



INTERNATIONAL
THINK TANK FOR
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**Bilateral Transit and Transportation
Agreements of LLDCs: Benefits and
Bottlenecks - Case India and Nepal**

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PREFACE

This Study has been prepared by Ms. Deepali Fernandes, international consultant, at the request of the International Think Tank for Landlocked Developing Countries (ITT for LLDCs) with a general view to analyze the trade and transport regimes of Mongolia and Nepal as LLDCs to understand common issues faced by both countries.

This study was sponsored by the Embassy of Austria. Itself a landlocked country, Austria supports landlocked developing countries through development cooperation and in international relations. Austria hosted the second United Nations Conference on Landlocked Developing Countries in 2014, which produced the Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014 – 2024. In October 2016, Austria convened a high-level seminar on “Accelerating Sustainable Energy for All in Landlocked Developing Countries through Innovative Partnerships”.

The key question the paper seeks to answer is what are the elements of the long-standing Nepal-India transit regime that Mongolia can learn from.

The report is structured as per the specification of the ITT for LLDCs in the following manner. Part I provides an overview of the Mongolian and Nepalese economies, an overview of their trade profiles in terms of key exports and imports and direction of trade. It also provides transport profiles for Mongolia and Nepal. Since both countries as LLDCs depend on land surface transport a deeper understanding of their road and rail networks is also set out. For Mongolia, there is an in-depth examination of the transit linkages with Mongolia’s key sectors of trade i.e. mining, dairy and cashmere. Part I concludes with a comparison of the trade and transport profiles of Mongolia and Nepal.

Part II of the report commences with an overview of the key international transit and trade agreements, relevant to Mongolia and Nepal as LLDCs. At the multilateral level this includes the provision of LLDC rights of sea access under the United Nations Convention on the Law of the Seas (“UNCLOS”), UN normative frameworks i.e. Almaty and Vienna Programs of Action and the international trade framework under the WTOs Trade Facilitation Agreement. It outlines relevant international transport conventions such as the Convention on International Transport of Goods Under Cover of TIR Carnets and other UN ECE serviced agreements. Part 2 also provides a snapshot of the transit and trade regime applicable to Mongolia and Nepal at the regional and bilateral level. Finally, Part 2 carries out a more in depth comparison of the Mongolia-China transit regime vis-à-vis the Nepal-India transit regime, specifically highlighting those areas under the Nepal-India transit regime which may be advantageous to Mongolia.

Part III of the report identifies problem areas in the Mongolia-China transit regime and the Nepal-India transit regime which has led to high transit costs for both LLDCs. Problem areas are generally classified as those arising from trade, infrastructure, institutional i.e. customs and administration, regionalism, lack of implementation of international agreements and port related issues. This section draws heavily on interviews with representatives from Mongolia, Nepal and India.

Part IV of the report provides recommendations for Mongolia’s consideration clustered under the same heads as the identified problems. A more in depth consideration is given to the WTOs Trade Facilitation Agreement, which could be a game changer for LLDCs such as Mongolia and Nepal. This part is based on the analysis of previous sections and consolidated by feedback from interviewees.

Methodology

Primary information was predominantly generated through (i) Interviews conducted with representatives from Mongolia, India, Nepal and several Geneva based international organizations including the WTO, UNCTAD, ITC and ICTSD. A full list of interviewees is contained in Annex 1 of this report. Stakeholders included public sector officials, private sector participants, development partners, academia and civil society organizations. (ii) Perusal of the original texts of the Mongolia-China and Nepal-India trade and transit agreements. (iii) Statistics database and research papers from the Bank of Mongolia, National Statistics Office of Mongolia, Nepal Rashtriya Bank, Reserve Bank of India, World Bank, WTO, UNCTAD, UN ESCAP, WEF amongst others. (iv) UNESCAP and the Asia Development Bank (“ADB”) were important sources of information given extensive and detailed studies carried out on various transit related issues in particular in the area of trade facilitation.

Secondary information was collected through existing studies and research papers of the World Bank, WTO, UNCTAD, UN ESCAP, WEF, ADB, UN regional commissions and academic papers. Private sector reports from Knight Frank, Oxford Business Group and civil society organizations such as CUTS India and SAWTEE Nepal were utilized. Another source of secondary information for on the ground and recent developments was websites and newspaper articles.

Scope and Limitations of the Report

The focus of the report has been on Mongolia’s trade and transport trajectory, given that Mongolia is the intended beneficiary of this report. The report is not intended to be an in-depth and comprehensive analysis of trade, transit, economic and regulatory issues pertaining to Mongolia and Nepal. It is intended to address these issues as they relate to the central question of the report, i.e. How can Mongolia benefit from the lessons of the Nepal-India trade and transit regime? This is because the trade and transit regime of the aforementioned countries is complex and changing. Analysis is based on material available online, provided by interviewees and the ITT for LLDCs. Allowance must be made for linguistic differences.

The cover page for this paper was designed by John Gehringer, a graphic designer and art director who has dedicated time and effort to collaborate with the ITT for LLDCs on this project through the United Nations Volunteer (UNV) Programme. This way we would like to thank John for the excellent design of the cover page.

International Think Tank for Landlocked Developing Countries

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Regina Asariotis, and Jan Hoffman, UNCTAD and Ratnakar Adhikari, Enhanced Integrated Framework, WTO provided specific insights at various points. Ronald J Fernandes and Rear Admiral Adarshpal Singh were generous in their time and views from the management consultancy and marine perspective respectively.

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LIST OF ABBREVIATIONS

ADB	Asia Development Bank
BIMSTEC	Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation
BITS	Bilateral Investment Treaties
EC	European Commission
EPA	Economic Partnership Agreement
EEC	Eurasian Economic Commission
EEU	Eurasian Economic Union
EU	European Union
FDI	Foreign direct investment
FTA	Free trade area
GATT	General Agreement on Tariffs and Trade
GATS	General Agreement on Trade in Service
GDP	Gross domestic product
GNI	Gross National Income
ICD	Inland Container Depot
ICT	Information and communication technology
IFI	International financial institution
IMF	International Monetary Fund
ITLLDC	International Think Tank for LLDCs
JV	Joint Venture
LDC	Least Developed Country
LLDC	Land Locked Developing Countries
MDG	Millennium Development Goals
MFN	Most favored nation
NTB	Non-tariff barrier
OBOR	One Belt One Road Initiative
ODA	Overseas Development Assistance
OECD	Organization for Economic Cooperation and Development
OHRLLS	Office of the High Representative for the Least Developed Countries, Land Locked Developing Countries and Small Island Developing States
PPP	Public-private partnership
RTA	Regional Trade Agreements
SAARC	South Asian Association for Regional Cooperation
SAFTA	South Asian Free-Trade Area Agreement
SME	Small and medium-sized enterprises
SEZ	Special Economic Zones
UN	United Nations
UN CPC	United Nations Central Product Classification
UNCTAD	United Nations Conference on Trade and Development
UN ECE	Economic Commission for Europe
UNDP	United Nations Development Program
WB	World Bank
WCO	World Customs Organization
WEF	World Economic Forum
WTO	World Trade Organization

EXECUTIVE SUMMARY

This study was commissioned by the International Think Tank for LLDCs / ITLLDC/ with a general view to analyze the trade and transport regimes of Mongolia and Nepal as LLDCs to understand common issues faced by both countries. The key question the paper seeks to answer is what are the elements of the long-standing Nepal-India transit regime that Mongolia can learn from.

Mongolia and Nepal are both LLDCs with very different economic, trade and development profiles. Despite their dissimilarities, as LLDCs they face in common high transport costs and similar transit related issues. Both countries have equal protection of the international legislative and normative framework. However a key challenge faced by both countries is actualizing “free access to the sea”. Nepal in particular, has a long-standing and highly integrated transit regime with India. Despite occasional issues, the transit regime has on the whole worked well. Mongolia can therefore consider applying some lessons of the Nepal-India Transit and Trade Regime to its own trade and transit relations. While the focus of this paper is to provide recommendations for Mongolia, it will do so by drawing on the Nepal-India trade and transit trajectory.

TABLE A: MONGOLIA’S TRADE AND TRANSIT SWOT ANALYSIS

STRENGTHS	WEAKNESSES
<ul style="list-style-type: none"> -Mineral resources -Strong projected economic growth -Good livestock and cashmere export possibilities -Trans Mongolian Railway -Strong transit logistics industry -Successful transport corridors incl. express container block train services -Good demographics and educated population 	<ul style="list-style-type: none"> -Landlocked, transit dependency on Russia and China -Vast land area with low population density -Need to raise human development -Poor accessibility from interiors to main transport corridors -Over dependency on trans-Siberian route -Reliance on Tianjin port for sea route
OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> -Potential export diversification -Potential transit diversification -Financing possibilities from IFI and national wealth -Land link between two large economies and two large continents -Potentially huge mineral resource exports -Economic powerhouses Russia and China as neighbors -Tax free privileges for Mongolia exports to EU (attracts foreign firms incl. Chinese firms to set up manufacturing bases in Mongolia) -Development of SEZs 	<ul style="list-style-type: none"> -New Euro Asia Highway if it does not include Mongolia may result in trade diversion to the south for land transport -Development of ports, mega carriers, containerization reduced appeal of land transport (sea transport)

Source: Authors construction

Nature of Mongolia and Nepal’s relation with their main transit partners China and India.

It is important to note that the Nepal-India relation despite occasional problems has been a long-standing and reasonably integrated regime. India is Nepal's largest trade and transit partner, source of foreign investment and tourists. The Nepalese currency is pegged to the Indian rupee and there are no

visa requirements for citizens of both countries.¹ The two countries are interlinked culturally, historically, religiously, and educationally. The India-Nepal trade and transit relation is therefore one of mutual interest. While Mongolia and China do have a shared history, which goes beyond their current trade and transit interests, it is currently not as expansive a regime.

Economic comparisons between Nepal and Mongolia

There is a disparity in the size of the Mongolian economy vis-à-vis the Nepalese economy. Mongolia is an upper middle-income, resource rich country with a per capita income which is more than 6 times higher than that of Nepal's. Nepal is a low income landlocked developing country. In fact Mongolia is ranked as the world's 4th richest country in terms of natural reserves. In terms of future potential, Citigroup places Mongolia in its list of top 11 countries to watch out for one with the most promising (per capita) growth prospects.²

The services sector is the leading sector for both the Mongolian and Nepali economies dominated largely by transport and travel related services. For Mongolia the industrial sector is the second most crucial component of GDP, whereas for Nepal it is the agricultural sector.

There is a considerable demographic disparity between Mongolia and Nepal. In 2014 Mongolia's population was 2.9 million Nepal's was 28.1 million. This demographic structure has implications for the labor force, poverty and development indicators of both countries. Mongolia for instance fares better on the UNDP Human Development Index (2014) with a ranking of 90 as compared to Nepal's ranking of 145.

What does Mongolia's trade profile look like when compared to Nepal's?

Despite economic differences as LLDCs, Mongolia and Nepal, display certain common features. Both countries suffer from high transport costs arising from their landlocked status. Both countries exhibit a high level of trade dependence on their main transit neighbor China and India respectively.

Nepal's exports to India are typically that of a labor-intensive LDC such as textiles, zinc sheet, thread, yarn etc. Nepal's imports are largely petroleum, machinery and vehicles. Mongolia's dependence on mineral exports --- coal, copper, gold, uranium, other high value minerals---on the other hand are typically that of a primary commodity dependent economy. Other key Mongolian exports are cashmere and meat.

Nepal's key trade partners are mainly India and to a lesser extent China. In 2010 India accounted for 65% of Nepalese exports and 57% of Nepalese imports. However, these shares underestimate real trade flows, as informal trade between Nepal and India is high.³ Mongolian mineral exports find a ready market in China's growing economy, which absorbs 90% of Mongolia's mostly mineral exports. Mongolia also exports fluorspar to Russia and Ukraine, gold to Canada and meat products to Russia.⁴ In terms of imports, China supplies Mongolia with more than one-third of its imports. Both economies lack the production of value added exports. For instance Mongolia's minerals and cashmere, which are largely exported, unprocessed to China.

¹ See also Thapa Ranjit Major, Nepal's Strategic Future: Following India, or China or Middle Road, Thesis presented to the Faculty of the U.S. Army Command and General Staff College 10, December 2010.

² 3G stands for Global Growth Generators, a concept set out by Buiter Willem, Citi. Mongolia is identified as part of a group of 11 countries including Bangladesh, China, Egypt, India, Indonesia, Iraq, Mongolia, Nigeria, Philippines, Sri Lanka and Vietnam.

³ Interviews with Indian Chamber of Commerce, Delhi, India, February 2016

⁴ WTO Trade Policy Review for Mongolia, WT/TPR/S/297, 15 April 2014

Mongolia and Nepal show an increasing trade trend with their main transit partner. Mongolia's high trade dependency on China makes it susceptible to external shocks such as changes in commodity prices and demand in China. Nepal's exports on the other hand tend to be competitive with that of India's. This highlights the need for both countries to diversify its trade partners and export basket.

Third country exports are not very well developed for either LLDC, although Nepal tends to have a larger number of 3rd country trade partners including the US, EU, UAE and more recently Bangladesh and Bhutan. The limited number of trade partners, reflect a lack of integration into global supply chains. In fact Mongolia, unlike Nepal is not a member of regional trade groupings.

What does Mongolia's transport profile look alike as compared to Nepal?

Both Mongolia and Nepal are LLDCs, bordered by economic heavyweights, China and Russia in the case of Mongolia and India and China in the case of Nepal. Existing transport links are concentrated with their main transit partners.

Nepal is equally dependent on mainly road (nearly 17,282 kms of main and rural roads) and rail transport. A small track of rail between Nepal and India is crucial for Nepal's trade with India and third countries. For Mongolia on the other hand the railways, which cover 1815 kms in total, are a key form of transport. Mongolia also has an extensive roadway network. However only a small proportion of these roadways are paved. Both LLDCs are dependent on air transport.

Transport links with Mongolia and Nepal's main transit partners, are better developed as compared to transport links with their secondary transit partners i.e. Russia in the case of Mongolia and China in the case of Nepal. Generally these road/rail related transport corridors lead to exit ports. Mongolia's main transit trade corridor follows the route Ulaanbaatar (Mongolia) Zamiin-Uud (Mongolia)-Erenhot (China)-Tianjin Port (China). In the case of Nepal the key transport corridor is Kathmandu (Nepal)-Birgunj dry port (Nepal)-Raxaul ICD (India)-Kolkata/or Haldia ports.

Both Mongolia and Nepal have high transport costs and long periods for transportation. On an average, Nepal takes 40 days to export a container, requiring 11 documentary formalities to be completed and costing USD 2545 per container. Mongolia on the other hand takes 44 days to export a container, requiring 11 documentary formalities to be completed and costing USD 2745 per container. A more in depth breakup of the time taken and costs involved indicates that the most amount of time and expenses is spent on preparation of trade documents, inland transportation and ports/terminal handling. Thus both Mongolia and Nepal follow a similar pattern in terms of transport costs, time taken and documentary requirements.

In terms of functioning of the logistics sector, both Mongolia and Nepal do not score very high on the World Banks logistics performance index ranking of 135 and 105 respectively in 2014. For the same period their transit counterpart China and India had an LPI index ranking of 28 and 54 respectively. This indicates substantial grounds for improvement and harmonization of logistics services and systems for Mongolia and Nepal and their main transit partners.

What do trade and transit related regulatory regimes of Mongolia and Nepal cover?

The international normative and legal frameworks influence Mongolia and Nepal's domestic regulatory regime. In the Almaty (2003) and Vienna (2014) programs of action, the international community recognizes LLDCs specific development, trade and transit handicaps.

While several international conventions apply to both Mongolia and Nepal⁵, UNCLOS is the key convention in terms of protection of LLDCs right of sea access. While UNCLOS protects LLDCs right of sea access, this right appears to be subject to certain conditions. These conditions are (a) negotiated transit agreements with their transit neighbor (Article 125 (2) (b) preservation of the legitimate interest of the transit state Article 125(3) i.e. LLDCs sea access should not contravene the transit states legitimate interests. The definition of “legitimate interest” is unclear. Thus maintaining good relations with transit countries is key for Mongolia and Nepal.

At the multilateral level, the WTOs Trade Facilitation Agreement will be turning point in for LLDCs as WTO members will negotiate transit related concessions. Further, LLDC will for the first time have access to the WTOs institutional mechanism for the purposes of monitoring and voicing transit related trade issues. These issues as set out in the WTO’s TFA by and large relate to issues of simplification, harmonization and standardization of transit and trade regulation. Compared to Mongolia, China has a sophisticated transit and customs regime largely as an outcome of large-scale trade operations. This would provide Mongolia with an opportunity to scale up its own trade facilitation measures.

Mongolia is also a signatory to several UN transport agreements, as is China. This leaves substantial leeway for Mongolia and China to establish a common acceptance of beneficial international conventions that the other party is already a member of.

At the bilateral trade level, both Mongolia and Nepal’s key trade agreements tend to include their main transit partners, China and Russia. However, in terms of their approach to bilateral and regional trade agreements, Mongolia and Nepal differ substantially. Mongolia is currently not a member of any RTA. This may change with the ongoing trend towards greater regional trade and transit integration in Central Asia e.g. China’s new Silk Road project and Russia’s Customs Union. Nepal on the other hand plays an active role in RTAs in the context of SAARC, SAFTA and BIMSTEC.

What does Mongolia’s and Nepal’s Regional and Bilateral Trade and Transit Regime look like?

Mongolia has concluded several transit (rail and road) agreements with China, Russia and several Central Asian countries. Negotiations on a Trilateral Transit Traffic Agreement (Mongolia, China and Russia) are also ongoing. The multimodal transit agreement aims to facilitate transit trade by filling the gaps in international trade and transit agreements to which the three countries are already parties.

Since the first India-Nepal Treaty of Peace and Friendship was signed in 1950,⁶ the Nepal-India trade and transit regime has progressively evolved. Newer issues and concerns are discussed in successive rounds of negotiation. Current discussions include the possibility of Nepal’s additional sea access to India’s Vishakapatnam port and the signing of the Bangladesh-Bhutan-India-Nepal (“BBIN”) Motor Vehicles Agreement for passenger vehicles.⁷

What can Mongolia learn from Nepal’s trade and transit regime? A Comparison of Mongolia-China and Nepal-India Transit Agreements

A comparison of the Nepal-India Transit regime and the Mongolia-China Transit agreement (2014) indicates several areas of including the grant of freedom of transit, specification of designated ports

⁵ Other international agreements include the TIR Convention, WCOs Revised Kyoto Convention and on the trade front GATT.

⁶ For a more extensive history of the number and kind of agreements Nepal and India have signed since the 1950s, please refer to Table 19

⁷ Indian Ministry of External Affairs, February, 2012, <http://mea.gov.in/Portal/ForeignRelation/Nepal-February-2012.pdf>

(Mongolia-China transit regime identifies 7 ports, Nepal-India transit regime identifies 2) and transit routes (India-Nepal transit regime identifies 27 trade points and 15 transit routes), safety and security coverage, taxes and transit charges, provisions for dispute settlement and renewal of the agreements.

However, a comparison of the two agreements also reveals differences in approach. The India-Nepal Transit agreements is highly prescriptive, details specific actions to be taken by individuals, procedures to be followed, specific road and rail routes, vehicle specifications etc. The Mongolia-China transit regime approach on the other hand is more generic, setting out general principles. Both approaches have plus and negative points. The India-Nepal transit agreements has been criticized for being too detailed, at times differing from national law and on the ground practices. The Mongolia-China transit agreements can be said to be too brief lacking certainty and not reflective of on the ground practices.

Within the context of the India-Nepal trade and transit regime, India provides Nepalese goods with preferential treatment as for instance allowing Nepal to levy duties or quantitative restrictions for development reasons, providing for 3rd country access to Bangladesh,⁸ leaving the choice of transport operator for cargo transiting by road or sea to be determined by Nepal. The Nepal-India transit agreement sets out a list of sensitive goods, which benefit from usage of specific transport corridors and are required to conform to specified customs and packaging formalities.

India and Nepal accord each other unconditional MFN treatment; exempt imports of certain primary products from customs duties and quantitative restrictions on a reciprocal basis. Several of these products form part of Nepal's export basket profile. India grants (non-reciprocal) preferential treatment to almost all industrial products manufactured in Nepal in order to promote the industrial development of Nepal.⁹ Thus it can be said the Nepal-India Trade Treaty facilitates Nepalese exports in some manner.

At the institutional level, it appears there is a large degree of engagement and co-ordination between Nepalese and Indian officials both at the policy level and on the ground levels. For instance, at the level of customs officials, a Nepalese customs officer sits at Kolkata/Haldia ports. At the policy level Nepal-India institutional committee's meet regularly to discuss future progress.

While in general the Nepal-India trade and transit regime has been a mutually beneficial arrangement for both countries. It has had its fair share of problems, the most recent one linked to the 2015 "blockade of goods" to Nepal.¹⁰ Other problems relate to lengthy customs clearance procedures, lack of clarity on sensitive list items and dependence on Indian transport and financial service providers.

What are the common trade and transit related problems faced by Mongolia?

