may be possible by changing the traditional way of protecting a limited number of employee organized in a certain enterprise.
6. A study may be necessary to find out the extent of the employment opportunities indirectly generated by FDI enterprises.
7. FDI should be diverted from the periphery of the power block to areas that are backward from a development perspective. This would be helpful in facilitating the balanced regional development of this country.
8. Enterprise-level trade unions leaders need to be more sensitive in supporting and promoting workers' fundamental rights. They need to address workers' genuine demands. At the same time, national federations and confederations of trade unions should gear their efforts (through advocacy, lobbying and activism) to the framing of policies and laws to generate more employment.
9. The Government should develop a broad-based labour inspection system covering all types of enterprises including JV/MNCs .
10. A gender audit should be introduced in JV/MNC enterprises in order to minimize and eliminate discriminatory practices against women workers.

Trade unions have to direct their policy to generate more employment by welcoming FDI.

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## ANNEX i

## Number of JV/MNCs by their Status and District

District	Operating		Under Construction		Licensed		Approved	
	Enter-prises	FDI	Enter-prises	FDI	Enter-prises	FDI	Enter-prises	FDI
Taplejung	1	1.9						
Solukhumbu	3	18.96	1	1	1	50		
<b>Eastern Mountains</b>	<b>4</b>	<b>20.86</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>50</b>		
Dhankuta		0					1	15
<b>Eastern Hills</b>		<b>0</b>					<b>1</b>	<b>15</b>
Jhapa	3	158.95					1	86
Morang	13	1110.7			1	8	7	465
Sunsari	6	1137.4	1	105			5	703
Siraha	1	28.2	1	198				
<b>Eastern Terai</b>	<b>23</b>	<b>2435.2</b>	<b>2</b>	<b>303</b>	<b>1</b>	<b>8</b>	<b>13</b>	<b>1254</b>
Dolakha	2	2484					1	10
Sindhupalchowk	5	4845					1	42
Rasuwa	2	387					2	1120
<b>Central Mountains</b>	<b>9</b>	<b>7716</b>					<b>4</b>	<b>1172</b>
Kavre	8	220			2	11	11	151
Lalitpur	44	1039			10	222	29	1801
Bhaktapur	11	244	1	8	4	112	8	684
Kathmandu	176	4937	18	1629	47	2570	173	3564
Dhading	2	96			2	20		
Makawanpur	20	1624			5	393	5	172
Nuwakot					2	48	1	10
Ramechhap					1	262		
<b>Central Hills</b>	<b>261</b>	<b>8160</b>	<b>19</b>	<b>1637</b>	<b>73</b>	<b>3638</b>	<b>227</b>	<b>6382</b>

District	Operating		Under Construction		Licensed		Approved	
	Enterprises	FDI	Enterprises	FDI	Enterprises	FDI	Enterprises	FDI
Rautahat	1	112						
Bara	15	2454	2	91	8	922	8	613
Parsa	10	322			6	206	6	1427
Chitwan	17	1690	1	55	5	167	5	159
Central Terai	43	4578	3	146	19	1295	19	2199
Mustang	1	230			1	1		
Manang			1	47				
<b>Western Mountain</b>	<b>1</b>	<b>230</b>	<b>1</b>	<b>47</b>	<b>1</b>	<b>1</b>		
Gorkha	3	302						
Tanahun	1	16						
Kaski	22	4254	5	1351	9	2095	10	153
Lamjung					1	10		
Parbat					1	330		
Palpa							2	33
<b>Western Hills</b>	<b>26</b>	<b>4572</b>	<b>5</b>	<b>1351</b>	<b>11</b>	<b>2435</b>	<b>12</b>	<b>186</b>
Nawalparasi	8	483			3	113		
Rupandehi	8	989	1	33	3	89	2	93
Kapilvastu	1	1242			1	27	4	272
<b>Western Terai</b>	<b>17</b>	<b>2714</b>	<b>1</b>	<b>33</b>	<b>7</b>	<b>229</b>	<b>6</b>	<b>365</b>
Rolpa		0			1	2		
<b>Mid-Western Hills</b>					<b>1</b>	<b>2</b>		
Banke	4	138	1	11	3	147	2	40
Bardiya	3	15						
<b>Mid-Western Terai</b>	<b>7</b>	<b>153</b>	<b>1</b>	<b>11</b>	<b>3</b>	<b>147</b>	<b>2</b>	<b>40</b>
Achham		0					1	56
<b>Far Western Hills</b>							<b>1</b>	<b>56</b>
Kailali	1	541						
Kanchanpur	3	50			2	23	1	26
<b>Far-Western Terai</b>	<b>4</b>	<b>591</b>			<b>2</b>	<b>23</b>	<b>1</b>	<b>26</b>

