

## Foreign investment

The main task is to harmonise various laws like labour laws with FI and Technology Transfer Act

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In the 1990s, Foreign Investment (FI) became the largest single source of external finance for developing countries. Hence many countries even tilted the balance by offering special incentives to foreign enterprises, including lower income taxes or income tax holidays, import duty exemptions, and subsidies for infrastructure. FI is an important source of private capital for a developing country like Nepal. It is certainly the most important tool of globalisation.

Since the 1990, worldwide FI inflows continued their upward climb. Many developing and least developed countries are also actively seeking to take advantage of the global trend of flows of FI. It brings not only an expansion of the physical capital stock, but also technical innovation. Moreover, knowledge about production methods, management techniques, export markets and economic policies is available at very low cost, and it represents a highly valuable resource for developing countries.

Nepal has opened its doors to FI since the late 80s. Since the restoration of democratic system, a number of measures have been undertaken to liberalise trade, investment and financial system with the objective of stimulating industrial growth and private sector development. These measures covered such things as convertibility of the current account, reduction in import duties, enabling legislation for private investment in hydropower projects, privatisation of a number of state-owned enterprises, opening up of the commercial banking sector to foreign investors, and the introduction of numerous concessions for domestic and international investors. The government began carrying out policy and regulatory changes in industry, trade, finance and the stock exchange beginning in 1992.

Article 26(12) of the Constitution states, "The state shall, for the purpose of national development, pursue a policy of taking measures necessary for attraction of foreign capital and technology, while at the same time promoting indigenous investment". This is the first constitutional guarantee of the state's FI policy. The government also adopted several policies including industrial policy of 1992 and FI policy of 1992. Consequently the government introduced two major laws to promote FI — Foreign Investment and Technology Transfer Act (FITTA), 1992 and Industrial Enterprise Act, 1992. FITTA is an umbrella law for foreign investment, however it does not cover all the related aspects of FI. It has been enacted for attracting FI and technology transfer in Nepal. However, it is not a complete act to deal with FI.

According to section 2(b) of the Act, FI means investment made by a foreign investor in any industry. The actual meaning of FI is capital and technology by a non-citizen, and that capital and technology is used for commercial purposes. FI has been realised as an important element for the development of Nepal. In free market and economic liberalism, FI is considered a crucial factor for developing countries in achieving economic growth. There is no doubt that investment is the main basis of development and foreign investment is the developmental basis of cross-border areas.

The Industrial Policy of 1992 identifies FI promotion as an important strategy in achieving the objectives of increasing industrial production to meet the basic needs of the people, create maximum employment, increase the competitiveness of Nepali industries in international markets, increase productivity by mobilising internal resources and materials in productive sectors and by importing foreign capital, modern technology, management, technical skills, etc. In this context, the government is encouraging FI in Nepal by providing attractive incentives and facilities within a liberal and open policy.

However, FI is a diverse subject that is concerned with various other aspects such as labour, taxation, immigration, import and export and exchange regulation. According to Article 3(4), FITTA allows FI in every sector of economic activities in Nepal with certain exceptions. Apart from this, separate legal provisions are in practice for sectors like electricity, water resources, company, and petroleum. It will be better to enact an umbrella statute, which covers all the aspects of FI.

However, until the government cannot improve security situation, investors will not come to Nepal. Also, administrative delay should be removed. Visa issuing and dispute settlement mechanism should be strengthened in order to attract more FI. The main task is to harmonise various other laws like labour laws with FI and Technology Transfer Act. There is no doubt that Nepal has gone a long way in liberalising investment policy, but few reforms have taken in markets, in particular the labour market. The tax laws are also unstable in Nepal that create difficulties for foreign investors. In the past, some multinational companies switched to China because of complicated tax system in Nepal. Furthermore, unsound economic policies, ineffective political leadership, uncontrolled corruption are other problems, which are hurdles to FI.

Nepal needs a huge amount of investment and modern technology to speed up the pace of economic development but it needs labour law reform, stable income tax laws and security assurance to investors. We also have to remove blockades to attract FI.

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