As with most LLDCs, Mongolia and Nepal face higher transport costs as compared to their maritime neighbors. The high transport costs in Mongolia and Nepal are broadly linked to (1) trade related dynamics arising from landlockedness (2) use of transit infrastructure of their main transit partner China and India respectively (3) administrative processes for goods in transit.¹¹

Mongolia and Nepal's geographic remoteness results in *higher transport costs with several trade impacts*. To begin with there is a low volume of sea borne and third country trade, owing to high

⁸ Interviews conducted with Nepalese stakeholders, November 2015

⁹ Under Article V of the Treaty of Trade however some exceptions prevail, these include vegetable fats, acrylic yarn, zinc oxide, and copper products WTO Trade Policy Review for Nepal, WT/TPR/S/257, 21 December 2011

¹⁰ Interviews with Ministry of Transport, Delhi, India, February 2016, Interviews conducted representatives from Nepal, November, 2015

¹¹ For a clear picture of factors that affect the trade and transit dynamics see Faye Michael, McArthur John, Sachs Jeffrey, Snow Thomas, The Challenges Facing Landlocked Developing Countries, Journal of Human Development, Vol. 5, No. 1, March 2004

transport costs. Consequently, both Mongolia and Nepal are heavily dependent on their main transit partner.¹² Second, there is an imbalance of trade. In the case of Nepal for instance reliable traffic is almost entirely one-sided—from India to Nepal.¹³ Third, there is a gap between existing and future trade developments and corresponding transport capacity. Finally, private sector in both countries lacks the capacity to service transport needs efficiently.

Mongolia and Nepal suffer from transport infrastructure issues such as *insufficiency and inefficiencies of transport infrastructure*. In the case of Mongolia there is a need to construct adequate railway lines to service the mineral-rich South Gobi belt of the country.¹⁴ Asymmetries in cross border transit infrastructure create bottlenecks along the Mongolia-China border raising transport costs. E.g. Asymmetries in transit infrastructure at border cities of Zamiin-Uud (Mongolia) and Erenhot (China). Further at the border, both Mongolia and Nepal are faced with transshipment requirements and a lack of transshipment specific infrastructure, causing delays, costs and losses owing to damage/destruction/theft of goods.

LLDCs such as Mongolia and Nepal are subject to *administrative burdens*,¹⁵ associated with border crossings.¹⁶ This is borne out by the findings of a UN ESCAP study of trade facilitation and paperless trade implementation which ranked Mongolia and Nepal with a low score of 17 and 18 respectively, whereas China had a higher score of 32-33¹⁷. Specific areas that Mongolia and Nepal appear to have scored low include (a) implementation of trade facilitation measures including transparency measures e.g. Website publication, advance publication/notification of regulation (b) implementation of improved “formalities” e.g. pre-arrival processing, acceptance of paper/electronic copies. The gap between trade facilitation measures implemented by China as compared to Mongolia and Nepal is probably due to China’s greater integration into global supply chains. The existing gap provides an opportunity for cooperation on trade facilitation measures by both sides.

Ease and efficiency of seaport access is essential to both LLDCs, as 70% of Mongolia’s trade passes through Tianjin (China) and nearly all of Nepal’s trade passes through Kolkata/ Haldia ports (India). Mongolia and Nepal’s main port access barriers are largely administrative arising from complicated and time-consuming procedures. Both ports are also congested and have inherent localized problems.¹⁸

¹² Interview conducted with international trade expert, Geneva, November, 2015

¹³ National Transport Development Policy Committee, “Promoting International Transport Connectivity between India and the South and South East Asia regions,” India Transport Report: Moving India to 2032, Government of India, New Delhi, 2014.

¹⁴ Interviews conducted with Mongolian stakeholders, Ulaanbaatar, October 26-31, 2015

¹⁵ For a detailed analysis of national implementation of trade facilitation measures, please see Part 3 of this Report.

¹⁶ Faye Micheal, McArthur John, Sachs Jeffrey, Snow Thomas, The Challenges Facing Landlocked Developing Countries, Journal of Human Development, Vol. 5, No. 1, March 2004

¹⁷ A higher score indicated a higher level of implementation.

¹⁸ Taneja, Bimal, Dalal, Nepal’s Transit through India: An Assessment, Economic & Political Weekly, Volume No 45, November 7, 2015

TABLE B: COMPARISON OF REPORT'S RECOMMENDATIONS FOR MONGOLIA AND THEIR IMPLEMENTATION IN MONGOLIA AND NEPAL

RECOMMENDATION	MONGOLIA-CHINA	NEPAL-INDIA
Political Considerations		
Good political relations with transit partners incl. political neutrality and predictable investment environment	Yes, with China and Russia	Yes, with India and increasingly China
Climate Change Impact monitoring	Increasingly	Unclear
Trade Considerations		
Trade related e.g. Diversify and increase exports and trade partners	Plans to do so	Currently, more diversified trade partner composition as compared to Mongolia
Diversify transit routes	Work in progress, currently via Russia, China	Yes via China, Bangladesh, ambitious regional plans
Move towards alternate modes of transport	Yes, focusing more on air and rail transport	Deepening existing modes of transport
Act as a transit country	Yes, ambitious plans	Not as of now
Allow each other's carriers into national territory	Mongolia allows Chinese trucks, not vice versa	Yes, Nepal trucks allowed up to 3 months, Indian trucks to return in 72 hours
Participation of private sector	Unclear	Active Indo-Nepal business interactions
Infrastructure Considerations		
Infrastructure development	Yes rail and road in particular	Yes road in particular
Build Transport Corridors	To some extent, envisaged in revised transport policy	Yes clearly delineated transport corridors and trade routes in national transport policies of both India and Nepal. 27 Trade routes and 15 transport corridors
Develop transit/trade/logistics hubs with facilities e.g. Custom's warehouse, terminal storage zones storage, grouping etc.	Key logistics center at Zamiin-Uud, also Ulaanbaatar, others under consideration and expansion	Success of Birgunj dry port being replicated at 3 other dry ports. Several Other dry port/SEZ possibilities under consideration
Presence of SEZs	Yes, limited development	No, plans to develop
Sufficient transport equipment	No	No
Institutional Considerations		
Improve and harmonize customs formalities	currently burdensome, plans for improvement including electronic documents	Currently burdensome but progressive discussions with transit partners, already implemented ASYCUDA.
Joint border management	Yes pilot projects	Yes, aim to expand further
Deal with Port congestion	Needs to be addressed	Measures under consideration
Port Related		
Other port related issues	Chinese freight forwarders given preferential access at	Insufficient channel depth, labor problems, lack of container yard

	times		
Port presence of customs/consulate officials	No		Yes
Consider access to alternate ports	Yes, negotiated access, implementation ongoing		Yes, negotiated outcome, 3 rd country port access permitted
Legal Frameworks			
Incorporate international agreements in bilateral transit agreements	No		No
Participation in WTOs TFA and Category A notifications	Yes, commitments under Category A	limited under	Yes, limited commitments under Category A
Law on multimodal transport	No		No
Regional Cooperation (both Transit and Trade)	No		Yes, for trade and transport, E.g. SAARC, BIMSTEC
Mongolia –China bilateral considerations			
Consider usage of alternate ports based on comprehensive assessment of distance, congestion, facilities, physical structure, incentives, license terms, rail/road infrastructure	Access to nearly 7 additional Chinese ports other than Tianjin since 2014, assessment of best routes underway		Considered analysis leading to request for usage of India's Vishakhapatnam and JNPT ports, as well as Bangladesh's Chittagong port
Allow each other's Carriers into national territory	Potential consideration	for	Permitted subject to conditions, preferential condition for Nepal
Others			
Dissemination of information to private sector	Not very good		Yes, chambers of commerce, embassies/consulates, websites
Assessments	None		Conducted through intensive joint committee discussions at government and business level to address further needs of both countries as well as areas of concern
Institutional measures for resolving issues and disputes	unclear		Yes regular meetings of joint committee at policy level, bilateral on the ground interfaces E.g. Consular/custom port presence of Nepal customs at Indian ports
Establishment of research think tank to provide customized research and advice	Possibility to use the ITT for LLDCs		Possibility to use the ITT for LLDCs

Source: Author based on earlier analysis

Mongolia's lack of participation in regional and global supply chains could hamper Mongolia's trade and transit progression. Currently in the Greater Tumen Region, regional transportation problems and burdensome border procedures were identified as amongst the top 3 worst market access barriers.¹⁹ As a result the cost of regional transportation is higher for trading within the Greater Tumen region than outside.

¹⁹ Adhikari Ratnakar, Greater Tumen Initiative Trade Facilitation Study, July 2015

What are the Recommendations that Mongolia can consider going forward?

Based on the analysis conducted, interviews with stakeholders in Mongolia, Nepal and India, the Report makes certain recommendations, which are broadly categorized as political, trade, infrastructure, institutional and international frameworks related. The recommendations for Mongolia outlined briefly in Table 23 are compared with developments in the Nepal-India transit regime. Following Table 23 are specific recommendations for Mongolia.

Specific Recommendations for Mongolia

On the political environment front:

- Maintain good political relations with transit and trade neighbors. This includes a mutually beneficial relationship with China, creating a predictable legal environment for investment and infrastructure development and monitoring climate change developments and their potential impact on Mongolia.

On the trade front:

- Diversify exports in terms of volume and value addition in existing sectors of export competence. For mineral exports create value addition by feeding in outputs of one industry into another. In terms of shipping export potential, Mongolia could strengthen its activities of ship registration and training of ship crew by expanding cooperation with partners such as South Korea.²⁰
- Diversify trade partners within the region/globally by concluding FTAs on preferential terms and negotiating with transit countries on tariffs for transit goods.²¹
- Mongolia as a transit country: Mongolia can benefit from charging transit fees, in the same manner that Switzerland has. Mongolia can act as a transit hub for traffic in the North-South i.e. Russia-China and East-West i.e. China-Europe context. As a transit hub, Mongolia is likely to enjoy greater regional and global trade integration; larger export volumes and better logistics/passenger connectivity. Specific steps Mongolia can take include (a) Identifying specific transport corridors for development e.g. along the Trans-Siberian railway, Mongolian vector route and China's OBOR initiative. (b) Removal of disruptive factors impeding transit goods e.g. Customs/security clearance (c) Simplify regulation applicable to carriage of goods within Mongolia. (d) Incentivize transit traffic through lower tariff discounts for transit freight.

On the infrastructure front:

- Build Mongolia's transport and transit policy and infrastructure links to meet future trade plans including the development of internal road/rail networks, specialized transport vehicles and vehicles for sector needs.²²
- Develop specific transport corridors (bilateral or regional) with transit countries oriented towards trade movement. These transport corridors should be backed by treaty obligations with Mongolia's transit partners. Currently, Mongolia's Road Transport Plan intends to connect the country by road and rail from North to South and East to West opening up key transport corridors.²³
- Invest in greater containerization of transported goods, establish border equipment to reduce cost of

²⁰ Interviews conducted with Mongolian Maritime Administration, Ulaanbaatar, Mongolia, October 26-31, 2015

²¹ Interviews with Ministry of Industry, Ministry of Mining, Mongolian Maritime Administration, Ministry of Road and Transportation, Ulaanbaatar, Mongolia, October 26-31, 2015

²² Interview conducted with Mongolia, Ministry of Mining, Ulaanbaatar, October 23-30, 2015

²³ Interview with Ministry of Foreign Affairs, Ulaanbaatar, October 23-30, 2015

transshipment.²⁴

- Consider financing possibilities with bilateral transit partners, multilateral financing institutions, private sector Aid for Trade and Trade facilitation context
- Establish/develop trade, logistics hubs at key border with China/Russia or key transit hubs e.g. Ulaanbaatar.²⁵ In this respect, Nepal's Birgunj dry port is widely acknowledged as having a positive impact on trade and transit facilitation, between India and Nepal.²⁶
- Develop cross border and value added SEZs which mirror bilateral trade flows with Russia and China. Value added SEZs would involve several industries feeding into each other located in the same geographical area resulting in common infrastructure development and economies of scale.²⁷

On the institutions front:

- Move towards single window clearances and automation of trade procedures
- Harmonize documentary requirements and opening days/hours across countries
- Enhance performance of Mongolian border agencies and joint border cooperation

On the Legislation front:

- Based on domestic needs Implement international transit conventions such as TIR Convention, WCO's Revised Kyoto Convention
- The WTOs TFA is likely to be a game changer by providing an opportunity and common reference point for simplification/harmonization of trade related formalities as well as institutional enforcement mechanism. Match commitments under the WTOs TFA with Mongolia's bilateral/regional transit and trade negotiations. Specific areas to consider are Transparency, improved formalities and paperless cross border trade
- Multimodal legislation: Given trade and transit developments in the region, including China's OBOR initiative and Mongolia's transit hub aspirations, establish national/regional legislation on multimodal transport. UNCTAD's Tripartite multimodal negotiation between China, Russia and Mongolia could be a useful starting point.

On the Regional Cooperation front:

- Consider participation in regional arrangement which provide for (i) transport related infrastructure (ii) harmonization of customs and logistics related processes.
- Anchor transit/trade facilitation provisions within larger regional/bilateral trade agreements.

On the Mongolia-China bilateral relationship

Activate alternate ports beyond Tianjin (China): Recently signed Mongolia-China transit agreements (2014) provide access to several ports including Dandong, Dalian, and Qingdao.²⁸ Based on criteria such as distance, levels of congestion, trade flows, licenses and conditions to operate, physical benefits and drawbacks Mongolia should evaluate port options. Based on this analysis, Mongolia should establish a transport corridor focusing on infrastructural and customs facilitation.²⁹ Beyond

²⁴ Interview conducted with international trade organization, Geneva, November, 2015

²⁵ Interviews conducted with freight forwarding companies, Ulaanbaatar, Mongolia, October 23-30, 2015

²⁶ Interviews conducted with Nepal stakeholders November 2016 and Interviews conducted with Department of Commerce and Ministry of Transport, Delhi, India, February 2016.

²⁷ Interview conducted with Mongolia Ministry of Mining, Ulaanbaatar, 23-30th October, 2015

²⁸ Mongolia has identified and negotiated for several ports beyond Tianjin including Dandong – 1642 kms, Dalian – 1564 kms and Qingdao – 1702 kms. With Russia, Mongolia has explored the possibility of using the Vladivostok port.

²⁹ Interview conducted with international trade organization, Geneva, November, 2015

Kolkata/Haldia ports, Nepal for instance has secured access to Chittagong port (Bangladesh) and is negotiating access to Vishakhapatnam (India).

Allow Mongolian carriers into Chinese territory: Mongolia should bilaterally negotiate for goods in transit by road to be transported by Mongolian carriers within Chinese territory. India and Nepal allows each other's trucks to enter their respective territories for a limited period of time. This is likely to become even more permissive with the conclusion of the BBIM Motor Vehicles Agreement.³⁰

Underpin bilateral transit treaties with reference to international transport and trade treaties such as the WTO, whose core principles of free trade in transport services, smooth movement of people, vehicles and goods across frontiers and application of MFN and national treatment standards will benefit carriers.³¹

Convey Text of Mongolia-China transport agreements to their intended users.³² Use of bilingual website would be useful.

Institutional measures: The relative success of Nepal-India transit arrangements can be attributed to an ongoing institutional and consultative structure. Nepal's ministries of commerce, transport and in particular foreign affairs (India based Embassy/Consulates) follow up actively on the implementation of the Nepal-India Transit agreement³³ Mongolia could adapt similar measures such as (a) for the purpose of custom clearance base customs officials of transit countries (China, Russia) in Mongolia and vice versa.³⁴ (b) Establish strong high-level institutional mechanism to discuss policy level changes on a regular basis. Nepal has effectively established an ongoing institutional dialogue with India, to progressively advance its transit regime and address problems.³⁵

Facilitation at Ports: Simplify administrative regulations at Ports for e.g. usage of the single lock arrangement with China, much like India's single lock arrangement with Bhutan. Alternatively, setting up an electronic tracking system as is currently utilized in the EU, a possibility India is considering as well.³⁶

On Monitoring and Assessment: Develop Monitoring and Assessment through institutional collaboration. The Nepal-India transit regime's regular interface provides a forum to resolve issues of concern for both sides. In fact in the recent round of discussions, Nepal requested access to Vishakhapatnam port and India raised issues of security; counterfeit goods and entry of 3rd country goods. This assessment should be based on a set of clearly defined indicators as is suggested by the Vienna PoA.

On the role of the private sector: Private sector involvement through regular consultations while devising national transport policies and in negotiations of bilateral/regional/multilateral transit agreements is important.

On Customized Research on Mongolia's Trade and Transit issues: Mongolia should set up a think-tank to address holistically Mongolian transit and trade policy. The International Think Tank for LLDCs can play a key role in providing tailor made research and advisory inputs for LLDCs such as Mongolia. ITLLDC can also provide the institutional basis to form an advocacy group for LLDCs issues in the transit and trade sphere. Formulating performance indicators for implementation of transit agreements including the WTO's TFA would be a useful first step in this direction.

³⁰ Interview conducted with Ministry of Transport, Delhi, India, February, 2016

³¹ Kunaka, Tanase, Latrille, Krausz, Quantitative Analysis of Road Transport Agreement (QuARTA) World Bank Study, 2013

³² Interviews conducted with freight forwarding companies, Ulaanbaatar, Mongolia, October 23-30, 2015

³³ Interview conducted with representative from Embassy of Nepal, Delhi, India, February 2016

³⁴ Interview conducted WTO, Geneva, November, 2015

³⁵ Interview with representative from Nepal Ministry of Commerce and Supplies, November 2015

³⁶ Interview conducted with Ministry of Transport, Delhi, India, February, 2016

PART I TRADE AND TRANSPORT PROFILE OF MONGOLIA AND NEPAL

A. Mongolia Trade Profile

(i) Economic Overview

TABLE 1: OVERVIEW OF MONGOLIA'S KEY ECONOMIC INDICATORS

Income category	Upper middle income
GDP (current US\$) 2014	12.02 billion
Real GDP growth (by %) 2014	7.8
GDP Composition per sector (by %) 2014	Agriculture: 12.2 Industry: 35 Services: 52.8
GNI per capita (current USD) 2014	4,280
UNDP HDI 2014	90
Population (in millions), 2014	2.9
Ease of Doing business rank 2014³⁷	70

Source: World Bank, CIA Factbook, UNDP

The World Bank classifies Mongolia as an upper middle-income country with a GDP of USD 12.02 billion in 2014. In terms of GDP composition per sector, as Table 1 indicates, the services sector accounts for 52.8% of GDP, generally composed of wholesale and retail trade and service, transportation and storage, and real estate activities. The industrial sector, which accounts for 35% of GDP, is dominated by the development of extensive mineral deposits of copper, coal, molybdenum, tin, tungsten, and gold. 12.2% of Mongolia's GDP composition accrues to the agriculture sector, which accounts for, one-third of employment.³⁸

Mongolia's main exports are mineral products (mainly to China) and to a lesser extent, cashmere and meat products. As a landlocked country, located between economic heavyweights China and Russia, transit considerations and its dependency on China in particular have made transport issues a key area for Mongolia.

In terms of future growth, Mongolia is identified as part of the 3G Group³⁹, which is a group of countries with the most promising (per capita) growth prospects. Over the next five years, Mongolia is expected to grow at double-digit rates, driven by resource extraction.⁴⁰

Despite a bright future and a fairly high GNI per capita (USD 4280 in 2014), Mongolia is faced with several economic and development issues. For one, as with any resource-dependent nation, Mongolia faces boom-and-bust cycles. It has to deal with fluctuating growth rates, ranging from -1.3% in 2009 to 17.3% in 2011.⁴¹ Second, Mongolia's mineral deposit explorations require substantial financial and technological inputs, making foreign investment essential. However Mongolia has faced certain problems. In 2013, for example, investor confidence in the mining

³⁷ The doing business rank covers presents the Ease of Doing Business rank (out of 189 economies) is a composite of indicators such as starting a business, construction permits, getting electricity, registering properties, getting credit, protecting minority investors, paying taxes, trading across borders, insolvency resolution.

³⁸ WTO Trade Policy Review for Mongolia, WT/TPR/S/297, 15 April 2014

³⁹ 3G stands for Global Growth Generators, a concept set out by Buitter Willem, Citi. Mongolia is identified as part of a group of 11 countries including Bangladesh, China, Egypt, India, Indonesia, Iraq, Mongolia, Nigeria, Philippines, Sri Lanka and Vietnam.

⁴⁰ Weisenthal Joe, Forget the BRICS: Citi's Willem Buitter Presents The 11 "3G" Countries That Will Win The Future, Feb. 22, 2011. See Also <http://www.businessinsider.com/willem-buitter-3g-countries-2011-2?op=1&IR=T>

⁴¹ Oxford Business Group Report, 2015

sector was shaken, owing to disputes with Rio Tinto over phase two of the Oyu Tolgoi copper and gold mine. Consequently, the Mongolian government revised investment related legislation in 2013.

Third, Mongolia is faced by certain development issues, in particular those relating to environment pollution and poverty, which has led to Mongolia's low rank of 90 on the UNDP's HDI in 2014. In fact in 2011, 29.8% of Mongolia's population was estimated to be below the poverty line.⁴² In order to address development issues in the country, the government hopes to catalyze foreign investment in mining, petroleum and infrastructure to jump-start the next phase of development.⁴³

(ii) Mongolia's Trade Snapshot Table 2.

TABLE 2: MONGOLIA'S TRADE SNAPSHOT		
	Commodities Traded	Trade Partners (2016)
Exports	Copper, apparel, livestock, animal products, cashmere, wool, hides, fluorspar, other nonferrous metals, uranium, coal, crude oil	China 78%
Imports	Machinery and equipment, fuel, cars, food products, industrial consumer goods, chemicals, building materials, cigarettes and tobacco, appliances, soap and detergent	China - 32%, Russia - 29%, Japan-9%, South Korea-6%

Mongolia's exports remain heavily concentrated in a few items; of which mineral related exports account for some 84% of total exports, primarily coal and copper as well as iron ore, but also high value, low weight mineral exports such as gold, fluorspar, rare earths, and uranium. As Table 3 indicates ores, slag and ash make up 41.26% of Mongolia's total exports, followed by mineral fuels, oils which make up 38.65%, metals and precious stones such as gold, silver, zinc make up 7.26%. Mongolia also exports cashmere, animal hair and wool apparel, which make up 6.05% of Mongolia's total exports as well as meat products. Exports of coal and copper are expected to go up significantly largely owing to demand from China and ongoing explorations.