## ANNEX ii

## Number of Enterprises with FDI (in Million Rs.) in 2005 by Country

Countries	Operating		Under Construction		Licensed		Approved	
	Enterprise	Capital	Enterprise	Capital	Enterprise	Capital	Enterprise	Capital
Australia	4	50			2	37	1	2
Austria	6	77			1	8	2	16
Austria/India							1	5
Bangladesh	4	128			2	11	4	157
Belgium	1	6						
Bermuda	5	530			1	5		
Bhutan	2	6	1	8				
Brazil							2	21
British Virgin Islands	2	748						
Canada	4	293			2	43	2	68
Canada/France							1	3
Canada/USA							1	8
China	26	1168	4	1319	10	2152	43	1151
China/India	1	152			1	78		
Denmark	2	39					1	3
Finland	2	6						
France	8	62			3	42	6	45
France/Germany	1	21						
Germany	14	136	1	8	2	27	11	1071
Germany/Japan	1	51						
Germany/UK	1	10						
Germany/Ireland	1	16						
Germany/USA	1	6	1	2				
Germany/Seychelles						1	5	
Ghana							1	2
Guatemala					1	5		
Hong Kong	6	182			1	94	4	125
Hong Kong/USA					1	51		
India	114	11546	13	1150	36	2647	85	5353
India/Japan					1	8		
India/Hong Kong	2	235						
India/Korea Republic	1	71						
India/UAE	1	44						





15. Source of raw materials in percentage:

1. Nepal ..... %                      2. India .....%                      3. Third Country.....%

16. Where is the output been sold?

1. Within the Country (.....%)  
 2. India (.....%)  
 3. Third Countries (.....%).

17. Employment generated by the enterprises by nationality and sex and by skill category/ nature of work.

18. Employment provided by type of job

Type of Job	Nepali		Non-Nepali	
	F	M	F	M
Administrative				
Operative				
All				

19. Skill Category

Skill Category	Nepali		Non-Nepali	
	F	M	F	M
Highly skilled				
Skilled				
Semi skilled				
Unskilled				
All				

20. Type of worker

Type of worker	Nepali		Non-Nepali	
	F	M	F	M
Permanent				
Temporary				
Daily wage				
Piece rate basis				
Contract				
Others				
All				

21. Employment policy of the particular project/company.

22. Other facilities and services provided by the enterprise except wage. (Specify the facilities and volume/quantity).
- To all workers
  - Specific to female workers
23. Average monthly wage of the workers by skill category and sex.

Skill Category	Average Wage (per month)			
	Nepali		Non-Nepali	
	F	M	F	M
Highly skilled				
Skilled				
Semi skilled				
Unskilled				

24. Payment modalities – daily/weekly/monthly
25. Necessary conditions for the successfully operation of JV/MNC
- 26. Status of Labour Issues in the Enterprise**

**A. Presence of Workers' Rights**

1. Recruitment process
2. Appointment letter
3. Permanent appointment
4. Grade
5. Minimum wage
6. Working hours
7. OT
8. Union
9. Collective bargaining
10. Insurance
11. Job classification
12. Migrant workers
13. Employee rule
14. Labour Relation Committee
15. Others.



**B. Working condition**

Light		Drinking water	
Sound		Toilet	
space		Health services	
Ventilation or air		Canteen	
Garbage management		Rest room	
School for children		Risk factor from machine and others	
Child care centre		Availability of safety equipment	
Knowledge on workers on use of safety equipment			

- Suggestions to improve working condition of the enterprise

**C. Gender Based Differences**

- Difference in nature of work for male and female workers
- Specify the particular work assigned for female
- Differences based on sex on employment/ wage/training/ promotion/ leave/ health service/respect or honour/etc.
- Differences - very high/ high/ medium/low
- Change in differences - growing/ constant/ minimising
- Methods to resolve the differences

**D. Labour Practices**

- How do you make performance evaluation of your employees?
- How do you rate their productivity?
- What is your overall impression on productivity of those employees involved in union leadership?
- What is your policy to motivate them?
  - Reward side
  - Punishment side
- Have your enterprise indicate any issue of Sexual harassment? If yes,

Types	How often	Male to female	Female to male
Verbal			
Non-verbal			
Physical			

- What type of effect that your enterprise notices?

...

...

- Who are the Offenders?
 