In terms of imports, Mongolia's largest imports are mineral fuels, which make up 25.65% of total imports, followed by machinery such as transport/mining equipment (15.12%) and vehicles (13.01%).⁴⁴ Mongolia has a trade deficit for agricultural products, as imports of processed agricultural and consumer products (e.g. sugar, candy, and beverages) have increased considerably.⁴⁵

⁴² CIA Factbook, Mongolia Profile, accessed 15 December 2015

⁴³ Oxford Business Group Report, 2015

⁴⁴ WTO Trade Policy Review for Mongolia, WT/TPR/S/297, 15 April 2014

⁴⁵ WTO Trade Policy Review for Mongolia, WT/TPR/S/297, 15 April 2014

TABLE 3: MONGOLIA PROFILE OF TOP 5 TRADED PRODUCTS (HS)

Industry	Value of Exports (USD)	of Exports as a share of total exports (%)	Value of Imports	Imports as a share of total imports(%)
Ores, slag and ash (HS 26)	1,761,243	41.26		
Mineral fuels, oils, distillation products, etc. (HS 27)	1,650,007	38.65	1,630,620	25.65
Pearls, precious stones, metals, coins, etc. (HS 71)	309,911	7.26		
Wool, animal hair, horsehair yarn and fabric thereof (HS 51)	258,121	6.05		
Salt, sulphur, earth, stone, plaster, lime and cement (HS 25)	84,215	1.97		
Boilers, machinery; nuclear reactors, etc. (HS 84)			961,301	15.12
Vehicles other than railway, tramway (HS 87)			827,080	13.01
Electric and Electronic Equipment(HS 85)			433,993	6.83
Articles of Iron and Steel (HS 73)			292,215	4.6

Source: ITC Trade Map

Mongolia's Trade partners

China is Mongolia's single most important trade partner. During the most recent bilateral meeting in 2014, the two governments pledged to raise bilateral trade to \$10bn by 2020.⁴⁶ Mongolia's dependence on China also makes it susceptible to external shocks such as changes in commodity prices and demand in China, highlighting the need for Mongolia to diversify its trade partners and export basket.

In terms of exports, China takes up over 90% of Mongolia's mostly mineral exports. Mongolia also exports fluorspar to Russia and Ukraine, gold to Canada and meat products to Russia.⁴⁷ In terms of imports, China supplies Mongolia with more than one-third of its imports. Mongolia also relies on Russia for energy supplies, purchasing nearly 90% of its gasoline and diesel fuel from Russia in 2014.⁴⁸ In value terms, Mongolia has a trade deficit for oil products⁴⁹ Over a period of time the shares of Russia and China in Mongolia's imports have declined, while the shares of the EU, the US, Japan and South Korea increased.⁵⁰

⁴⁶ Oxford Business Group, Mongolia lays tracks to boost Trade, Economic News Update, 26, September 2014

⁴⁷ WTO Trade Policy Review for Mongolia, WT/TPR/S/297, 15 April 2014

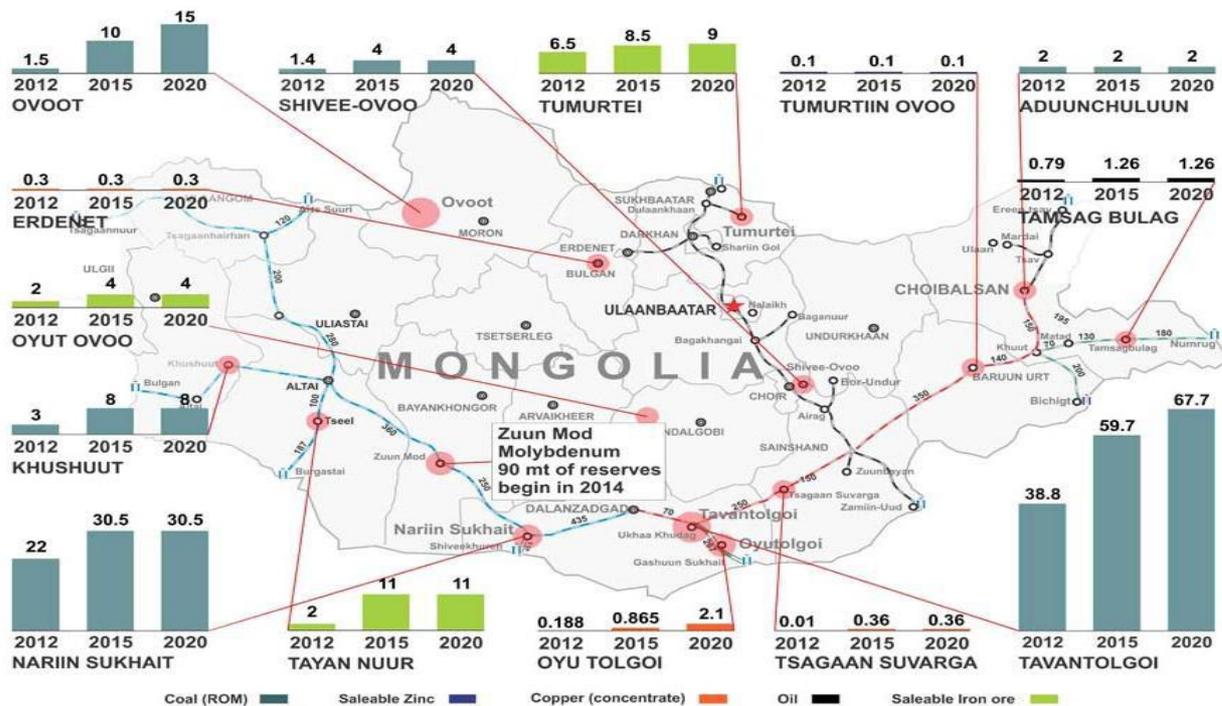
⁴⁸ CIA Factbook, Mongolia Profile, accessed 15 December 2015

⁴⁹ WTO Trade Policy Review for Mongolia, WT/TPR/S/297, 15 April 2014

⁵⁰ WTO Trade Policy Review for Mongolia, WT/TPR/S/297, 15 April 2014

B. Mongolia Transport Profile

FIGURE 1: MAP OF MONGOLIA WITH INDICATIONS OF MINING OUTPUT



(i) Overview

As a large, landlocked country bordering only two others – Russia and China – Mongolia depends on its land and air transport systems to get goods and services to market. However the large land surface area, sparse population, landlocked location and rapid urbanization make developing Mongolia’s transportation and logistics infrastructure a challenge. For instance Mongolia’s capital Ulaanbaatar which also functions as an important transit hub is faced with serious congestion.⁵¹

The Government of Mongolia has been actively trying to put in place transport related policies and partnerships that dovetail with Mongolia’s existing and future trade potential. The Mongolia action plan 2004-08 sets out the framework for a multi-modal, integrated transport plan. This was followed by the National Development Strategy 2007-21, the National Transport Strategy for Mongolia, the “Transit Mongolia” program of 2008-15, the Mongolian Road Master Plan 2008-20, and a 15-year investment program that is being run by the Ministry of Roads, Transportation, Construction and Urban Development (MRTCUD).⁵²

Even though the transportation situation in Mongolia has improved a great deal over the past few years, the country still faces considerable transportation and logistics challenges. As a result inefficiencies in Mongolia’s transport sector make (i) exporting goods and services out of Mongolia costly and uncompetitive, e.g. insufficient transport infrastructure to get bulk cargoes to markets and processing facilities (ii) transporting goods within the country i.e. rural to urban areas difficult. E.g. Mongolia’s herding community produces sufficient milk to satisfy the country’s demand, yet cannot ship the milk to market because of the poor transport infrastructure. As a

⁵¹ Oxford Business Group, Bumper to bumper: Better public transport options to alleviate congestion in the capital, from The Report: Mongolia 2014

⁵² Oxford Business Group, Linking up: Infrastructure is set for an overhaul to tackle historic challenges, Mongolia Transport, The Report: Mongolia, 2012

result, Mongolia imports milk, at a cost of around \$300m each year.⁵³ (iii) importing goods and services to Mongolia is difficult and expensive e.g. the import and transport of mining equipment from the Mongolia-China border to the mines.

(ii) Road Transport Network

Mongolia's road network consisting of both national and local roads, totals approximately 49,250 kms, connecting 21 Aimags and towns and 160 smaller villages.⁵⁴ 92% of the road network is low quality tracks and 8% is paved roads, running along the northern section of the north-south railway.⁵⁵ Away from Ulaanbaatar, most urban centers are connected by gravel and dirt roads.

Usage of Mongolia's road transport infrastructure is heavy in terms of the amount of freight, number of passengers, and number of vehicles, all of which have been increasing steadily over the past few years and are projected to continue increasing as the economy expands. The road network has been characterized as "underdeveloped and dilapidated" and "has been recognized as a bottleneck in the country's development."⁵⁶ The network of hard-cover roads for instance has nearly doubled since 2005 while the number of vehicles has nearly tripled and carried freight quadrupled.⁵⁷ The capital Ulaanbaatar is the central nerve point of Mongolia's road network but suffers from major congestion owing to the rise in population,⁵⁸ overloaded roadways and deteriorating road quality.⁵⁹

Since the early 2000s, Mongolia's roads policy has focused on construction of five north-south highways and one east-west highway, including the Mongolian sections of the Asian Highway Network⁶⁰ and the Central Asia Regional Economic Cooperation corridors.⁶¹ At the international level, Mongolia has a road plan that connects it to three main continent-wide routes. These are AH-3, AH-4 and AH-32, all part of an important network that it is hoped will link the southern tip of the Korean Peninsula to the Finnish border, and extend from southern China to Istanbul.⁶²

⁵³ Oxford Business Group, Linking up: Infrastructure is set for an overhaul to tackle historic challenges, Mongolia Transport, The Report: Mongolia, 2012

⁵⁴ Boldbaatar Tumenjargal, Yoon Daegwun, A Study on Logistics and Development in Mongolia, Journal of Navigation and Port Research, Volume 36, 2012

⁵⁵ Boldbaatar Tumenjargal, Yoon Daegwun, A Study on Logistics and Development in Mongolia, Journal of Navigation and Port Research, Volume 36, 2012

⁵⁶ WTO Trade Policy Review for Mongolia, WT/TPR/S/297, 15 April 2014

⁵⁷ WTO Trade Policy Review for Mongolia, WT/TPR/S/297, 15 April 2014

⁵⁸ Mongolia's population rose from 1 million in 2008 to 1.3 million in 2010.

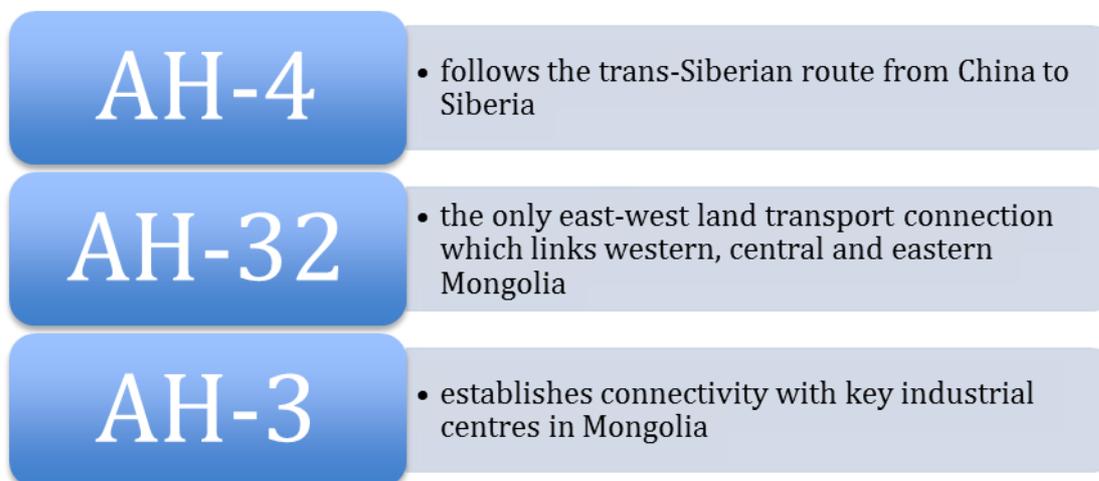
⁵⁹ Oxford Business Group, Linking up: Infrastructure is set for an overhaul to tackle historic challenges, Mongolia Transport, The Report: Mongolia, 2012

⁶⁰ AH4 and AH32 which crosses Mongolia along the east-west axis, and AH3 on the north-south axis. The highways cross at Ulaanbaatar.

⁶¹ CAREC (4a) connecting the Russian Federation and China through western Mongolia and CAREC (4b) connecting the Russian Federation and China through Ulaanbaatar and central Mongolia.

⁶² Oxford Business Group, Linking up: Infrastructure is set for an overhaul to tackle historic challenges, Mongolia Transport, The Report: Mongolia, 2012

FIGURE 2: OVERVIEW OF MAIN CONTINENTAL HIGHWAY NETWORKS CONNECTING MONGOLIA



The Asian Highway corridors are expected to bring economic development. The AH-4, is likely to increase traffic in goods, and provide improved access to Mongolia's beautiful mountainous region to the benefit of the tourism industry.⁶³ The AH-32 will provide an important social and political link through the length of the country.⁶⁴ The AH-3 will form a key part of the country's industrial development strategy, with SEZs in Zamiin-Uud and Altanbulag. Sainshand is a planned major industrial center and a railway head. Until a planned railway line emerges, coal and mineral movement from Tavan Tolgoi and Oyu Tolgoi mines to Sainshand will be linked to the AH-32⁶⁵ The roadway will enable shipping of bulk cargo by trucks over the 100 km route to Sainshand.

In terms of the market structure, apart from four public-transport companies operating in and around Ulaanbaatar, all road transport enterprises are private sector entities.⁶⁶ For the mining sector as Table 4 exhibits, several private companies with large trucking fleets are linked to specific mines and mine operators in particular in the export of coal.

TABLE 4: OPERATIONS OF SELECTED MINING SECTOR RELATED TRUCK COMPANIES IN MONGOLIA

Company	Size of Operations (2006)	Size of Trucking Fleet
Tavan Tolgoi Trans Co. Ltd	Transported 270,000 tons of coal making 4,000 trips with an average load of just under 70 tons	100 trucks
Tavan Tolgoi Shin Co. Ltd	Transported coal from Nariin Sukhait	150 trucks
Tuushin Mon Co. Ltd	Transported 115,000 tons of coal making 1,500 trips with an average load of just over 75 tons per trip	75 trucks
JML Co. Ltd.	Transports equipment and construction material for Ivanhoe Mines to its base in Oyu Tolgoi through the border crossing point Gants Mod	5 Trucks

⁶³ Oxford Business Group, Linking up: Infrastructure is set for an overhaul to tackle historic challenges, Mongolia Transport, The Report: Mongolia, 2012

⁶⁴ Oxford Business Group, Linking up: Infrastructure is set for an overhaul to tackle historic challenges, Mongolia Transport, The Report: Mongolia, 2012

⁶⁵ Oxford Business Group, Linking up: Infrastructure is set for an overhaul to tackle historic challenges, Mongolia Transport, The Report: Mongolia, 2012

⁶⁶ WTO Trade Policy Review for Mongolia, WT/TPR/S/297, 15 April 2014

Qinhua-MAK-Nariin Sukhait Co. Ltd	Transports coal from Nariin Sukhait through the Shivee Khuren border crossing, but do not have a license for transportation on the territory of Mongolia.	Operates a fleet of 240 trucks with 60-70 tons capacity each
Monport Co. Ltd.	Transports coal from Tavan Tolgoi and Nariin Sukhait	100 trucks
<i>Source: World Bank, Mongolia Trade and Transport Facilitation Action Plan January 20, 2009</i>		

(iii) Rail Transport Network

Mongolia's railway system is the backbone of the land transport system and central to the country's development strategy. Mongolia has a total of 1,815 km of railway. Most of this (1,110 km) is the Trans-Mongolian Railway connecting the Trans-Siberian Railway from Ulan-Ude in the Russian Federation to Erenhot (and on to Beijing) in China. At the border between Mongolia and China, there is a requirement for transshipment as Mongolian railways use the Russian gauge (1,520 mm), requiring a change to standard gauge (1,435 mm) at the border with China. The entire railways system is under the control of Mongolian railways, which is a 50:50 joint venture between the Mongolian and Russian governments.⁶⁷

There are rail links from Ulaanbaatar to Zamiin-Uud, alongside which paved roads are being constructed on the Asian Highway route No. AH3. Railway lines have also been built from the Trans-Mongolian railway to urban centers or mines such as from Choibalsan to Borzya in Russia and several spurs such as Baganuur and Erdenet in the East.⁶⁸

FIGURE 3: RAIL TRANSPORT SELECTED INDICATORS 2008-2016

		2008	2009	2010	2011	2012	2013	2014	2015	2016
Freight turnover	Million ton km	8,261	7,852	10,286	11,418	12,142	12,076	12,473	11,462	12,371
Carried freight	'000 tonnes	14`647	14`073	16`804	18`448	20`445	21`035	21`119	19`144	19,989
Local	'000 tonnes	8`016	7`656	8`304	8`574	9`890	-	-	9`189	-
International	'000 tonnes	6`631	6`515	8`500	9`874	10`555	-	-	-	-
Exit	'000 tonnes	2`565	2`955	4`639	5`966	6`576	-	-	5`551	-
Entry	'000 tonnes	1`727	1`264	1`546	2`018	2`446	-	-	2`105	-
Transit	'000 tonnes	2`338	2`297	2`315	1`889	1`534	-	-	1`900	-
Passengers	'000 persons	4`359	3`118	3`516	3`832	4`000	3`760	3`306	2`790	2`600

Source: National Statistics Office of Mongolia

Mongolian railways carry over 90% of the country's freight.⁶⁹ As Figure 3 indicates total rail freight in Mongolia between 2008-2016 has shown an increasing trend. About half of freight originates and

⁶⁷ Boldbaatar Tumenjargal, Yoon Daegwun, A Study on Logistics and Development in Mongolia, Journal of Navigation and Port Research, Volume 36, 2012

⁶⁸ Boldbaatar Tumenjargal, Yoon Daegwun, A Study on Logistics and Development in Mongolia, Journal of Navigation and Port Research, Volume 36, 2012

⁶⁹ Asian Development Bank, Report on Trade Facilitation and Logistics Development Strategy, 2010

terminates in Mongolia and half is international trade. A significant, though declining, portion of freight is transit traffic between the Russian Federation and China, of which 90% is crude petroleum and timber carried through Mongolia to China for processing.⁷⁰

Mongolia's Logistics Sector

Mongolia's logistics sector is a combination of a fairly active private sector presence consisting of small and large firms as well as public sector operations. In fact, the Mongolian logistics sector has over a hundred operators including 60 freight forwarders.⁷¹ Big international logistics providers such as DHL, FedEx and UPS offer air express and courier services via local partnerships – a requirement under Mongolian law.⁷² DHL works in a joint venture with the Central Post Office, while FedEx works with Tuushin Deliveries and UPS with the Selenge Group. Chinese and Russian companies have become an increasing presence. The Government continues to play a key role, since it owns and manages the container handling facilities as well as a large freight forwarding company.⁷³

Currently, the capital, Ulaanbaatar, acts as the logistics center for the whole country, with the development of other centers in the western and eastern regions under consideration. Key logistics hubs are the ADB funded logistics center at Zamiin-Uud, through which 90% of Mongolia's imports pass.⁷⁴

(iv) Mongolia's Key Trade sectors (Mining, Meat, Cashmere, Maritime and Transit) and their Transport Linkages

As Mongolia's trade needs in its key sectors of export and import grow, so will Mongolia's transport needs. Trade expansion will therefore need to be bolstered with matching transport and transit expansion and trade facilitation measures.

Trade and transport facilitation for the Mining sector

Mongolia's mining sector benefits from foreign investment and technological partnerships with several countries. In 2012, Mongolia was estimated to have issued some 3,000 mining licenses.⁷⁵ As Figure 4 indicates, more than half of these mining licenses are issued to Chinese companies, and to a lesser degree Russian, South Korean, Canadian and Australian companies. As Table 5 indicates, the main mining products by value are copper, coal, gold, fluor spar, uranium, molybdenum, silver, tungsten, zinc. Nearly all production of minerals and oil is exported, except for coal where a significant amount is consumed domestically for heating and electricity generation.

⁷⁰ Asian Development Bank, Transport and Trade Facilitation - Potential for Better Synergies in Mongolia, Evaluation Study, 2008

⁷¹ Oxford Business Group, Linking up: Infrastructure is set for an overhaul to tackle historic challenges, Mongolia Transport, The Report: Mongolia, 2012

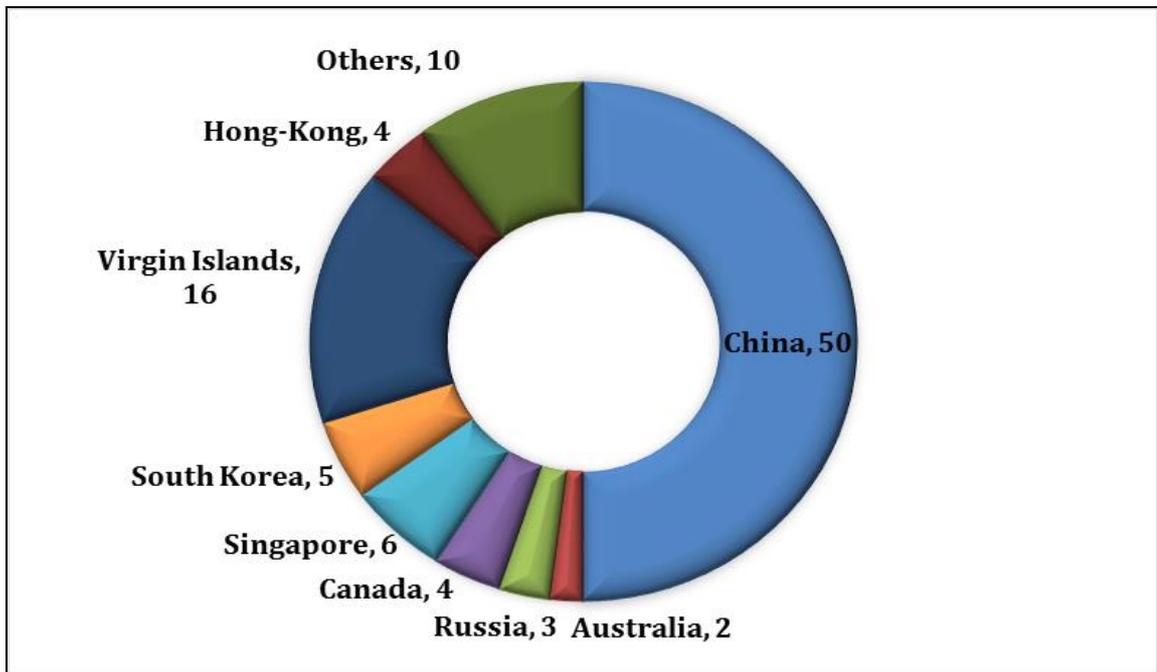
⁷² Asia Development Bank, Oxford Business Group, Linking up: Infrastructure is set for an overhaul to tackle historic challenges, Mongolia Transport, The Report: Mongolia, 2012

⁷³ Asian Development Bank, Transport and Trade Facilitation - Potential for Better Synergies in Mongolia, Evaluation Study, 2008

⁷⁴ Oxford Business Group, A series of new logistics projects under construction in Mongolia

⁷⁵ The Economist, Booming Mongolia, Mine, all mine, Jan 21st 2012, <http://www.economist.com/node/21543113/>

FIGURE 4: FOREIGN LICENCE HOLDERS IN MONGOLIA (2016)
Composition of foreign invested license holders by countries, October 02, 2016



Source: Mineral Resources and Petroleum Authority of Mongolia

Given Mongolia’s trade and investment profile, matching transport facilities is a crucial element in giving effect to Mongolia’s future trade and development plans. This necessitate efficient and cost effective transport routes to its countries of export, in particular China and Russia, which are its neighbors, but also 3rd countries such as South Korea. Transport needs vary depending on the specific kind of mineral under consideration, location of the mines as well as the intended volume for export. Copper and coal are the two Mongolian mineral products, which make the greatest demands on transport, usually road and increasingly rail transport. High value low weight mineral products such as gold and fluorspar are usually transported by air.

Mongolia’s largest coal and copper mines are located in the South Gobi region close to the Chinese border. Table 5 sets out the key minerals extracted from mines in the South Gobi region. Tavan Tolgoi is the world's largest coal deposits and the second largest mining investment in Mongolia.⁷⁶ Oyu Tolgoi one of the world's five biggest mines, producing copper and gold, lies 40 km north of the border with China.⁷⁷ Border posts on the Mongolian-Chinese border such as Gashun Sukhait therefore act as key exit points for Mongolia’s South Gobi mineral exports, as well as entry points for import freight to the South Gobi mines. For onward sale to 3rd countries, the nearest port to the South Gobi mines is China's Tianjin port, 1,570 km away.⁷⁸

TABLE 5: KEY MINES, MINERALS AND CAPACITY OF SOUTH GOBI MINES

Mine and Mining Product	Location	Capacity
Tavan Tolgoi Coking Coal	South Gobi	6,500m tones of coal

⁷⁶ The Economist, Booming Mongolia, Mine, all mine, Jan 21st 2012, <http://www.economist.com/node/21543113/>

⁷⁷ World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

⁷⁸ Reuters, UPDATE 6-ArcelorMittal, Vale vie for huge Mongolia coal mine, Mar 7, 2011
<http://www.reuters.com/article/2011/03/07/mongolia-tolgoi-idUSL3E7E70CI20110307>

Baran Naran <i>Coal</i>	South Gobi, close to Tavan Tolgoi	estimated reserves of almost 200 m tons of coal
Oyu Tolgoi <i>Copper and Gold</i>	South Gobi, 45 kms north of Mongolia China border	1,400m tons of copper and gold
Ovoot Tolgoi <i>Coal</i>	South Gobi	259m tons of coal
Tsagaan-Suvarga <i>Porphyry, copper, molybdenum</i>	South Gobi, approx., 150 km to the northeast of the Oyu Tolgoi	240m tons of copper and molybdenum
Tumertei Ovoo <i>Iron</i>	about 250km north east of Ulaanbaatar.	230m tons of iron ore
Dornod <i>Uranium</i>	about 650 km to the east of Ulaanbaatar	16m tons of uranium
Bor Ondor <i>Fluorspar</i>	about 360km east of Ulaanbaatar	50m tons of fluorspar
<i>Source: World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009</i>		

Table 6 below compares coal mines outputs and trucking needs in 2009 and 2015 to determine trucking requirements. As coal mining expands, the estimated output of the mines is expected to increase, resulting in increased truck requirements per day.

TABLE 6: SUMMARY OF PROJECTED OUTPUT OF SOUTH GOBI MINES				
Mine	Output		Trucks per day	
	tonnes	tonnes		
	2009	2015	2009	2015
Tavan Tolgoi	800,000	27,000,000	45	1,500
Oyu Tolgoi	0	400,000	0	25
Ovoot Tolgoi	400,000	1,000,000	25	60
Tsagaan Suvraga	0	1,000,000	0	60
Other mines in South Gobi	500,000	2,000,000	30	120
Total	1,700,000	31,400,000	100	1,765
<i>Source: World Bank, Mongolia Trade and Transport Facilitation Action Plan, January 20, 2009</i>				

In 2006, more than 700,000 tons of coal was mined at Tavan Tolgoi, which would have necessitated more than 30 loaded truck movements per day.⁷⁹ As Table 6 sets out, if output were to reach 30 million tons in 2015, this would involve almost 1,500 trucks per day.⁸⁰ A similar situation can be observed for truck movement of copper mined at Oyu Tolgoi. Thus there is currently a lack of trucking capacity to service the growing exports from the South Gobi mines.

Further as mining output in the South Gobi region expands, the use of trucking services is likely to be uneconomic. For instance, when the production from mines in South Gobi reaches a critical mass volume of 5 million tons per year, the railways system provides a lower cost alternative.⁸¹ Rail links from the South Gobi mines onwards will reduce cost and delay, allow for transport of greater volumes and if the new rail links within Mongolia are built to the Chinese 1435mm gauge remove the need for transshipment of goods. Mining companies too prefer rail links from South Gobi to China.⁸²

⁷⁹ If calculated at an average of about 60 tons per truck.

⁸⁰ World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

⁸¹ World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

⁸² Interview conducted with Mongolia Ministry of Mining, Ulaanbaatar, Mongolia, 26-30th October, 2015

The move towards the construction of railway lines is already reflected in Mongolia State Railway Policy. In 2008 the Mongolian Government announced two decisions on rail links for coal exports. (i) A 270km rail line from Tavan Tolgoi to Nariin Sukhait (ii) rail line from Nariin Sukhait to the Shivee Khuren border to link up with the rail line within China at Ceke.⁸³ This expansion of road and rail transport needs in turn, has impacts for transport infrastructure, storehousing, warehousing facilities, truck fleets and trucking prices.

Trade and transport facilitation for Meat and meat products

Despite Mongolia's high livestock numbers, Mongolia's meat exports are limited. In 2007, Mongolia livestock numbers reached 40.8 million, however Mongolia exported only 20,000 tons of meat of which 90% was to Russia.⁸⁴ Most meat exports are beef and horse meat to Russia, a small amount of boneless horse meat to Japan, lamb to Saudi Arabia, and canned meat products and animal food to Japan, Korea and Russia.⁸⁵

There are several reasons for Mongolia's low meat exports including the harsh Mongolian winters, stringent food certification requirements in destination countries for example the EU, complex procedures and inspections processes as for instance is the case for Russian imports of Mongolian meat products and low demand and/or low prices on international markets for Mongolian mutton and goat meat.⁸⁶

From a transport perspective Mongolian meat exports are hindered by the logistics of processing, inspecting and assembling large volumes of meat for export, which in turn raises the cost of transportation of meat exports. For instance, Russia, which absorbs the majority of Mongolian meat exports currently, has in place a complicated inspection system. Further, there is only one Mongolian trucking company with the necessary refrigerated trucks to transport frozen meat and some Russian trucks. The Russian refrigerated trucks or railway wagons have higher tariffs, must be ordered at least eight days in advance and be accompanied by two Russian mechanics to ensure their service and operation. The exporter must pay all arising costs.⁸⁷

Trade and transport facilitation for cashmere and cashmere products

About 20% of the total world supply of cashmere comes from Mongolia.⁸⁸ Mongolia exports both raw cashmere and readymade cashmere garments. Transport for cashmere products involves two stages, first transport from herders in remote areas who sell raw cashmere to middlemen. Second, transport for export from Mongolia to importing countries such as China for raw cashmere and the US and EU for readymade cashmere garments.

A key question is whether Mongolia should focus on producing high quality cashmere with greater value added e.g. knitted garments. Alternatively Mongolia could produce lower quality raw cashmere. High quality cashmere exports is likely to be more dependent on airfreight as the volume is lower. Raw cashmere on the other hand is voluminous and has special transport needs i.e. usage of trucks or railway wagons/containers. Currently, raw cashmere is mostly transported by road, normally across the border to China where it is further processed for export.

⁸³ World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

⁸⁴ World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

⁸⁵ World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

⁸⁶ Interview conducted with Mongolia Ministry of Trade, Ulaanbaatar, 26-31st October, 2015

⁸⁷ World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

⁸⁸ World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

Mongolia has several large cashmere exporting companies. The Gobi Corporation is the largest Mongolian exporter of finished garments. Their 350,000 export garments are mostly transported in rail containers to four main destinations, the EU, North America, Japan and South Korea. A shipment to the US West Coast takes about 45 days.⁸⁹

Mongolia’s maritime services sector

Interestingly even though Mongolia is a landlocked country it has developed a maritime competence through the registration of flags of convenience and more recently training of ship crew. Flying under the Mongolian flag is a total merchant marine fleet of 57 vessels including bulk carriers (21), cargo (25), container (2), liquefied gas (2), passenger/cargo (2), roll on/roll off (3), vehicle carrier (1) and chemical tanker (1). A majority of these ships are registered in Singapore and in 2010 the majority of these vessels (44) were foreign owned, mostly by Vietnamese (33 vessels).

Mongolia and South Korea have also set up a joint ship crew-training program. This initiative is expected to bring in foreign remittances in the future as well as strengthen Mongolia’s ambition to purchase its own ships for commercial purposes in the future.⁹⁰

Mongolia as a Transit Country

Although Mongolia is landlocked, due to its geographic location it forms a natural transit hub for several routes. These include (a) the China- Mongolia- Russia route which follows the Trans-Siberian railway line (b) sub regional transit hub for East and North East Asia to Europe through the Baltics (c) Central Asia to Pacific ports and most recently (d) the China led OBOR which brings together rail and road connectivity.

FIGURE 5: MONGOLIA’S TRANSIT CONNECTIONS

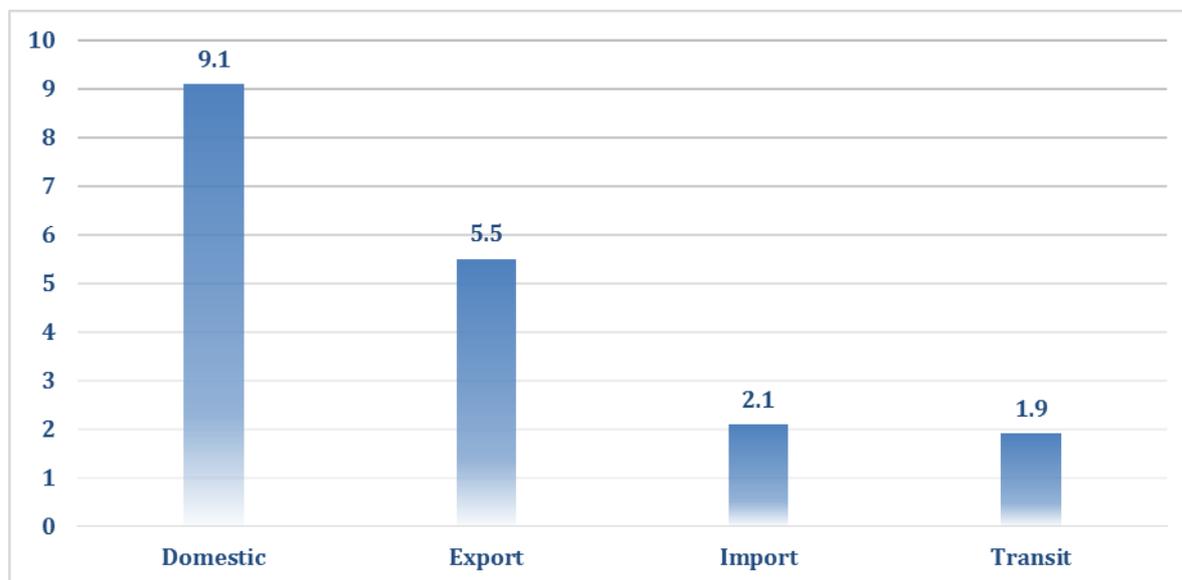


⁸⁹ World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

⁹⁰ Interviews conducted with Maritime Administration of Mongolia Ulaanbaatar, Mongolia, 23-30 October 2015

As Figure 6 indicates, in 2015 the transit freight carried by Rail in Mongolia was 1.9 million tons. Of Mongolia's several transit possibilities perhaps the two most promising transit hub possibilities are Mongolia's role as a transit hub regionally (i) East and North East Asian (NEA) as well as the Mongolia's potential participation in the Russian led Eurasian Economic Union EEU (ii) China's One Belt One Road (OBOR) initiative.

FIGURE 6: FREIGHT CARRIED BY RAIL IN MONGOLIA, 2015 (MILLION TONS)



Source: Mongolian Railways

The NEA sub region, which includes China, North Korea, Japan, Mongolia, South Korea, Russia has yet to develop its full trade potential. This is because there is a dichotomy of economies with some developed and globally integrated economies such as South Korea, Japan and China on the one hand. On the other hand resource dependent economies such as Mongolia and Russia have not yet integrated into global production networks. This lack of trade integration is partly due to the high intra-regional trade costs and inefficiencies such as long waiting time for clearances, inspections and repeated unloading/loading for inspections at different ports and border crossings, problems exacerbated in Mongolia and Russia.⁹¹

The second recent regional development that Mongolia could benefit from is China's "One Belt One Road" ("OBOR") initiative. OBOR would connect China, Central Asia, Russia and Europe. The OBOR initiative aims to enhance international economic cooperation as well as trade and investment across the Belt and Road area. This would be achieved by the creation of infrastructure facilities, trade facilitation and financial integration.⁹² There are an expected 900 projects to be implemented across 60 countries⁹³, one of which is the China- Mongolia-Russia Economic Corridor.⁹⁴

In fact China expects its annual trade with the OBOR initiative participants to surpass 2.5 trillion in a decade⁹⁵ benefitting several sectors and industries including logistics and warehousing,

⁹¹ Adhikari Ratnakar, Greater Tumen Initiative Trade Facilitation Study, July 2015

⁹² Document released by the People's Republic of China, "Vision and Actions on Jointly Building Silk Road Economic Belt and 21st Century Maritime Silk Road", March 2015

⁹³ Knight Frank India, The Silk Road Economic Belt and 21st Century Maritime Silk Road: Implications for India, 2015

⁹⁴ Document released by the People's Republic of China, "Vision and Actions on Jointly Building Silk Road Economic Belt and 21st Century Maritime Silk Road", March 2015

⁹⁵ Xinhuanet, 20 May, 2015

tourism, Infrastructure and real estate and economic industrial parks.⁹⁶

C. Nepal Trade Profile

(i) Economic Overview

TABLE 7: OVERVIEW OF NEPAL'S KEY ECONOMIC INDICATORS	
Income category	Low income
GDP (current US\$) 2014	19.64 billion
Real GDP growth by % (2014)	5.5
GDP Composition per sector (percentage), 2014	Agriculture: 30.7 Industry: 13.6 Services: 55.7
GNI per capita (current USD) (2014)	730
UNDP HDI (2013)	145
Population (in millions), 2014	28.1
Ease of Doing business rank (2014)⁹⁷	109
<i>Source: World Bank, CIA Factbook, UNDP</i>	

Nepal is classified as a low-income country with a GDP of USD 19.64 billion in 2014. In terms of GDP composition per sector, the services sector accounts for 55.7% of GDP, followed by the agricultural sector at 30.7% of GDP and the industrial sector at 13.6% of GDP. In 2014, annual real GDP growth averaged 5.5%, and per capita GNI increased to US\$730. Nepal's economy is vulnerable to global economic shocks, because of the lack of diversity of its exports, and its heavy dependence on remittances from abroad.

Nepal's relatively low ranking on the UNDP's HDI is due primarily to high levels of poverty as Nepal remains one of the poorest countries in South Asia. In fact in 2014, it was estimated that 25% of Nepal's population lives below the poverty line.⁹⁸ (less than US\$1 a day).

(ii) Nepal Trade Snapshot

Nepal is bordered by China to the north and by India to the south, west and east. Like Mongolia, Nepal is heavily dependent on India in particular and China for trade and transit infrastructure. The Nepalese rupee is also pegged to the Indian rupee.

TABLE 8: NEPAL TRADE SNAPSHOT		
	Commodities Traded	Trade Partners (2016)
Exports	clothing, pulses, carpets, textiles, juice, jute goods	India-54.4%, US-13.3%, China-2.7%
Imports	petroleum products, machinery and equipment, gold, electrical goods, medicines	India-73%, China-14%

Source: ITC, www.trademap.org

Nepal's export basket is narrow and its export markets are concentrated in a few countries largely

⁹⁶ Knight Frank India, The Silk Road Economic Belt and 21st Century Maritime Silk Road: Implications for India, 2015

⁹⁷ The doing business rank covers presents the Ease of Doing Business rank (out of 189 economies) covers indicators such as starting a business, construction permits, getting electricity, registering properties, getting credit, protecting minority investors, paying taxes, trading across borders, insolvency resolution.

⁹⁸ CIA Factbook, Nepal Profile, accessed 15 December 2015

India, the US and China. Major export items have undergone sharp declines, while imports have been rising quickly, thereby steadily increasing Nepal's trade deficit with India.

TABLE 9: NEPAL PROFILE OF TOP 5 IMPORTED AND EXPORTED PRODUCTS (2016)

Industry	Value of Imports (USD thousand)	Imports as a share of total imports (%)
Total	6,198,864	
Vehicles other than railway or tramway rolling stock, and parts and accessories thereof	793,275	12
Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral...	763,466	12
Iron and steel	511,014	8
Machinery, mechanical appliances, nuclear reactors, boilers; parts thereof	508,263	8
Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television...	484,297	7
Industry	Value of Exports (USD thousand)	Exports as a share of total exports (%)
Total	708,933	
Beverages, spirits and vinegar	96,865	13
Carpets and other textile floor coverings	90,742	12
Man-made staple fibres	58,966	8
Coffee, tea, maté and spices	56,046	7
Articles of apparel and clothing accessories, not knitted or crocheted	51,508	7

Source: ITC, www.trademap.org

As per Table 9, Nepal's top 5 exports are carpets which account for 13% of Nepal's total exports, followed by beverages (mostly juices), clothing apparel (7%), plastics and related articles (7%), fibers such as jute (8%) and coffee, tea and or spices (7%). The composition of Nepal's export basket has changed in the past decade. Many traditional Nepalese exports have over a period of time lost their market share.