Management and their family	Supervisor	Co-workers	Outsiders
...	...	...	...
- Regulation/code of conduct against harassment in the enterprise
- Complain against harassment
 

Yes	No	With whom
...	...	...
- Any action taken
 

Punishment given	Compensation given
.....	.....
- Methods to improve this situation

**E. Status of leave facility**

- Yes/no
- Type of leaves for male workers and female workers
  - House Leave
  - Sick Leave
  - Funeral leave
  - Condolence leave
  - Maternity/paternity

No. of times	Days	Pre-natal	Post – natal	Other benefits	Leave for unmarried delivery	Leave during miscarriage

- Other leaves

**F. Status of Unionisation**

- Presence of workers’ union: Yes/No/ one/more than one
- Right to organise in the enterprise to all workers
- Relation of union and management
- Reasons for absence of union in the enterprise

**G Workers’ Grievances Handling Practice**

- Individual
- Collective

**H. Collective Bargaining**

- Major issues raised in the charter of demand of the union
- Issues of women workers’ in charter of demand of the union
- Participation of women workers in CBA process
- Role of women workers during discussion on workers’ demand in general and female issues in particular
- Focus on issue of women worker during discussion with management
- Reaction of management on such issues
- Status of negotiation on such issues
- Suggestion to improve the role of women worker on CBA process

**I. Labour Laws**

- Status of implementation of labour laws in the enterprise
- Causes of not implementation

**J. Provision of OSH**

- Awareness of workers on this issue
- Major factors affecting health of the workers in general and women in particular at work place including reproductive health
- Safety measures available at work place
- Major health problems caused by work for male and female workers
- Improvement during the years
- Financial support by the management to the victims/affected workers – treatment/compensation
- Demands raised by the workers regarding OSH
- Response of management on workers’ demand on this particular issue
- Suggestion to solve the OSH problem –Role of management/ union/ worker

**K. Social Protection Provision** (*specify Volume/ condition as well*)

Provident Fund	Gratuity	Workplace injury	Dependent benefit	Medicare	Disability

- Workers demand related to this issue
- Response of management
- Suggestions to solve this problem in favour of workers

**L. Do you feel any problems caused by women employment?**

- 
- 
- 
- 
- How to solve the problem?

27. Problem faced by the FDI projects.
28. Level of success to achieve the objectives presumed while FDI is allowed/invited.
29. Future of FDI industries.

**II. FNCCI/ Bilateral Chamber of Commerce/Academicians/ Government**

- Difference between JV and MNC
- Nepal should welcome FDI or not/ Necessity of FDI for Nepal.
- Objective of FDI to come in Nepal or Why FDI in Nepal?
  - attracts capital, technology, managerial skill, etc.
  - helps to share risks, exploit unused resources, provide access to foreign market
  - low price for consumer through competition
  - higher employment and wage
  - Increase in revenue
  - Others (if any)
- History of FDI.
- Causes of attraction of FDI in Nepal.
- FDI in paper (list) and practice (actually operating).
- Causes of not attraction as our expectation.
- Effects of FDI on industrial development – positive/negative/direct/indirect
  - industrial growth through growth of financial sector caused by FDI,
  - employment growth.
- Priority of FDI on size of industries – small/medium/large
- Role of FDI in employment promotion.
  - Nepali by sex, administrative/ operative, skill category
  - Non-Nepali by sex, administrative/ operative, skill category
  - Practice/discrimination on providing - employment, wage, training, promotion,

others by sex

- Proportion of female employment in FDI in general
- Role of FDI on national economic development.
- Effects of FDI on socio-cultural settings of the country.
- Role of government to attract FDI.
- Role of private sector to attract FDI.
- Role of civil society to attract FDI.
- Role of Labour Law to attract FDI.
- Unionisation in FDI projects.
- Status of implementation of Labour Laws and laws and policies related to FDI in the country.
- Status of ILO declarations concerning FDI.
- Opinion on the existing laws and policies related to FDI – appropriate/not appropriate.
- Government policies relating to FDI promote/hinder the national industrial initiatives.
- Agree/disagree on the prevailing list of restricted industries for foreign investment.
- Problems faced by the FDI projects.
- Ways to solve the problem – government/private sector/civil society/trade unions
- Future of FDI industries in Nepal.

**III. Focused Group Discussion with workers and their Leaders**

Female Focus Group Discussion No:

Male Focus Group Discussion No:

**General Information**

1. Name of the Enterprise: .....
2. Location (district): .....
3. Sector of Production:
  1. Fiber Related
  2. Manufacturing
  3. HRCT
  4. Financial

5. Transport and Communication
  6. Agriculture
  7. Construction
  8. Food and Beverage
  9. Power, Energy and Chemical
  10. Service
4. Employment generated by this enterprise:
1. Total ..... 2. ....% of Female, 3. ....% of Male
  2. Administrative ..... Production .....
  3. Female in executive post .....
5. Type of worker:
1. Permanent ..... 2. Temporary..... 3. Daily wage .....
  4. Piecemeal basis ..... 5. Contract ..... 6. Others .....
6. Employment provided by nationality:
1. ....% Nepali 2. ....% Non-Nepali (by skill category and type)
7. Duration of work in the enterprise (in years)
8. Knowledge about the enterprise (JV/MNC)?
- Operation of the enterprise – Nepali/Non-Nepali
  - At what basis
9. Perception on JV/MNC
- 10. Status of Labour Issues in the Enterprise**

#### **A. Presence of Workers' Rights**

Recruitment process/appointment letter/permanent appointment/provident fund/gratuity/grade/minimum wage/working hours/ OT/leave facility/right to organise/collective bargaining/medical facilities/insurance/job classification/guest workers/house rule/Labour Relation Committee/etc.