Overall, the share of merchandise exports in GDP declined from 10% in 2003/04 to 5% in 2009/10. This was largely a result of the rapidly falling share of clothing exports in total merchandise following the termination of the WTOs Agreement on Textiles and Clothing in 2005. Between 2004 and 2008, the export value of honey declined, on average, by 27% per year. However newer export sectors have also emerged. Exports of iron and steel products, tea, ginger, essential oils, instant noodles, medicinal herbs, large cardamom, and wool products have risen.⁹⁹

As per Table 9, Nepal's top 5 imports are articles of apparel, mineral fuels and oils, iron and steel, electronic equipment, gold and medicines. Between 2003/04 and 2010/11, the value of Nepal's total imports almost tripled, largely due to strong consumption made possible by high remittances.¹⁰⁰

Nepal Trade Partners

⁹⁹ WTO Trade Policy Review for Nepal, WT/TPR/S/257, 21 December 2011

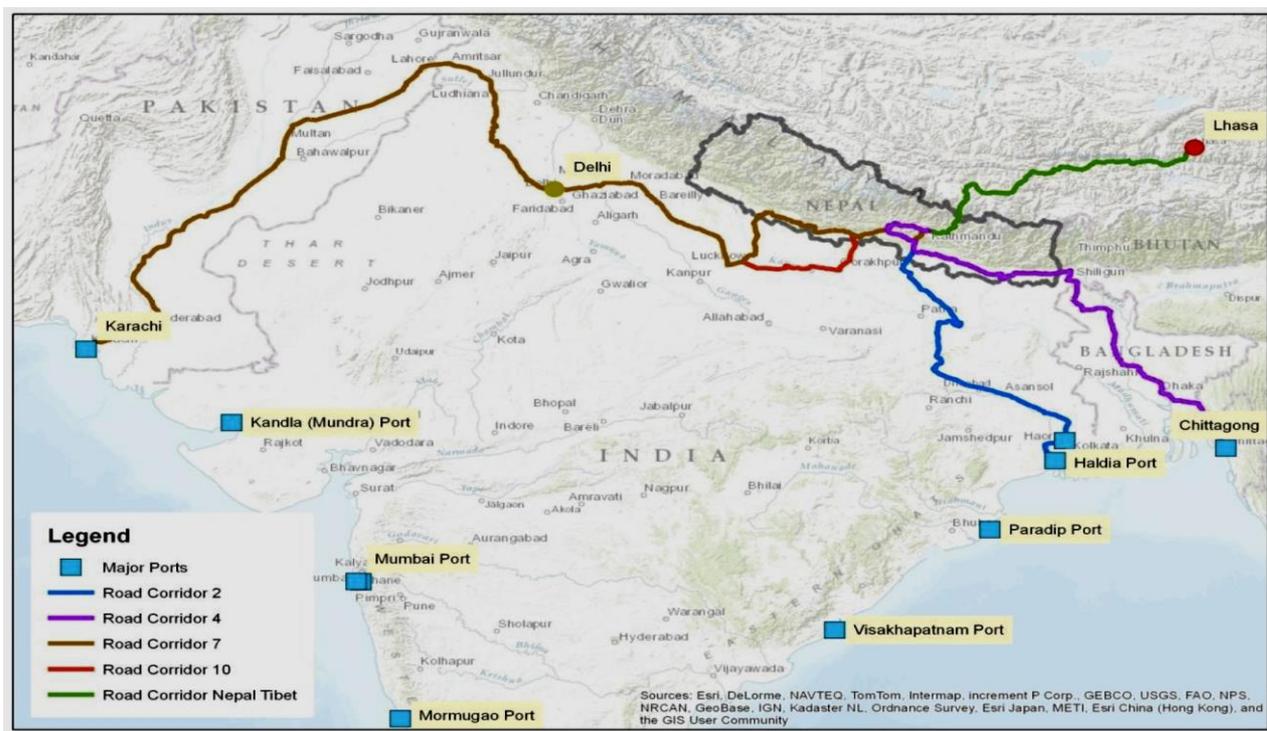
¹⁰⁰ WTO Trade Policy Review for Nepal, WT/TPR/S/257, 21 December 2011

India is by far Nepal's largest trade partner, source of foreign investment and tourist arrival. More than 60% of Nepal's trade is concentrated with India. In 2010, 65% of Nepalese exports went to India (up from 52.4% in 2003), and 57% of Nepalese imports were from India (up from 53%). However, these shares underestimate real trade flows, as there are large amounts of informal ("unrecorded") trade between Nepal and India.¹⁰¹

Nepal's exports to India are mainly concentrated on textiles (8%), zinc sheet (7%), thread (6%), and polyester yarn (6%). Petroleum products constitute 26% of the total imports from India, followed by vehicles, machinery. Thus, the trade, investment and economic relation between the two countries is one of mutual benefit, given that India has substantial trade and investment interests in Nepal.

While India's share in Nepalese exports and imports has risen, the role of Nepal's traditional partners the US and the EU as an export destination has fallen. Newer trade partners have such as Bangladesh and Bhutan have assumed importance following the conclusion of SAFTA. In terms of Nepal's import partners the shares of Middle East countries, in particular the UAE as a source of Nepal's imports has increased.¹⁰² From China, Nepal imports readymade garments, footwear, cosmetics, machinery parts and hardware, fruits and electronics from.¹⁰³ Nepal-China trade has also been rising with a trade deficit in favor of China.

(D) Nepal Transport Profile
FIGURE 7: MAP OF NEPAL



Nepal is almost totally dependent on India for transit facilities and access to the sea. Geographical features of Nepal make movement in the north, bordering China, less accessible

¹⁰¹ Interviews with Indian Chamber of Commerce, Delhi, India, February 2016
¹⁰² WTO Trade Policy Review for Nepal, WT/TPR/S/257, 21 December 2011
¹⁰³ CNN IBN live, Nepal looks to China for trade amid India hiccups, September 26, 2015, available at: <http://www.ibnlive.com/news/world/nepal-looks-to-china-for-trade-amid-india-hiccups-1113752.html>

due to the northern Himalayan ranges.¹⁰⁴ To the south, there are two main roads and a stretch of railway line that connects India and Nepal. Specifically the ports of Kolkata and Haldia in India are used for transit of Nepal-bound sea cargo. Nepal could potentially use some of Bangladesh's ports, but Nepal is separated from Bangladesh by an approximately 15-kilometer wide strip of India's state of West Bengal.

For 3rd country imports and exports Nepal uses both road and rail modes of transport. Half of Nepal's third-country goods transit in containers by rail from Kolkata (India) to Birgunj (Nepal). These goods are generally high-value goods. The remaining 50% of third-country goods travel to Nepal by road in containers or as break-bulk.¹⁰⁵

(i) Road Transport Network

Road transport is the dominant and growing mode of transport in Nepal. Nepal's total road network has around 21,500 km of roadways (44.6% are earth, 32% are black-top, and 23.4% are gravel).¹⁰⁶ Over 60% of the network is concentrated in the southern Terai areas of Nepal.¹⁰⁷ The poor condition of the road network hampers the delivery of social services in the remote hill and mountainous districts and affects Nepal's economic development.

Most of the trade between Nepal and India takes place along the land routes. India allows trucks from Nepal and Bhutan to operate on designated transit routes within India. Nepalese trucks need permits for every trip to India with a validity of three months, but they are allowed to the nearest market towns and rail-heads in India. Indian trucks are allowed anywhere into Nepal, but are given a limit of 72 hours to return.¹⁰⁸

Nepal's transit trade is routed through 15 designated routes from the Nepal-India border to the port of Kolkata, India. As indicated in Table 10 there are a total of 27 agreed routes for mutual trade between India and Nepal and 15 transit points to Kolkata Port.

With China, Nepal has two trade routes, the first is the Araniko highway an 80 kms road linked with China's closest communication center Khasa on the Nepal-China border in Tibet. Another road under construction is via Rasuwagadi-Kerung.¹⁰⁹ This small stretch of road, is just 16.8 kms from the Chinese border to the Nepalese town of Sybrubesi.¹¹⁰ One of the key issues with Nepal-China transit points for instance the Araniko Highway is that soil erosion and landslides, often leading to blockage of road traffic and closure of the highways, affect it.¹¹¹ The cost of infrastructure given the mountainous terrain is also quite heavy.

¹⁰⁴ Thapa Ranjit Major, Nepal's Strategic Future: Following India, or China or Middle Road, Thesis presented to the Faculty of the U.S. Army Command and General Staff College 10, December 2010.

¹⁰⁵ Interview conducted with Nepal representative, November, 2015

¹⁰⁶ Ministry of Finance, Economic Survey Fiscal Year 2010/11, Statistical Tables Vol. II, 2011

¹⁰⁷ The road network has expanded by 5% per year, on average, over the last decade, focusing on connecting district headquarters with the national network and improving access between rural areas and market centres.

¹⁰⁸ National Transport Development Policy Committee, "Promoting International Transport Connectivity between India and the South and South East Asia regions," India Transport Report: Moving India to 2032, Volume 2, Part 2, Planning Commission, Government of India, New Delhi, 2014. Available at:

http://planningcommission.nic.in/sectors/NTDPC/volume2_p2/promoting_v2_p2.pdf

¹⁰⁹ Thapa Ranjit Major, Nepal's Strategic Future: Following India, or China or Middle Road, Thesis presented to the Faculty of the U.S. Army Command and General Staff College 10, December 2010.

¹¹⁰ Joanna Jolly, "Highway will bring Nepal and Tibet 'in from the Cold'," BBC News, 27 January 2010, http://news.bbc.co.uk/2/hi/south_asia/8480637.stm (accessed 27 July 2010).

¹¹¹ The Himalayan Times, "Mudslide Blocks Highway," 3 September 2010, <http://thehimalayantimes.com/fullNews.php?headline=Mudslide+blocks++highway&NewsID=256320>

TABLE 10: INDIA-NEPAL AGREED ROUTES FOR MUTUAL TRADE AND TRANSIT POINTS TO KOLKATA PORT

S.N	Agreed Routes for Mutual Trade	S.N	Transit Points to Calcutta Port
1.	Pashupatinagar-Sukhia Pokhari	1.	Sukhia Pokhari
2.	Kakarbhitta-Naxalbari	2.	Naxalbari (Panitanki)
3.	Bhadrapur-Galgalia	3.	Galgalia
4.	Biratnagar-Jogbani	4.	Jogbani
5.	Setobandha-Bhimnagar	5.	Bhimnagar
6.	Rajbiraj-Kunauli		
7.	Siraha, Janakpur-Jayanagar	6.	Jayanagar
8.	Jaleswar-Bhitamore(Sursand)	7.	Bhitamore
9.	Malangawa-Sonabarsa		
10.	Gaur-Bairgania		
11.	Birgunj-Raxaul	8.	Raxaul
12.	Bhairahawa-Nautanwa	9.	Nautanwa (Sonuali)
13.	Taulihawe-Khunwa		
14.	Krishnanagar-Barhni	10.	Barhni
15.	Koilabas-Jarwa	11.	Jarwa
16.	Nepalgunj-Nepalgunj Road	12.	Nepalgunj Road
17.	Rajapur-Katerniyaghat		
18.	Prithivipur-Sati (Kailali)-Tikonía	13.	Tikonía
19.	Dhangadhi-Gauriphanta	14.	Gauriphanta
20.	Mahendranagar-Banbasa	15.	Banbasa
21.	Mahakali-Jhulaghat (Pithoragarh)		
22.	Darchula-Dharchula		
23.	Maheshpur-Thutibari (Nawalparasi)		
24.	International Airports connected by direct flights between Nepal and India (Kathmandu-Delhi/Mumbai/Calcutta/Chennai)		
25.	Sikta-Bhiswabazar		
26.	Laukha-Thadi		
27.	Guleria-Murtia		

(ii) Railway Transport Network

Nepal's total physical railway line is 57 km. The key railway artery is the Kolkata (India)-Raxaul (India)-Birgunj (Nepal)-Kathmandu (Nepal) line. The distance from Kolkata port (India) to Birgunj is 704 km and between Haldia port (India) and Birgunj, 832km. Indian Railways manages 6 km of railway line, 4 km of which are in Nepal connecting the Inland Clearance Depot (“ICD”) in Birgunj (Nepal) to Raxaul (India).¹¹²

Nepal and India have established three dry ports on the Nepalese side for the transport of goods directly to and from Kolkata. They are in Biratnagar, Sirshiya, and Bhairahawa. The dry port of Sirshiya provides a railway connection, via Raxaul, to the Kolkata Port of India.

E. Comparative Analysis of Mongolia and Nepal Trade and Transport Profiles

As compared to the Mongolia-China relationship, Nepal appears to have a more integrated and at times complicated relationship with India. Not only is India, Nepal's largest trade partner and source of foreign investment and tourists, the two countries are interlinked culturally, historically,

¹¹² WTO Trade Policy Review for Nepal, WT/TPR/S/257, 21 December 2011

religiously, educationally, industrially and have shared private sector interests. In addition, the Nepalese currency is pegged to the Indian rupee and there are no visa requirements for citizens of both countries.¹¹³ While Mongolia and China have a shared history, which goes beyond their current trade and transit interests, the Mongolian Tugrik is not linked to the Chinese Yuan and nationals of both countries require visas for cross border travel.

Even though Nepal and India generally have an integrated relationship, there are recurrent political issues. Most recently in 2015, Nepal suffered from a scarcity of essential goods owing to what it termed an “undeclared blockade” of a key trade point at the border with India by individuals protesting the newly promulgated Constitution.¹¹⁴ Nepal set out that the blockade was in violation of the international community commitment to ensure effective and unhindered access to the sea for LLDCs such as Nepal.¹¹⁵ India set out that due to reasons of safety and security, goods could only be taken up to the border.¹¹⁶ The recent blockade provides some indication as to the potential impact that domestic politics can have on the relationship between a transit country and an LLDC.

Economic comparisons between Nepal and Mongolia

Mongolia is a richer country than Nepal, falling within the World Bank’s upper middle-income bracket, whereas Nepal falls in the low-income category and is classified as both an LLDC and an LDC. This economic disparity is reflected in the economic indicators of both countries. Mongolia’s per capita incomes is more than 6 times higher than that of Nepal’s. Mongolia’s annual growth rate is also nearly double that of Nepal. This income disparity between Mongolia and Nepal, is largely due to Mongolia’s position as the world’s 4th richest country in terms of natural reserves.

In terms of the structure of the economy, while the services sector is the dominant sector in both the Mongolian and Nepalese economies, for Mongolia the industrial sector is the second most crucial component of GDP, whereas for Nepal it is the agricultural sector. Further the World Bank’s Ease of Doing Business indicators, ranks Mongolia (70) as an easier place to conduct business as compared to Nepal (109).

Interestingly for both Mongolia and Nepal workers' remittances are fairly large and relatively stable sources of foreign exchange inflows. In the case of Nepal remittances account for approximately 20% of GDP.¹¹⁷ Large remittance inflows in the case of Nepal has led to a higher consumption level and therefore greater imports of consumer goods.

There is also a massive demographic disparity between Mongolia and Nepal. Mongolia’s population in 2014 of 2.9 million, whereas Nepal’s population for the same year was 28.1 million. This demographic structure has implications for the labor force, poverty and development indicators of both countries.

¹¹³ See also Thapa Ranjit Major, Nepal’s Strategic Future: Following India, or China or Middle Road, Thesis presented to the Faculty of the U.S. Army Command and General Staff College 10, December 2010.

¹¹⁴ CNN IBN live, Nepal looks to China for trade amid India hiccups, September 26, 2015, available at: <http://www.ibnlive.com/news/world/nepal-looks-to-china-for-trade-amid-india-hiccups-1113752.html>

¹¹⁵ Nepalitimes, 8 International Laws violated, 29 September, 2015, Available at:

<http://www.nepalitimes.com/blogs/thebrief/2015/09/29/8-international-laws-violated/>

¹¹⁶ Tribune India, Nepal raises India’s ‘trade blockade’ at UN, October 4, 2015, available at:

<http://www.tribuneindia.com/news/nation/nepal-raises-india-s-trade-blockade-at-un/141315.html>. See also, ha Hari Bansh, Nepal’s New Constitution: An Analysis from the Madheshi Perspective, Indian Institute of Defence Strategy Analysis, IDSA Comment, September 24, 2015, Available at: http://www.idsa.in/idsacomments/NepalsNewConstitution_hbjha_240915

¹¹⁷ WTO Trade Policy Review for Nepal, WT/TPR/S/257, 21 December 2011

TABLE 11: COMPARATIVE TRADE PROFILE OF MONGOLIA AND NEPAL (2013)

Indicator		Mongolia	Nepal
Merchandise exports	By Value (f.o.b. (million US\$) 2013	4 273	883
	By commodity group (percentage)	Fuels and mining (82.2), Manufactures (3.3), Agriculture (7.2)	Manufactures (73.8), Agriculture (21.9), Fuels and Mining (4.3)
	Direction of Trade	China (86.7), EU (6.7), Canada (3.2), Russia (1.4), Korea Republic of (0.3)	India (67.7), EU (12.0), US (7.7), Bangladesh (2.9), Canada (1.3)
Merchandise imports	By Value (f.o.b. (million US\$) 2013	6 355	6 604
	By commodity group (percentage)	Fuels and mining (64.8), Manufactures, (25.9), Agriculture (9.3),	Manufactures (54.3), Agriculture (16.4), Fuels and Mining(24.7)
	Direction of Trade	China (28.1), Russia (24.6, EU (11.4), US (8.1), Korea Republic of (8.0)	India (63.4), China (11.7), UAE (5.6), EU (2.3), Indonesia (1.9)
Commercial services exports	By services (percentage)	Transport (32.3), Travel (26.8), other commercial services (40.9)	Transport (3.0), Travel (45), other commercial services (51.9)
Commercial services imports	By services (percentage)	Transport (45.5), Travel(19.9) other commercial services (34.6)	Transport (39.4) Travel (43.1), other commercial services (17.1)

Source: WTO database

Both Mongolia and Nepal exhibit a high level of trade and transit dependence on their neighbors China and India respectively. Nepal's exports to India are typically those of an LDC in terms of them being labor intensive goods such as textiles, zinc sheet, thread, yarn etc. Whereas Mongolia's dependence on mineral exports are typically that of a primary commodity dependent economy.

In terms of merchandise exports, as Table 11 indicates, as of 2013 Mongolia's merchandise exports are more than 5 times the volume of Nepal's merchandise exports. Both, Mongolia and Nepal have similar volumes of merchandise imports. Although for merchandise imports, Mongolia imports less from China as compared to Nepal's merchandise imports from India. Services trade for both Mongolia and Nepal is dominated by transport and travel related services exports and imports, reflective of their landlockedness.

Both Mongolia and Nepal face imbalanced trade and transit requirements given that the products for exports vary substantially as compared to products for imports, This is possibly more true for Mongolia with its highly mineral dependent export structure as compared to Nepal. Further both the Mongolian and Nepalese economies lack value added exports as for instance is the case in Mongolia's mineral and cashmere industries, which are largely exported, unprocessed to China.

Mongolia's greatest strength vis-à-vis Nepal is its natural resources wealth. This makes it with the right kind of transport infrastructure, a key origin of imports for China and other emerging

economies. Further as compared to Nepal, Mongolia benefits from large scale operations of foreign mining companies in terms of FDI, technology and on the ground operations.

Newer statistics were added in table 11.1.

TABLE 11.1: COMPARATIVE TRADE PROFILE OF MONGOLIA AND NEPAL (2015)			
Indicator		Mongolia	Nepal
Merchandise exports	By Value (f.o.b. (million US\$) 2015)	4 670	720
	By commodity group (percentage)	Fuels and mining (80.2), Manufactures (3.2), Agriculture (7.5) Other (9)	Manufactures (62.3), Agriculture (27.5), Fuels and Mining (1.8)
	Direction of Trade	China (83.5), EU (8.6), Switzerland (2.3), Russia (1.6), Other (3.9)	India (63.5), EU (12.6), US (10.7), Turkey (1.9), Other (11.4)
Merchandise imports	By Value, c.i.f. (million US\$) 2015	3 797	6 380
	By commodity group (percentage)	Fuels and mining (23.5), Manufactures (63), Agriculture (12.8),	Manufactures (59.9), Agriculture (20.4), Fuels and Mining(19.7)
	Direction of Trade	China (35.8), Russia (26.9), EU (9.8), Japan (7.2),	India (60.6), China (13.9), UAE (4), EU (3.9), Other (17.5)
Commercial services exports	By services (percentage)	Transport (36.8), Travel (31.8), other commercial services (31.5)	Transport (2.7), Travel (44), other commercial services (53)
Commercial services imports	By services (percentage)	Transport (32.3), Travel (27.2), other commercial services (40.3)	Transport (35.6) Travel (45.2), other commercial services (19.1)
<i>Source: WTO database</i>			

Transport Comparisons between Nepal and Mongolia

Both Mongolia and Nepal are LLDCs bordered by economic heavyweights, China and Russia in the case of Mongolia and India and China in the case of Nepal.

Country	Roadways (2007)	Railways	Ports	Airports
Nepal	Total: 17,282 Main: 10,142 Rural: 4880	Total Route: 59 kms Broad Gauge: 0 Narrow Gauge: 59	3 dry ports	1 international airport, 42 domestic airports
Mongolia	Total: 11,200 km Paved: 1,500 km	Total Route: 1,815 Broad gauge: 1815, of which 1,110 km is on Trans Siberian		1 international airport, 17 domestic airports

Source: World Bank

As Table 12 indicates, Nepal is highly dependent on road transport with nearly 17,282 kms of roadways (main and rural roads). The rail route between Birgunj in Nepal and the Indian ports of Kolkata and Haldia ports is small but crucial for Nepal's exports and imports. For Mongolia on the other hand the railways, which cover 1815 kms in total, are a key form of transport. Mongolia also has an extensive roadway network, however only a small proportion of these roadways are paved. Both LLDCs are very dependent on air transport and have one international airport with several domestic airports. Nepal has 3 dry ports, the main one being the successful Birgunj dry port.

In terms of functioning of the logistics sector, as Table 13 highlights both Mongolia and Nepal do not score very high on the logistics performance index ("LPI") ranking 135 and 105 respectively in 2014. For the same period China had an LPI index ranking of 28 and India 54. This indicates substantial grounds for improvement in the logistics services sector of both Mongolia and Nepal.