#### **B. Working Condition**

- Working environment: light/sound/space/ventilation or air/garbage management/etc.
- Drinking water/ toilet/ etc.
- Health services/canteen/rest room/school for children/ child care centre/etc.
- Risk factor from machine and others/availability of safety equipment/knowledge on use of safety equipment/etc.
- Suggestions to improve working condition of the enterprise

### C. Gender Based Differences

- Difference in nature of work for male and female workers
- Specify the particular work assigned for female
- On employment/ wage/training/ promotion/leave/ health service/ respect or honour/etc.
- Discrimination- very high/ high/ medium/low
- Change in discrimination- growing/ constant/ minimising
- Methods to resolve the discrimination

### D. Wage and Other Facilities

1. Average wage: Minimum (Rs.)..... Maximum (Rs.).....
2. Executive average (Rs) .....Non-Executive average (Rs) .....
3. Other facilities and services provided by the enterprise except wage:
  - In general to all workers
  - Specific to female workers
4. Payment modalities – daily/weekly/ monthly

### E. Labour Practices

- Harassment in general and sexual harassment in particular
- Status (yes, no, male to female and female to male)/type (verbal, non-verbal, physical)/frequency by type/type of effect/etc.
- Offenders – management and their family/supervisor/coworkers/ outsiders
- Regulation/code of conduct against harassment in the enterprise
- Complain against harassment – yes, no with whom
- Any action taken/ punishment given/ compensation given
- Methods to improve this situation

### F. Status of Leave Facility

- Yes/no
- Type of leaves for male workers and female workers
- Maternity/paternity -no. of times/days/ pre-natal/ post – natal/other benefits/leave for unmarried delivery/leave during miscarriage/ etc.
- Funeral leave/condolence leave
- Other leaves

### G. Status of Unionisation

- Knowledge
- Presence of workers' union: Yes/No/ one/more than one

- Right to organise in the enterprise to all workers
  - No of unionised worker
  - No of female unionised worker
  - Proportion of female workers on union executive
  - Role of women workers in trade union
  - Major hurdles for unionisation faced by the female workers
  - Suggestions to improve females role on unions activities
  - Reasons for absence of union in the enterprise
- (Note: Collect list of union executives (various years) from all union existed in the enterprise including authorised union)

#### **H. Collective Bargaining**

- Knowledge among workers
- Knowledge among female workers
- Major issues raised in the charter of demand of the union
- Issues of women workers' in charter of demand of the union
- Participation of women workers in CBA process
- Role of women workers during discussion on workers' demand in general and female issues in particular
- Focus on issue of women worker during discussion with management
- Reaction of management on such issues
- Status of negotiation on such issues
- Suggestion to improve the role of women worker on CBA process

#### **I. Workers' Grievances Handling Practice**

- Individual - **process from submitting charter of demand to final negotiation**
- Collective- **process from submitting charter of demand to final negotiation**

#### **J. Labour Laws**

- Knowledge to general workers
- Knowledge to women workers
- Specific issues of female workers addressed in the labour laws
- Lackings on laws/ how to improve it
- Female issues need to be add on the labour laws
- Status of implementation of labour laws in the enterprise



### K. Provision of OSH

- Knowledge among workers
- Knowledge to female workers
- Major factors affecting health of the workers in general and women in particular at work place including reproductive health
- Safety measures available at work place
- Major health problems caused by work for male and female workers
- Improvement during the years
- Financial support by the management to the victims/affected workers – treatment/compensation
- Demands raised by the workers regarding OSH
- Response of management on workers' demand on this particular issue
- Suggestion to solve the OSH problem –Role of management/ union/ worker

### L. Social Protection Provision

- Knowledge about social protection to the workers
- Knowledge about social protection to the female workers
- If yes:
  - **Type** – PF/gratuity/workplace injury/dependent benefit/sickness benefit/maternity benefit/ integrated social security fund
  - **Volume/condition**
- Workers demand related to this issue
- Response of management
- Suggestions to solve this problem in favour of workers

### M. Problems Faced by the Female workers

- At the work place
- At the home
- At the society
- During involvement in social movement/union movement
- Methods to solve the problems

### N. Problems Faced by the FDI projects

**Case Study:** Case study has to be developed in a typical issue in each industry; in addition to this each industry should be treated as a single case of any particular issue in this study keeping in view the research objectives.