Country	LPI Index (2014)	Exports			Imports		
		Documents ¹¹⁸	Time Days	Cost USD per container	Documents	Time Days	Cost USD per container
Nepal	105	11	40	2545	11	39	2650
Mongolia	135	11	44	2745	12	45	2950

Source: World Bank Database

Both Mongolia and Nepal have high transport costs and long periods for transportation. On an average as Table 13 indicates, Nepal takes 40 days to export a container, requiring 11 documentary formalities to be completed and costing USD 2545 per container. Nepalese imports take a similar amount of time with the same documentary requirements and are marginally less expensive. Mongolia on the other hand takes 44 days to export a container, requiring 11 documentary formalities to be completed and costing USD 2745 per container. Mongolian imports take a similar amount of time with similar documentary requirements and are marginally more expensive.

¹¹⁸ Documents and procedures such as bills of lading, certification of origin, commercial invoice, contract between exporter and importer, insurance, custom export declaration, technical standard eg. Health, custom fee payment, railway bill.

A deeper analysis indicates that both Port handling and inland transportation and handling accrue the highest costs and time taken. In the case of Mongolia the most amount of time is spent in the preparation of export and import documents (approximately 23 days), inland transportation and handling (around 14 days). In the case of Nepal the most amount of time was spent on document preparation (14 days) and Inland transportation and handling (18 days for exports and 14 days for imports). In terms of costs, for both countries, the highest expenses related to inland transportation and handling. Thus both Mongolia and Nepal follow a similar pattern in terms of transport costs, time taken and documentary requirements.

PART II REGULATORY AND LEGAL ENVIRONMENT FOR NEPAL AND MONGOLIA

(i) International Legislative and Normative Framework applicable to Mongolia and Nepal

Several international frameworks relevant to Mongolia set standards to facilitate the harmonization of transport regulation and adaptation of unified transport documents for inter-state transport. For Mongolia the applicable international legislative and normative framework in terms of subject coverage -- Trade, transport, customs --is wide as for instance the UNCLOS, the Convention on International Transport of Goods Under Cover of TIR Carnets (“TIR convention”) Conventions, WCO’s Revised Kyoto Convention, GATT, amongst others. The international normative and legal framework also operates at multiple levels ie. Bilateral, sub-regional, regional and multilateral levels. Figure 8 gives an idea as to the various agreements relevant to Mongolia.

Figure 8: Indicative list of legislative and normative framework applicable to Mongolia		
General for LLDCs Almaty PoA Vienna PoA UN GA Resolutions relating to LLDCs	Specific Trade: WTO Trade Facilitation, GATT, GATS Transport: UNCLOS, TIR Customs: WCO Kyoto Convention	Regional and Bilateral Agreement Regional: Russian customs union (candidate) Bilateral: FTA with Japan, Transit Agreements with China and Russia

UNCLOS

LLDC rights of access to the sea are covered under UNCLOS. Under UNCLOS LLDCs can exercise certain rights in maritime zones such as access to the sea, the right of Innocent Passage, access to living resources of Exclusive Economic Zones (EEZ)¹¹⁹, seabed exploration¹²⁰ and access to High Seas¹²¹.

¹¹⁹ For instance, under article 62(2) of UNCLOS coastal states are to determine their capacity to harvest the living resources of the EEZ and where they do not have the capacity to harvest the entire allowable catch of a fishery, they were to give other states access to the surplus, having particular regard to landlocked states

¹²⁰ Article 148 of UNCLOS

¹²¹ Article 87 of UNCLOS affirms that the high seas were open to all States, whether coastal or landlocked and all enjoyed

LLDC ships also have the right of innocent passage, through territorial sea (Article 17) and freedom of navigation in the waters beyond the territorial sea (Article 38 (1)). Mongolia has already sought to exercise its maritime rights as an active member of IMO and by operating a ship registry in Singapore.¹²²
(http://www.monmarad.gov.mn/?m=4&link=single&content=75&lang=_en).

The LLDC right of access to the sea is clearly set out in Part X of UNCLOS (Articles 124 through 132). The core provision is Article 125, which enshrines LLDCs right of access to and from, the sea, and freedom of transit through the territory of transit States by all means of transport. These rights are strengthened by ways of several UN General Assembly resolutions¹²³

UNCLOS Article 125: Right of access to and from the sea and freedom of transit

1. Land-locked States shall have the right of access to and from the sea for the purpose of exercising the rights provided for in this Convention including those relating to the freedom of the high seas and the common heritage of mankind. To this end, land-locked States shall enjoy freedom of transit through the territory of transit States by all means of transport.

2. The terms and modalities for exercising freedom of transit shall be agreed between the land-locked States and transit States concerned through bilateral, sub regional or regional agreements.

3. Transit States, in the exercise of their full sovereignty over their territory, shall have the right to take all measures necessary to ensure that the rights and facilities provided for in this Part for land-locked States shall in no way infringe their legitimate interests.

However even though there is a legal basis for LLDCs to access to and from the sea through transit states as outlined in Article 125(1) of the Convention, this right appears to be subject to conditions set out in sub articles (2) and (3):¹²⁴

- A. must be based on agreement with the transit neighbor (Article 125(2))
- B. subject to the legitimate interests of the transit state (Article 125 (3))

(A) LLDC Right to sea access contingent on agreement with the transit neighbor (Article 125(2))

As per the provisions of (Article 125(2)) LLDCs right to sea access is contingent on the negotiated outcome between the LLDC and transit States. This negotiated outcome is contained in bilateral, sub-regional or regional agreements, which lay down the terms and modalities for exercising LLDCs freedom of transit.¹²⁵ Transit states in turn are under an obligation to engage in good faith to facilitate LLDCs sea access.¹²⁶ Therefore the bilateral trade and transit agreements negotiated by LLDCs such as the Mongolia-China transit agreements and Nepal-India transit agreements are key in setting out the terms on which freedom of transit of Mongolia and Nepal are implemented.

(B) LLDC right to sea access subject to the legitimate interests of the transit state (Article 125 (3))

exactly the same rights.

¹²² Interview with Maritime Administration of Mongolia, Ulaanbaatar, Mongolia, 26-31 October, 2015

¹²³ Such as UN GA Res. 46/212 of 20 December 1991

¹²⁴ For a more in-depth discussion see Diba, Bahman Aghai, "Iran and Landlocked States", Available at: <http://www.payvand.com/news/14/dec/1111.html>

¹²⁵ United Nations, Summary Report of Panel Discussion "UNCLOS and Landlocked Developing Countries: Practical Implications", 1 June 2012

¹²⁶ United Nations, Summary Report of Panel Discussion "UNCLOS and Landlocked Developing Countries: Practical Implications", 1 June 2012

Article 125 (3) permits transit states to take necessary measures necessary to ensure that the LLDC sea access does not contravene the transit states legitimate interests.¹²⁷ There is no clear indication as to what may constitute “legitimate interests”, as a result of which a wide range of legal, administrative and political adjustments in the transit state can act as hindrances to the LLDCs access rights under the guise of legitimate interest.¹²⁸ It appears therefore that LLDCs right of easy and free access to and from the sea is subject to negotiations between the LLDC and its transit partner.¹²⁹

UN Normative Framework for LLDCs

The UN system has over a period of time consistently taken cognizance of LLDC needs and inherent disadvantages. To consistently follow the issues faced by LLDCs and monitor their progress, the Almaty Program of Action (“Almaty PoA”) and the Vienna Program of Action (“Vienna PoA”) was set up. Table 14 sets out a comparison of some of the features of the two programs of action.

TABLE 14: COMPARISON OF ALMATY AND VIENNA PoA		
ISSUE	ALMATY PoA	VIENNA PoA
Date	2003	2014
Goal	forge partnerships to overcome LLDCS problems caused by lack of territorial access to sea and remoteness from world markets	
Priority areas	-transit policy issues -infrastructure development/ maintenance -international trade and trade facilitation -international support measures -implementation and review	-transit policy -infrastructure development/ maintenance -international trade and trade facilitation, regional integration/cooperation -structural economic transformation implementation
Trade and transit recommendations		increase value added and manufactured component of exports boost intraregional trade Better market access from trade partners Removal of arbitrary/unjustifiable NTBs Services as a trade enabler
Implementation measures		Use of ODA, Aid for Trade and South-South cooperation High level midterm review, development of key indicators
<i>Source: Author creation based on Almaty and Vienna PoA</i>		

The priority areas of focus of the Almaty and Vienna PoA’s are similar in the areas of transit policy, infrastructure development, international trade, trade facilitation and implementation issues. However while the Almaty PoA places an emphasis on the importance of international support

¹²⁷ Article 125 of the Convention, provides transit countries with the right to define their legitimate interests, therefore making it difficult for LLDCs to exercise the right of transit.

¹²⁸ Uprety, Kishor “From Barcelona to Montego Bay and Thereafter: A Search for Landlocked States’ Rights to Trade through Access to the Sea –A Retrospective Review” Singapore Journal of International & Comparative Law, 2003

¹²⁹ Endalcachew Bayeh: The Rights of Land-Locked States Under the International Law: The Role of Bilateral/Multilateral Agreements, Science Publishing Group, March 15, 2015. Available at: <http://unohrlls.org/custom-content/uploads/2013/09/The-Rights-of-Land-Locked-States-in-the-International-Law-The-Role-of-Bilateral-and-Multilateral-Agreements.pdf>

measures and partnerships,¹³⁰ the Vienna PoA highlights the importance of regional integration/cooperation and structural economic transformation.

International Trade Framework

The WTO Agreement on Trade Facilitation

The WTO's TFA provides Mongolia and its trade and transit partners with an unprecedented opportunity to address several transit issues impacting Mongolia's trade. These issues more specifically set out in Part III of this paper, relate to issues of simplification, harmonization and standardization of transit and trade related regulation, all of which are addressed by the WTO's TFA.

FIGURE 9: PROVISIONS OF THE WTO'S TRADE FACILITATION AGREEMENT



Articles 1-5 of the WTO's TFA cover issues of transparency, an issue raised by several logistics operators in Mongolia particularly in terms of lack of knowledge of transit related legislation and frequent changes in legislation of transit states.¹³¹ Articles 7-11 contain provisions relating to goods, providing guidance for goods clearance. Article 7 sets out the concept of authorized operators. Article 8 relates to alignment of operational procedures such as Opening hours, Joint operations. Article 8 provides for border agency cooperation including the possibility of joint border stations. Mongolia and China have already initiated certain pilot projects involving joint border stations.¹³²

Articles 11.1 to 11.5 provide for freedom of transit at the bilateral, regional and international level. Articles 11.3 and GATT V deal with issues relating to the Freedom of Transit, a provision of key importance for Mongolia as an LLDC. Article 11.5 provides for customs convoys/escorts to ensure security of goods in transit, currently being undertaken in the Nepal-India transit context.

¹³⁰ Such as international financial institutions, multilateral organizations, development banks and trade and transit partners

¹³¹ Interviews conducted with freight forwarding associations and logistics companies in Ulaanbaatar, Mongolia, 22-31 October, 2015

¹³² Interviews conducted with freight forwarding associations in Ulaanbaatar, Mongolia, 22-31 October, 2015

This maybe an area that Mongolia may wish to consider for its goods in transit through China. Provisions on services include Art. 11.2, which addresses administrative fees and charges.

Articles 11.6-11.11 provides for customs transit provisions including reference to the use of IT systems such as ASYCUDA. Article 11.8 deals with technical barriers to Trade. Article 11.5 provides signatories with the opportunity to avail of donor assistance for physical infrastructure.

TABLE 15: TRADE FACILITATION AGREEMENT MEASURES THAT HAVE BEEN NOTIFIED TO THE WTO UNDER CATEGORY A¹³³			
TFA Agreement (Provisions of Section 1)	Mongolia	Nepal	China¹³⁴
Publication/Availability of Information (Article 1)	Notifications (Article 1.4)		Notified
Opportunity to Comment, Information before Entry into Force, Consultation (Article 2)	Consultations (Article 2.2)		Notified
Advance Rulings (Article 3)			Notified
Procedures for Appeal/Review (Article 4)	Procedures for appeal or review (Article 4)		Notified
Other Measures to Enhance Impartiality, Non Discrimination and Transparency (Article 5)	Detention (Article 5.2)		Notified
Disciplines on fees and charges imposed on or in connection with importation and exportation and penalties (Article 6)	General disciplines on fees and charges imposed on or in connection with importation/exportation (Article 6.1) Specific disciplines on fees and charges imposed on or in connection with importation/exportation (Article 6.2)		Notified
Release and Clearance of Goods (Article 7)			Notified, with exception of Establishment and Publication of Average Release Times
Border Agency Cooperation (Article 8)			Notified
Movement of goods intended for import under custom control (Article 9)			Notified
Formalities connected with importation, exportation and	Formalities and documentation	Preshipment Inspection	Notified with the exception of

¹³³ Provisions that the Member will implement by the time the Agreement enters into force (or in the case of a least-developed country Member within one year after entry into force).

¹³⁴ China has notified the entire Section 1 of the WTO's Trade Facilitation Agreement with the exception, set out in the Table.

transit (Article 10)	requirements (Article 10.1) Acceptance of copies (Article 10.2) Common border procedures and uniform documentation requirements (Article 10.7) Rejected goods (Article 10.8)	(Article 10.5) Use of Customs Brokers (Article 10.6)	Article 10 (4) : Single Window; and Article 10(9) Temporary Admission of Goods and Inward and Outward Processing
Freedom of Transit (Article 11)	Freedom of transit (Article 11)		Notified with exception of Article 12: Customs Cooperation
<i>Source: Notifications to the WTO by Mongolia, Nepal, China¹³⁵</i>			

WTO members are required to notify trade facilitation measures or “Category A” Notifications which they will implement by the time the WTO’s TFA enters into force. Table 15 provides an overview of the Category A notifications made by Mongolia, China and Nepal. An analysis of Category A notifications made by China indicate that China has made substantial Category A notifications, covering entire Articles of the WTOs TFA with few exceptions. Mongolia on the other hand has notified specific subsection within larger Articles. Nepal has made a single notification for preshipment inspection and use of customs brokers. Thus China’s notifications are more encompassing as compared to Mongolia’s. This is likely to be because China’s transit and customs formalities are more sophisticated as compared to Mongolia given its large international trade transactions.

General Agreement on Trade in Services

GATS commitments under the WTO’s framework also form part of the international agreements architecture that applies to Mongolia. Mongolia, China and newly acceded Russia, have undertaken commitments under several relevant categories including logistics and transport services. It would be relevant for all 3 countries under consideration to revisit these commitments to determine, their implications for bilateral and trilateral transit relations and agreements. For instance, conditions relating to the quota system for trucking services between Mongolia and China and restrictions on trucks operating in Russia, may need to be reconsidered.

International Transport Framework

In terms of transport and transit related agreements, Mongolia is a signatory to several International transport conventions including the TIR Convention; the Convention on the Contract for the International Carriage of goods by Road; and the Convention on Road Traffic and Road Signs and Signals.

As Table 16 indicates Mongolia and China are signatories to several UN transport agreements, however they share only two agreements in common i.e. Road Traffic Convention of 1968 and the

¹³⁵ See Communication from Mongolia, Notification of Category A commitments on the Trade Facilitation Agreement, WT/PCTF/N/MNG/1, 29 July 2014, Communication from China, Notification of Category A commitments on the Trade Facilitation Agreement, WT/PCTF/N/CHN/1, 1 July 2014 and Communication from Nepal, Notification of Category A commitments on the Trade Facilitation Agreement, WT/PCTF/N/NPL/1, 27 October 2015.

Roads Signs and Signals Agreement of 1968. There is therefore the possibility for Mongolia and China to establish a common acceptance of international/conventions that is relevant to their transit relation and one party is a member of. By contrast, Nepal appears to be a signatory to a fewer number of international conventions as compared to India.

TABLE 16: MONGOLIA, NEPAL, CHINA, INDIA PARTICIPATION IN UN TRANSPORT AGREEMENTS AND CONVENTIONS SERVICED BY UNECE				
Agreement	Mongolia	Nepal	China	India
<i>Road traffic and Road Safety</i>				
Road traffic 1949			X	X
Road Traffic 1968	X		X	
Protocol on Road Signs & Signals, 1949				X
Roads Signs and Signals, 1968	X		X	X
<i>Vehicles</i>				
Global Vehicles Regulations, 1998			X	X
<i>Other Legal Instruments</i>				
Contract Road Goods Transport (CMR) ,1956	X			
<i>Railway</i>				
<i>Border crossing Facilitation</i>				
Customs Container Convention 1972			X	
Touring Facilities 1954		X		X
Protocol on Touring Facilities, 1954		X		X
Temporary Import of Private Road Vehicles, 1954		X		X
TIR Convention, 1975	X			
Harmonize. Frontier Controls Goods, 1982	X			
<i>Source UNECE report 58, Status as of 29/10/2015</i>				

A key agreement that is likely to be useful to the transit relation between Mongolia, China and Russia is the TIR Convention. The TIR Convention is a harmonized system of customs control that facilitates trade and transport whilst effectively protecting the revenue of each country through which goods are carried.¹³⁶ Mongolia and Russia have both acceded to the TIR convention and China is a candidate for accession. However it is pertinent to mention that Mongolia's accession to the TIR Convention has had some problems including the inability to fully utilize their quota of TIR carnets.

(ii) Overview of Mongolia and Nepal's Regional and Bilateral Trade and Transit Agreements

Dating back to the 1950s Mongolia and Nepal have concluded a range of transit and trade agreements. Table 17 provides an overview of the bilateral/regional trade agreement that Nepal and Mongolia have entered into.

TABLE 17: TRADE AGREEMENTS REGIME OF NEPAL AND MONGOLIA		
	NEPAL	MONGOLIA
MULTILATERAL	WTO	WTO
REGIONAL	SAFTA, BIMSTEC, SAARC	None
BILATERAL	EEC, Cuba, US ¹³⁷ ,	Japan Economic Partnership Agreement, 43 BITS

¹³⁶ Benefits arising from accession to the TIR convention include access to 58 TIR operational countries, intermodality, Security in the supply chain, Reduced delays and costs for the international transit of goods.

¹³⁷ These include Agreement on Trade in Textiles with the EEC (1997), Trade Agreement with Vietnam (1999) which includes provisions relating to transit transport and customs, Trade Agreement with Cuba (2001), Agreement on Transparency in matters relating to International Trade and Investment with the US concerning Development of Trade and Investment Relations/TIFA (2013).

In terms of trade agreements, at the multilateral level both Mongolia and Nepal are members of the WTO, and linked to ASEAN. The key international trade agreements of Mongolia and Nepal tend to include their main transit partners, China and Russia in the case of Mongolia and India and China in the case of Nepal. Many of Mongolia's bilateral trade agreements have been superseded by Mongolia's accession to the WTO, although some were negotiated after its accession such as the Economic Partnership Agreement with Japan in 2015. Mongolia has also entered into 43 BITs.

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However, in terms of their approach to bilateral/regional trade agreements, Mongolia and Nepal differ substantially. Mongolia is not a member of any RTA and it was only in 2014 Mongolian and Russian officials held talks to discuss trade ties. The focus being Mongolia's possible accession to the Russian-led EEU which includes Kazakhstan, Belarus, Armenia and Kyrgyz Republic.¹³⁹ Nepal on the other hand plays an active role in regional trade negotiations in the context of SAARC, SAFTA and BIMSTEC. Nepal is member of two overlapping regional trade agreements: SAFTA and BIMSTEC. It has signed 17 bilateral agreements, some of which are no longer in force and a trade cooperation agreement with the EU.¹⁴⁰

TABLE 18: NON EXHAUSTIVE OVERVIEW OF MONGOLIA'S TRADE AND TRANSIT AGREEMENTS WITH CHINA AND RUSSIA		
	China	Russia
1990s	Agreement on Road Transportation 1991 Agreement on Transit Freight from China to Mongolia, 1991	Agreement on International Road Transport, 1996 Agreement on Reaching Seaport: facilitate the access of Mongolian goods to seaports and set special custom's warehouse or terminal zones for the purpose of storage, transit, grouping and other operations for goods
2014	Agreement on access to and from the sea and transit transport by Mongolia through China's territory Agreement on Railway Transit Transport Cooperation	

Source: Author

Mongolia's Regional and Bilateral Trade and Transit Regime

As Table 18 indicates Mongolia has concluded several transit (rail and road) agreements with China in particular and Russia. The latest round of transit agreements with China was concluded in 2014. Mongolia has been in discussions with China regarding the China led OBOR project. Mongolia's transit agreements with Russia date back to the 1990s. In the context of the Russian led EEC, discussions are underway transport infrastructure, particularly railways and the creation of a free trade zone as part of this customs union.¹⁴¹ The EEC becomes relevant if Mongolia accedes to it.

¹³⁸ WTO Trade Policy Review for Mongolia, WT/TPR/S/297, 15 April 2014

¹³⁹ Online statement by Russian's Economic Development Ministry Mongolia Economy, Oxford Business Group, Mongolia Trading Up, Economic News Update, 19th August, 2014

¹⁴⁰ According to the WTO Trade Policy Review for Nepal, WT/TPR/S/257, 21 December 2011, Nepal has signed bilateral trade agreements with: Bangladesh (1976); Bulgaria (1980); China (1981); Czechoslovakia (1992); Democratic People's Republic of Korea (1970); Egypt (1975); India (1991); Mongolia (1992); Pakistan (1982); Poland (1992); Republic of Korea (1971); Romania (1984); Sri Lanka (1979); United Kingdom (1965); United States (1947); USSR (1970); and Yugoslavia (1965).

¹⁴¹ Oxford Business Group, Mongolia Economy, Mongolia Trading Up, Economic News Update, 19th August, 2014

Mongolia is also an active participant in the Trilateral Transit Traffic Agreement (Mongolia, China and Russia), which has been under negotiation for over fifteen years. The Agreement is intended to facilitate transit trade between the Parties by filling the gaps in international trade and transit conventions and agreements which the three countries are already parties to. In particular, it will guarantee freedom of transit by all modes of transport and promote simplification, harmonization and standardization of customs, administrative procedures and documentations.¹⁴²

BOX 1: POTENTIAL TRANSIT TRAFFIC FRAMEWORK AGREEMENT BETWEEN MONGOLIA, CHINA, RUSSIA

As per UN General Assembly Resolution in 1997, UNCTAD, UNDP and ESCAP prepared a draft sub-regional transit agreement for consideration by China, Mongolia and Russia. Negotiations. The draft transit traffic agreement (2005) provides for:

(1) the identification of Transit transportation routes and border crossing points. For roads, Mongolia has identified Asian Highway routes AH3, AH4, AH32 and the border crossing points of Altanbulag, Zamiin-Uud, Ulaanbaishint, Yarantai, Sumber. For rail, Mongolia has identified, Trans-Asian Railway Network line Sukhbaatar-Zamiin-Uud and the border crossing points of Sukhbaatar, Zamiin-Uud. As per the 2005 draft transit agreement, neither China nor Russia have made any specifications.

(2) Requirements for designated transit road and rail routes must comply with the Intergovernmental Agreement on the Asian Highway Network and the Intergovernmental Agreement on the Trans-Asian Railway Network, both of which all 3 countries are party to.

(3) From an institutional perspective, the draft transit agreement requires each country to set up a national board to coordinate activities at a national level. 5 members of this national board will participate in the National Coordinator's Committee whose functions other than administrative will have to be determined.

While Mongolia in particular and China are keen to proceed with the agreement. There is some degree of apprehension on the part of Russia owing to the new transport technologies, infrastructure developments and significant changes in customs regulations in the region. In addition Russia has concluded a customs union with Belarus and Kazakhstan, which may be expanded.

It was agreed to proceed on the basis of the 2005 draft transit traffic text and two have two subsets of issues to discuss namely (a) transport-related issues and (b) administrative issues, including customs.

Source: UNCTAD, Report of the Consultation Meeting on the Draft Transit Traffic Agreement between the People's Republic of China, Mongolia and Russia, Beijing, China, UNCTAD/ALDC/MISC/2011/3, 18 January 2011.

Mongolia has also signed intergovernmental agreements on road transport with Russia, China, Kazakhstan, Ukraine, Belarus, Turkey and the Kyrgyz Republic.¹⁴³

Nepal's Regional and Bilateral Trade and Transit Regime

As Table 19 indicates Nepal's trade and transit regime with India and China dates back to the 1950's. Since then Nepal's transit regime with India has undergone a progressive evolution, but not without issues related to the political dynamics between the two countries. Nepal's request to have a separate trade and transit treaty was successful after protracted negotiations owing to

¹⁴² World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

¹⁴³ WTO Trade Policy Review for Mongolia, WT/TPR/S/297, 15 April 2014

Nepal's firm stance. ¹⁴⁴In 1991 India agreed to the conclusion of two separate trade and transit treaties, as well as the automatic renewal of existing treaties. Table 19 sets out in detail the trajectory and terms of Nepal trade and transit agreements with India and China.

TABLE 19: NON EXHAUSTIVE OVERVIEW OF NEPAL'S TRADE AND TRANSIT AGREEMENTS WITH INDIA AND CHINA		
	China	India
1950's	1956 Agreement on trade and economic development	1950 - Trade and Commerce treaty
	1956 Economic Aid agreement (capital, machinery, commodities)	
1960s	1961 – Protocol for Infrastructure development – including Araniko highway construction 1964 -Trade Agreement (measures to improve trade) 1966 - economic cooperation (Aid related) 1968 – Economic Cooperation (trade through state trading enterprises and others, MFN treatment for customs and tax)	1960 - Trade and Transit Treaty (Nepal's full and unrestricted right of commercial transit recognized)
1970s	1976 – extension of Agreements on trade and transport between Tibet ARC and Nepal	1971 – Mutual trade and transit treaty (transit facilities extended by India for Nepal's trade with a third country, Duty free access to Nepalese imports on a non-reciprocal basis but with Nepalese-Indian material content requirement)
1980s	1981 – Trade and Settlement	
1990s		1991 - Two treaties on trade and transit Nepalese government request on automatic renewal, additional transit route to Bangladesh via Phulbari operating modalities for transit worked out. ¹⁴⁵ 1998 Treaty of Transit renewed
2000	2000 - Economic and Technological Cooperation 2001 – DTAA and prevention of tax evasion agreement 2002 – Nepal and Tibet ARC facilitation of trade agreement 2009 MoU to attract Chinese investment in Nepal	2002 Treaty of Trade renewed 2004 Rail Services Agreement - cargo train service to the Inland Container Depot at Birgunj, Nepal extended 2007 - Treaty of Trade and Transit automatically renewed. Duty free access to primary products; Nepalese manufactured products allowed access to Indian market free of basic customs duty; Nepal provides rebate of 7% percent on customs duty for imports. Nepal to have 15 transit routes from Kolkata port for 3 rd country trade by road or rail

¹⁴⁴ Thapa Ranjit Major, Nepal's Strategic Future: Following India, or China or Middle Road, Thesis presented to the Faculty of the U.S. Army Command and General Staff College 10, December 2010

¹⁴⁵ Thapa Ranjit Major, Nepal's Strategic Future: Following India, or China or Middle Road, Thesis presented to the Faculty of the U.S. Army Command and General Staff College 10, December 2010.

		direct transit routes to Bangladesh for bilateral and third country traffic. ¹⁴⁶ 2008 - Rail Services Agreement modified to allow oil-liquid traffic in tank wagons and bilateral break-bulk cargo in flat wagons 2009 - Trade Treaty (greater access of Indian exports to Nepal markets.)
2015	Nepal China MoU signed on November 2015 ¹⁴⁷ : - Opening of 7 customs point along Nepal's Northern border ie. Kimathangka of Sankhuwasabha, Korala of Mustang, Olangchunggola of Taplejung, Larke of Gorkha, Yari of Humla, Lamabagar of Dolakha and Mugu customs - Dry port established in Larcha, Sindhupalchowk and Timure, Rasuwa - Reopening of the Tatopani customs, shut since earthquake	
<i>Source: Author</i>		

The Nepal-India Transit treaty has undergone several rounds of negotiations and renewals. The latest renewals of the Trade treaty were in 2009 and the Transit treaty was renewed in 2007. The evolution has not been an easy one owing to political and economic reasons, however; overall it has been a workable arrangement benefiting both countries.

Nepal's trade and transit agreement regime with China goes back to the 1950s, but has not developed as rapidly as Nepal's transit regime with India. From 1950s onwards there are agreements spanning technological cooperation, tax evasion and Chinese investment into Nepal. The recently signed Nepal –China Memorandum of Understanding, 2015, is perhaps the most relevant agreement. The salient features of the Nepal China MoU November 2015¹⁴⁸:

- MoU on commercial operation as a result of discussions between Nepal's Customs Department and Chinese Lhasa customs
- Opening of 7 customs point along Nepal's Northern border ie. Kimathangka of Sankhuwasabha, Korala of Mustang, Olangchunggola of Taplejung, Larke of Gorkha, Yari of Humla, Lamabagar of Dolakha and Mugu customs
- Dry port established in Larcha, Sindhupalchowk and Timure, Rasuwa
- Reopening of the Tatopani customs, which was shut since earthquake ravaged in the April 25 mega quake and has remained shut since.

¹⁴⁶ One road route and one rail route have been notified. The road route is through the Kakarbitta-Panitanki-Phulbari-Banglabandha corridor. The rail route is through the Radhikapur-Birol interchange point on India-Bangladesh border

¹⁴⁷ See: <http://www.onlinekhabar.com/2015/11/346827/#sthash.AX5Epy4q.dpuf>, Kathmandu Post,

¹⁴⁸ See: <http://www.onlinekhabar.com/2015/11/346827/#sthash.AX5Epy4q.dpuf>, Kathmandu Post,

(iii) Comparison of Mongolia-China and Nepal-India Transit Agreements: Lessons for Mongolia

The India-Nepal trade and transit relationship is complex and spans political, cultural, religious and regional elements beyond commercial rationale. Indo-Nepal bilateral relations also provide for free movement of persons between India and Nepal for the purposes of travel and employment as well as peg the Nepalese currency to the Indian rupee. While in general the Nepal-India trade and transit regime has by and large been a workable arrangement working to the mutual benefit of both countries, it has had its share of problems, the most recent one linked to the 2015 “blockade of goods” to Nepal.¹⁴⁹

As set out earlier in this section, since the first India-Nepal Treaty of Peace and Friendship was signed in 1950,¹⁵⁰ the two countries have concluded several new and revised agreements. A turning point in the evolution of the Indo-Nepal trade and transit regime was in 1999, when two separate treaties covering trade and transit were concluded.

Thereafter, there has been consistent improvement in sea access for Nepal in successive renewals of the Treaty of Transit Between Nepal and India 1999 (“Nepal-India Transit Treaty”), the Protocol to the Treaty of Transit Between Nepal and India (“Protocol”), the Memorandum to the Protocol to the Treaty of Transit Between Nepal and India (“Memorandum”) and Letters of Exchange between the two governments, all of which make up the Nepal-India transit agreement regime. For instance, current discussions on the renewal of the India-Nepal Transit agreement include the potential for Nepal to have access to India’s Vishakapatnam port and the signing of the Bangladesh-Bhutan-India-Nepal (“BBIN”) Motor Vehicles Agreement for passenger vehicles.¹⁵¹ In addition a Rail Services Agreement and an Air Services Agreement has also been concluded.

The key features of the Nepal-India Transit regime are analyzed and compared to the Mongolia-China Transit agreement (2014) in the following section. Tables 20 and 21 set out a comparative analysis of individual provisions of both agreements for road and rail transport.

TABLE 20: COMPARATIVE COVERAGE OF TRADE AND TRANSIT PROVISION IN INDIA-NEPAL TRADE AND TRANSIT AGREEMENT AND CHINA – MONGOLIA TRANSIT AGREEMENTS (ROAD) ¹⁵²		
Issue	India-Nepal	China-Mongolia
Purpose	Friendly relations, permanent access for Nepal and international trade ¹⁵³	Unwarranted impediments to traffic in transit to be eliminated expeditiously; ¹⁵⁴
Definitions	Transit traffic (Article 1), permitted on	Transit traffic in Article 1 (3)

¹⁴⁹ Interviews with Ministry of Transport, Delhi, India, February 2016, Interviews conducted representatives from Nepal, November, 2015

¹⁵⁰ For a more extensive history of the number and kind of agreements Nepal and India have signed since the 1950s, please refer to Table 19

¹⁵¹ Indian Ministry of External Affairs, February, 2012, <http://mea.gov.in/Portal/ForeignRelation/Nepal-February-2012.pdf>

¹⁵² Please note this analysis is indicative, only areas thought relevant by the author have been included areas such as transport of passengers, mail etc. have not been included. For the purpose of preparation of this table the following Agreements have been perused: (a) Agreement between Mongolia and China on access to and from the sea and transit transport by Mongolia through China’s territory, August 21, 2014 (b) Treaty of Transit Between Nepal and India 1999, the Protocol to the Treaty of Transit Between Nepal and India, the Memorandum to the Protocol to the Treaty of Transit Between Nepal and India and Letters of Exchange between the two governments.

¹⁵³ Preamble, Nepal-India Treaty of Transit (1999)

¹⁵⁴ Article 7 (1), Agreement between Mongolia and China on access to and from the sea and transit transport by Mongolia through China’s territory, August 21, 201

	agreed routes, without distinction. Includes transshipment, warehousing, breaking bulk, assembly/disassembly of machinery, and change in mode of transport undertaken for transportation purposes. (Article 3)	
Protection of interests	Protection of India's legitimate and security interests (Article 2)	Article 2
Designation of specific ports	Kolkata and Haldia ports	Article 2 incl. Tianjin's Xingang and international ports in Liaoning province. ¹⁵⁵ Possibility to use other ports specified in Railway agreement and as per international customary law.
Designation of specific routes	22 in all, including an alternate route via Bangladesh opened in 1997 (Operating Modalities Bangladesh)	Not clear
Treatment of ships at port	Nepalese ships to enjoy equal status as foreign ships, in matters of navigation, entry and departure from ports, use of port facilities, taxes (Article 7)	Ships of Mongolia to enjoy Equal status as other foreign vessels. Article 3, same as UNCLOS Article 131
Exceptions/Limitations on transport of certain kinds of goods/cargo	Exceptions for reason of health, security, IP infringement, counterfeit currency (Article 8)	Transit of hazardous, corrosive, perishable cargo/goods exceeding normal transport specifications to be done as per relevant intl. agreements. Transport of prohibited goods in intl./national law not allowed. ¹⁵⁶
Transport Expenses		To be borne by Mongolia incl. for transporting goods, usage of port space/facilities, service expenses. Such expenses to be fair in conformity with intl. treaties and Mongolia's LLDC status. ¹⁵⁷
Exemption from customs, transit duties and similar charges	Granted exemption, however for development reasons Nepal can levy duties or quantitative restrictions. (Articles 4)	Transit goods to be exempted from import and export duties or deposits of the same if transit procedures are met. ¹⁵⁸
Quantitative restrictions	Exemption from quantitative restrictions	Volume of Cargo/goods in transit to be agreed by contracting parties with reference to transport/post storage capacity of China. ¹⁵⁹
Freedom of transit for imports/exports	Freedom of transit for imports/exports through the territory of other party. No distinction based on place of origin, departure, destination, ownership etc.	

¹⁵⁵ Article 2, Agreement between Mongolia and China on access to and from the sea and transit transport by Mongolia through China's territory, August 21, 2014

¹⁵⁶ Article 4, Agreement between Mongolia and China on access to and from the sea and transit transport by Mongolia through China's territory, August 21, 2014

¹⁵⁷ Article 5, Agreement between Mongolia and China on access to and from the sea and transit transport by Mongolia through China's territory, , August 21, 2014

¹⁵⁸ Article 6 (3), Agreement between Mongolia and China on access to and from the sea and transit transport by Mongolia through China's territory, August 21, 2014. However charges may be levied in the in the interests of public safety or sanitation in accordance with national regulation.

¹⁵⁹ Article 3 (1) (c) , Agreement between Mongolia and China on access to and from the sea and transit transport by Mongolia through China's territory, August 21, 2014

	Detailed description of procedures/processes (Memorandum)	
Nationality of transporters	Does not seem to be any specifications	Cargo/Goods in transit by road to be transported by transport means of China. Consultations between parties to discuss possibility of LLDC modalities for transportation of goods in transit ¹⁶⁰ Goods in transit by sea to be transported by vessels of China/Mongolia
Special treatment of “sensitive goods” e.g. Petroleum, fertilizer etc. or goods sensitive for foreign trade	- specific transport corridors -Special insurance/bank guarantee requirements - to be transported by marine container/pilfer proof trucks, bulk cargo (e.g. cement, veg, fertilizer) by open trucks (Protocol)	
Documents required by customs authority	For imports/exports Detailed description of Customs Transit Declaration and accompanying documents including import/export license, bond ensuring non diversion of route, evidence that goods have transmitted (Memorandum)	
Breaking of bulk of consignment	Breaking of bulk of consignment to be conducted under supervision of customs authority (Protocol)	
Warehousing and storage facilities	Warehousing subject to laws of party in which warehousing is taking place (Article 5). Detailed provisions on warehousing size, location, long-term lease facilities to Nepal Transit and Warehousing Company Ltd. e.g. 25 years, operation of vehicles, licenses for clearance of goods, facilitated inspections. (Protocol)	Mongolia may use bonded areas and warehouses in designated sea port ¹⁶¹
Facilitation of Customs		China to facilitate transit transport and customs clearance; ¹⁶²
Customs Inspections of goods in transit	For containerized imports/exports, inspection only if “one time lock” is broken. For non-containerized imports, selective percentage inspection (Memorandum)	Goods en route generally not to be subject to inspections by customs/quarantine etc. if transit procedures met ¹⁶³
Appointment of customs liaison officers	Appointment of customs liaison officers to liaise with authorities in contracting parties to ensure smooth	

¹⁶⁰ Article 3 (1)(a), Agreement between Mongolia and China on access to and from the sea and transit transport by Mongolia through China’s territory, August 21, 2014

¹⁶¹ Article 6 (1), Agreement between Mongolia and China on access to and from the sea and transit transport by Mongolia through China’s territory, August 21, 2014

¹⁶² Article 6 (1), Agreement between Mongolia and China on access to and from the sea and transit transport by Mongolia through China’s territory, August 21, 2014

¹⁶³ Article 6 (1), Agreement between Mongolia and China on access to and from the sea and transit transport by Mongolia through China’s territory, August 21, 2014

	transition. Officers to be provided specific powers e.g. access to examination centers, transshipment points, presence during examination of goods etc.	
Set up for resolving differences	Consultation and Institutional set up for resolving differences	Differences relating to the agreement to be resolved through consultations. ¹⁶⁴
Renewal and Review of Agreements	Periodic review of the Agreement every 7 years, possibility of termination (Article 11)	Agreement in force for 10 years with automatic renewal for periods of 5 years. ¹⁶⁵
<i>Source: (a) Agreement between Mongolia and China on access to and from the sea and transit transport by Mongolia through China's territory, August 21, 2014 (b) Treaty of Transit Between Nepal and India 1999, the Protocol to the Treaty of Transit Between Nepal and India, the Memorandum to the Protocol to the Treaty of Transit Between Nepal and India and Letters of Exchange between the two governments.</i>		

As set out in Table 20 there are several areas of similarity between the Nepal-India Transit agreement (Road) and the Mongolia-China Transit agreements (Road). These include similarities in the purpose of the agreements, definitions of transit traffic, approach of specifying designated ports and routes, freedom of transit, temporary importation duties, safety and security coverage, taxes and transit charges, limitations on transport of certain kinds of cargo, provision for dispute settlement and renewal and review of the agreements.

However, there are also several areas of difference the most obvious one being the detailed coverage of issues such as custom controls, conditions for transport, technical requirements for vehicles, compulsory issuance of vehicles, driving permits in the Nepal-India Road Transit Agreement. Both agreements provide for exemptions from the levying of customs/transit duties, however the India-Nepal Agreement allows for Nepal to levy duties or quantitative restrictions for development reasons. For quantitative restrictions while the India-Nepal Agreements completely exempts the application of quantitative restrictions, in the Mongolia-China agreement the application of quantitative restrictions is conditional on the transport and storage capacity of China. The Mongolia-China Agreement also requires cargo/goods in transit by road to be transported by transport means of China and goods in transit by sea to be transported by vessels of China/Mongolia.

The Nepal-India transit agreement sets out a list of sensitive goods, which benefit from usage of specific transport corridors and are required to conform to specified customs and packaging formalities.

Finally at the institutional level, it appears there is a large degree of engagement and co-ordination between Nepalese and Indian officials both at the policy level and on the ground levels. For instance, at the level of customs officials, a Nepalese customs officer sits at Kolkata/Haldia ports, the facilitation of the specimen signature of customs officials on import licenses is coordinated through the Nepalese consulates and embassies in India and at the policy level Nepal- India institutional committee's meet regularly to discuss future progression. Further as set out in Table 20 Nepal-India Transit Agreement provides for the appointment of Nepalese customs liaison officers in Indian ports who are granted special powers.

¹⁶⁴ Article 7 (2), Agreement between Mongolia and China on access to and from the sea and transit transport by Mongolia through China's territory, August 21, 2014

¹⁶⁵ Article 10, Agreement between Mongolia and China on access to and from the sea and transit transport by Mongolia through China's territory, August 21, 2014

The Nepal-India Trade and Transit Agreement also provides for 3rd country access to Bangladesh via Karabhitta (Nepal)-Phulbari (India)-Banglabandh (Bangladesh), although there has been some difficulty in the implementation of this route.¹⁶⁶ The detailed operating modalities for the usage of this route are contained in the Operating Modalities for Additional Transit Route between Nepal and Bangladesh (“Operating Modalities, Bangladesh”).

TABLE 21: COMPARATIVE COVERAGE OF TRADE AND TRANSIT PROVISIONS IN INDIA-NEPAL TRADE AND TRANSIT AGREEMENT AND CHINA – MONGOLIA TRANSIT AGREEMENTS (RAIL)¹⁶⁷		
Provision	India-Nepal	Mongolia-China
Purpose	Operating and managing rail services between Kolkata/Haldia Ports (India) Birgunj (Nepal) via Raxaul (India) for transit traffic (Article 2.1)	Develop rail transit with reference to mineral exploitation, infrastructure construction, financial support ¹⁶⁸
Railway ports & rail infrastructure	ICD at Birgunj to be operated by Nepalese or Indian management company or a JV. If Indian company chosen, it will select Nepalese JV partner.	Rail infrastructure to be constructed at: ¹⁶⁹ Gashuun Sukhait –Ganqimaodu, Shivee Khuren –Ceke, Bichigt-Zhuengadabuqi, Sumber-Aershan (Rashann) Responsibility for construction and management of port stations/railway corridor to lie with respective parties.
Maintenance of Railway tracks and wagons	Railway tracks in Nepal to be maintained by Nepal as per specifications of Indian Railways. (Article 7.1). Terminal management company to carry out maintenance of wagons, along with Indian railways. (Article 8.3). Joint inspection of wagons at Raxaul. (Article 9)	
Examination of wagons	Joint examination of wagons at Raxaul to determine condition of locks (including one time lock of containers) and seals. Custody of train changes from India to Nepal and vice versa after examination. (Article 16) Detailed procedure of customs examination and clearance of containerized transit cargo/break bulk transit cargo, which is similar to provisions for road transport. (Annex A,B of Agreement)	
Border Railways and corridors	Calcutta/Haldia Ports (India)- Birgunj (Nepal) via Raxaul (India) for transit traffic (Article 2.1). Includes transit traffic to and from countries other than India passing through Kolkata/Haldia ports. (Article 12) Raxaul to be point of	Shall be planned and constructed ¹⁷⁰ based on principles of reduction of transport costs and increased transportation efficiency

¹⁶⁶ Interviews conducted with Nepalese stakeholders, November 2015

¹⁶⁷ Agreement between Mongolia and China on Railway Transit Transport Cooperation, 21st August, 2014 and India-Nepal Rail Services Agreement.

¹⁶⁸ Article 1, Agreement between Mongolia and China on Railway Transit Transport Cooperation, 21st August, 2014

¹⁶⁹ Article 2, Agreement between Mongolia and China on Railway Transit Transport Cooperation, 21st August, 2014

¹⁷⁰ Article 3, Agreement between Mongolia and China on Railway Transit Transport Cooperation, 21 August, 2014

	interchange between India and Nepal.	
Base Tariff	Freight rates to be fixed by respective Ministries based on distances traversed (Article 21)	China to provide 40% discount from base tariffs set in OSJD ¹⁷¹ for goods transiting through China ¹⁷²
Running of Trains	Indian railways locomotives using wagons of Indian railways and container corporation of India to run all trains between India and Nepal. Crew/guards to be provided by Indian Railways (Article 14)	
Period of Agreement	Initial period of 10 years, with automatic extension and review every 5 years. Termination possible with notice.	25 years, with automatic renewal of 25 years ¹⁷³
<i>Source: Nepal-India Rail Services Agreement, 2004 and Mongolia-China Agreement on Railway Transit Transport Cooperation, 21st August, 2014</i>		

In terms of the rail transit agreements, the purpose of the Nepal-India rail transit agreement is to provide rail services on the specified Kolkata/Haldia-Birgunj line, whereas the purpose of the Mongolia-China rail agreement is mineral exploitation, infrastructure and financial support. The Mongolia-China Rail transit agreement provides for the construction of 4 rail lines as specified in Table 21, it further allows for Mongolia to build transport capacity to service Chinese rail transit freight. There is also a quota set aside for 3rd country transit trade.

The specific features of the Nepal-India rail agreement is that it provides for private sector management of the ICD at Birgunj, it also provides for ongoing maintenance of railway tracks and wagons and detailed provisions for customs examinations.

A comparison of the two agreements indicates a difference in approach with the India-Nepal Transit agreements being highly prescriptive, in all aspects of the agreement describing in detail specific actions to be taken by individuals, exact procedures to be followed, detailed description of road and rail routes, vehicles for transport e.g. pilfer proof trucks, marine containers etc., sealing of consignments and even provides for the designation of alternate routes on an emergency basis. It can be argued that these detailed provisions provide substantial clarity on processes to be followed.

The Mongolia-China agreements on the other hand tend to be more broad setting out general principles. Both approaches have plus and negative points. The India-Nepal agreements have been criticized for being too detailed, at times differing from national law and on the ground practices. The Mongolia-China transit agreements can be said to be too brief lacking certainty and not reflective of on the ground practices.

The Memorandum to the Protocol to the Treaty of Transit between Nepal and India has very detailed step by step provisions relating to the import procedure and the export procedure including model forms and descriptions of the kind of declarations to be made. This is likely to be of usage to private sector operators both transport carriers and traders, as it provides a degree of clarity and certainty.

The India-Nepal transit agreements also have a number of problems, in terms of their implementation. The India-Nepal Transit agreement describes a range of documentation that is required in relation to the Custom Transit Document, bank guarantees, and insurance amongst

¹⁷¹ OSJD stands for Unified Transit Tariff of Organization for Cooperation between Railways.

¹⁷² Article 3, Agreement between Mongolia and China on Railway Transit Transport Cooperation, 21 August, 2014

¹⁷³ Article 7, Agreement between Mongolia and China on Railway Transit Transport Cooperation, 21 August, 2014

others. For SME traders the number of documents that are required can be complicated. Further, actual documentary requirements are higher than those specified in the transit treaty.

The transit treaty specifies that for sensitive goods, an insurance policy or a bank guarantee is required to ensure that Indian customs is able to realize the duties in the case of the goods not reaching Nepal. There are two major problems in this case. The first relates to the sensitive items list, which is unclear, not available on time and can be out of date (Nepal 2006; South Asia Watch on Trade, Economics and Environment 2012). Further an importer is expected to execute a bank guarantee in case goods fail to reach Nepal, however only two insurance companies, (namely, the Indian National Insurance Company and the Oriental Insurance Company) have the authority to issue such guarantees. This results in a high premium rate than if more insurance companies were permitted.¹⁷⁴

PART III TRADE AND TRANSIT PROBLEMS FACED BY MONGOLIA AND NEPAL

(i) High Transportation Costs

As with most LLDCs, Mongolia and Nepal face higher transport costs as compared to their maritime neighbors. The cost borne by Nepalese exporters, are higher (by up to 25 percent) than those of competitors in other countries.¹⁷⁵ Transportation challenges faced by Mongolia too are considerable. According to UNDP in 2008 for transport costs accounted for 18% of the country's average world price for exports and 11% of its imports.¹⁷⁶ Further for both LLDCs, the cost of containerized transport is high and seems to be rising. Between 2011 and 2014, the cost to import a container into Mongolia rose steadily from USD 2400 in 2011 to USD 2950 in 2014.¹⁷⁷ Similarly, Mongolia's cost to export a container rose from USD 2265 in 2011 to USD 2745 in 2014. In comparison Nepal's cost to import a container rose from USD 1960 in 2011 to USD 2545 in 2014. While Nepal's cost to export a container rose from USD 2095 (2011) to USD 2650 in 2014.

The rising transport costs in LLDCs including Mongolia and Nepal is linked broadly to (1) trade related dynamics arising from their geographic location (2) usage of transit infrastructure of their main transit partner in this case China and India respectively (3) lack of good political relations with and within neighbors (4) administrative processes for goods in transit.¹⁷⁸

(ii) Trade Linked Issues

Trade impacts arising from high transport costs

Mongolia and Nepal's geographic remoteness results in higher transport costs due to long voyages and high fuel expenditure. This in turn directly raises the cost of their exports and imports. The high transport costs also have several indirect trade impacts. To begin with LLDCs do not engage in significant volumes of transoceanic trade, exporting overwhelmingly to their immediate

¹⁷⁴ Taneja, Bimal, Dalal, Nepal's Transit through India: An Assessment, Economic & Political Weekly, Volume No 45, November 7, 2015

¹⁷⁵ Dushni Weerakoon Jayanthi Thennakoon Bilesha Weeraratne, Multilateral Agreement on Trade Facilitation Important but Complex Agenda for South Asia, South Asian Positions in the WTO Doha Round CUTS International, 2005

¹⁷⁶ Oxford Business Group, Linking up: Infrastructure is set for an overhaul to tackle historic challenges, Mongolia Transport

¹⁷⁷ World Bank, World Development Indicators Database, Statistics extracted on 11 December 2015 Cost measures the fees levied on a 20-foot container in U.S. dollars. All the fees associated with completing the procedures to export or import the goods are included. E.g. costs for documents, administrative fees for customs clearance and technical control, terminal handling charges, inland transport. Does not include tariffs or trade taxes. The indicators are based on business surveys conducted.

¹⁷⁸ For a clear picture of factors that affect the trade and transit dynamics see Faye Michael, McArthur John, Sachs Jeffrey, Snow Thomas, The Challenges Facing Landlocked Developing Countries, Journal of Human Development, Vol. 5, No. 1, March 2004

neighbors.¹⁷⁹ This is the case for both Mongolia and Nepal, borne out in the analysis in Part 1, with Mongolia's trade geared overwhelmingly towards China. Nepal's trade with India also follows a similar pattern.¹⁸⁰ Thus, for both Mongolia and Nepal, their main trading partner for both exports and imports is their main transit partner i.e. China and India respectively.

Second, both Nepal and Mongolia have a trade imbalance and as a result an arising asymmetry in transportation. In the case of Nepal for instance the current reliable traffic is almost entirely one-sided—from India to Nepal. Wagons return to India empty.¹⁸¹ This results in under-utilisation of the existing transport capacity and delays arising from the need for aggregation of goods at the port of departure or the de-stuffing and aggregation of containers at the port of arrival (E.g. at Raxaul before onward transport to/from Nepal). In the case of Mongolia, trade imbalance, may result in railway delays arising from the need to fill each train rake before it can depart. The asymmetry in transport needs sometimes necessitates differential transport equipment. For instance the export of molybdenum to South Korea has different transport requirements in terms of transport packaging as compared to transport requirements for imports from South Korea, which are largely container based consumer imports.

Lack of diversification of Exports and Trade Partners

Both Mongolia and Nepal have comparatively narrow basket of exports and a heavy dependency on their main trade and transit partner. The Mongolian economy relies on mineral exports, and the Nepalese economy also has a narrow basket of exports, resulting in dependency on China and India respectively for imports and exports. Several interviewees identified this high dependency on a single country for the majority of trade and transit needs as an area that needs to change.¹⁸² As a result of overreliance on a single trade and transit partner, both Nepal and Mongolia have a restricted number of trade partners.¹⁸³

The Importance of Mongolia establishing as a transit country

The waning role of Mongolia as a transit country in particular between Russia and China, was highlighted as an area of concern.¹⁸⁴ Data contained in Table 10 also indicates a drop in Transit freight. With ongoing regional initiatives such as the China led OBOR and the Russia led EEU, Mongolia's failure to play an active role in seizing transport related opportunities, may result in it losing its position as a natural transit hub in the Central Asian region.¹⁸⁵

Carriage of social cargo

A major challenge is the current tariff system, with UBTZ's prices set by the government. The railway is obliged to carry social cargo – coal for domestic use, food, and international and domestic passengers, as well as building materials – all of which are transported on a loss basis. For social cargo, there is only a 60% cost recovery, meaning the network loses \$0.40 for every \$1 of transported domestic coal. The network has to prioritize carriage of social goods, over more

¹⁷⁹ Faye Micheal, McArthur John, Sachs Jeffrey, Snow Thomas, The Challenges Facing Landlocked Developing Countries, Journal of Human Development, Vol. 5, No. 1, March 2004

¹⁸⁰ Trade imbalance was raised as an issue in interviews in Mongolia with the Ministry of Trade, Mongolia

¹⁸¹ National Transport Development Policy Committee, "Promoting International Transport Connectivity between India and the South and South East Asia regions," India Transport Report: Moving India to 2032, Volume 2, Part 2, Planning Commission, Government of India, New Delhi, 2014.

¹⁸² Interviews conducted with representatives of Mongolia and Nepal, October-November 2015

¹⁸³ Interview conducted with international trade expert, Geneva, November, 2015

¹⁸⁴ Interviews conducted in Mongolia and Nepal, October-November, 2015

¹⁸⁵ Interview conducted with Ministry of Industry, Ulaanbaatar, Mongolia, 26th October, 2015

profitable exports and has to cross-subsidize social cargo from its more profitable lines of business, such as mineral shipments.

(iii) Infrastructure Linked Issues

Improvement and Expansion of Mongolia's Transit Infrastructure

Weak and insufficient transport infrastructure imposes direct costs on trade and limits the ability of LLDC such as Mongolia and Nepal's products to compete in global markets. In fact Limao and Venables (2000) show that poor infrastructure accounts for more than 40% of predicted transport costs.¹⁸⁶ In Mongolia, transport related infrastructure barriers raised by a substantial majority of stakeholders was the gap between existing and future trade developments and corresponding transport infrastructure needs. For instance in the absence of adequate railway lines in the South Gobi area, mining output depends on trucking, which is insufficient to meet current needs. This in turn has made Mongolia's mineral exports less competitive by requiring coal to be trucked to loading stations, and then to the Chinese border, an expensive and time consuming process.

Another issue is the pressure on and lack of maintenance of existing transport infrastructure. In Mongolia, the main road and rail lines for instance pass through Ulaanbaatar, putting pressure on the cities transport infrastructure and causing congestion. Cargo trucks are therefore only allowed to enter the city during working hours, forcing logistics companies to operate for long hours and adding to their operation costs.¹⁸⁷ For Nepal too the key Kolkata–Raxaul–Birgunj–Kathmandu transit corridor faces several infrastructural bottlenecks including low quality of the road corridor and irregular maintenance resulting in rapid deterioration of road conditions.¹⁸⁸

Asymmetries and gaps in cross border transit infrastructure in particular along the Mongolia-China border also raise transport costs. For instance the city of Erenhot (Chinese side of Mongolian border) is well equipped with 8 new road-port channels (4 going in and 4 going out of the port), logistics parks, 12 special markets, “green channels” for export of agricultural products for fast clearance, reloading warehouse for dangerous products among others. However on the Mongolian side at Zamiin-Uud, there is a comparative asymmetry, as there is only one port channel for goods exiting and entering by road. This asymmetry causes bottlenecks at the border.

Lack of Transport related Infrastructure in particular at Transshipment points

Both Mongolia and Nepal are faced with transshipment requirements on its rail and road network. Transshipment requirements cause delays, raise costs and lead to losses owing to damage/destruction/theft of goods. On the rail network, transshipment takes place at international rail crossing such as Erenhot (China), as Mongolia's rail tracks use the Russian 1520-mm broad gauge whereas Chinese railways run on 1435-mm standard gauge tracks. Therefore, at Erenhot (China), trains must change their wheel bogies requiring the physical lifting and replacement of one set of carriages and freight wagons with another. This transshipment process usually adding approximately three hours to journey times.¹⁸⁹ On the road routes, Mongolian trucks are not allowed to enter into Chinese territory, as result of which merchandise needs to be unloaded at the Mongolian-Chinese border and reloaded into Chinese trucks.

¹⁸⁶ Venables Anthony and Limao Nuno, *Infrastructure, Geographical Disadvantage and Transport Costs*, World Bank Policy Research Working Paper 2257, 2000

¹⁸⁷ Boldbaatar Tumenjargal, Yoon Daegwun, *A Study on Logistics and Development in Mongolia*, *Journal of Navigation and Port Research*, Volume 36, 2012

¹⁸⁸ WTO Trade Policy Review for Nepal, WT/TPR/S/257, 21 December 2011

¹⁸⁹ Interviews with freight forwarding representatives, Ulaanbaatar, Mongolia, October 26-31, 2015

In the case of Nepal transshipment requirements relate to port and road routes. On the Nepal-Bangladesh road route, Nepalese transport trucks must exchange their cargo at the "zero point" of the Indo- Bangladesh border. In terms of Nepal's port route, due to draft limitations at Kolkata and Haldia ports, containers need to be transhipped en route and transported by feeder vessels.

Insufficient transshipment facilities and equipment as well as warehousing capacity cause bottlenecks at the Mongolian-China border on both rail and road routes.

Lack of sufficient logistic facilities and Transport and Logistic hubs

In Mongolia, a key problem identified during interviews was the lack of sufficient logistic facilities, even in Zamiin-Uud, which was set up as a logistic hub. In comparison Nepal has set up 4 Dry ports, which act as logistic hubs and have been effective in facilitating Nepalese trade.

(iv) Political Considerations

The absence of good relations between an LLDC and its transit neighbor is a major impediment as there is always the possibility for the transit country to block border passage or create regulatory impediments to trade and transit. For instance India treats its neighboring LLDCs Nepal and Bhutan differently. India allows Bhutanese transit trade to be conducted under the supervision of Bhutanese customs, thereby allowing Bhutan to trade as if it were not landlocked. This special treatment is a result of the several factors including the good relations Bhutan has with India, low levels of transit trade originating in Bhutan and fewer security concerns.¹⁹⁰ Nepal's relations with India on the other hand, while overall stable, have not always been smooth, especially where India is "perceived" to influence negotiation of treaties and disputes.¹⁹¹ The most recent contentious issue was the "blockade" at the Indo-Nepal border.

Mongolia has sought to maintain a neutral disposition in the region and globally, despite its historical background with China and Russia. However as emerged in few interviews in Ulaanbaatar, maintaining this neutral disposition is a balancing act given the political dynamics in Central Asia.¹⁹²

(v) Institutional Issues: Burdensome Administrative and Customs Formalities

LLDCs are subject to administrative burdens --burdensome paperwork and bureaucratic procedures-- associated with border crossings, which add to shipping costs and cause delays.¹⁹³ By and large because of the multiple lengthy clearance systems on most corridors and the number of stages/locations in the production chain¹⁹⁴ the points of bureaucratic paperwork and procedures cumulatively raise the cost of exports and imports.

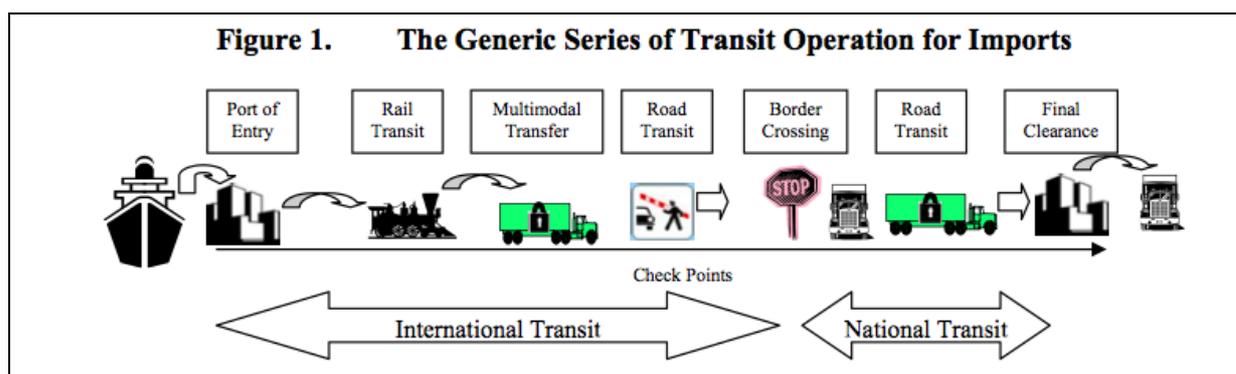
¹⁹⁰ Security issues in particular circulation of counterfeit notes, smuggling have been areas under consideration in the context of Indo-Nepal trade and transit talks.

¹⁹¹ Faye Micheal, Mccarthur John, Sachs Jeffrey, Snow Thomas, The Challenges Facing Landlocked Developing Countries, Journal of Human Development, Vol. 5, No. 1, March 2004

¹⁹² Interviews conducted with stakeholders in Ulaanbaatar, October 23-30th, 2015

¹⁹³ Faye Micheal, Mccarthur John, Sachs Jeffrey, Snow Thomas, The Challenges Facing Landlocked Developing Countries, Journal of Human Development, Vol. 5, No. 1, March 2004

¹⁹⁴ eg. In the case of Mongolia's mining sector, production to refining, packaging, storage/warehousing requirements, transshipment amongst others



Source: Adapted from Arvis Jean-François, Raballand Gael, Marteau Jean-François, *The Cost of Being Landlocked: Logistics Costs and Supply Chain Reliability*, World Bank Policy Research Working Paper 4258, June 2007

The compatibility of Mongolia's transit relations with China and that of Nepal's with India has raised several administrative or trade facilitation issues. These "trade facilitation"¹⁹⁵ issues can be broadly categorized as simplification, standardization, harmonization and transparency measures.

*National Implementation of Trade Facilitation measures*¹⁹⁶

A UN ESCAP study of trade facilitation and paperless trade¹⁹⁷ implementation scored select Asian countries. The performance of Mongolia, China, Nepal and India exhibited features according to their grouping as seaport linked countries and LLDCs respectively. China, along with other seaport-linked countries Japan and Korea ranked amongst the top 5 countries. The worst performers included many LDCs and LLDCs. China had a higher score of 32-33¹⁹⁸, whereas Mongolia had a score of 17 and Nepal approximately 18.

In terms of the level of implementation of trade facilitation measures, while the Asia-Pacific average was (46.5%) and East and North-East Asia was (68%), the level of implementation of trade facilitation measures for Mongolia was (37%)¹⁹⁹, China (78%)²⁰⁰, Nepal (34%), India (64%).²⁰¹ This indicates again a higher level of implementation for seaport-linked countries China and India, owing also to their greater global trade integration, as compared to LLDCs Mongolia and China.

¹⁹⁵ UN Centre for Trade Facilitation and Electronic Business defines trade facilitation as "the simplification, standardization and harmonization of procedures and associated information flows required to move goods from seller to buyer and to make payment." The primary goal of trade facilitation measures is to help make trade across borders (imports and exports) faster, and cheaper and more predictable, whilst ensuring its safety and security.

¹⁹⁶ Specific country analysis is drawn from UN Regional Commissions, Country Profile India, Global Survey on Trade Facilitation and Paperless Trade Implementation, October 19,2015, UN Regional Commissions, Country Profile China, Global Survey on Trade Facilitation and Paperless Trade Implementation, October 19,2015, UN Regional Commissions, Country Profile Mongolia, Global Survey on Trade Facilitation and Paperless Trade Implementation, October 19,2015 and UN Regional Commissions, Country Profile Nepal, Global Survey on Trade Facilitation and Paperless Trade Implementation, October 19,2015.

¹⁹⁷ The questionnaire on which the scores were based was sent to selected experts who participated in the Asia-Pacific Trade Facilitation Forum 2012, in total covering 54 respondents in 26 countries. The questionnaire covered areas of general trade facilitation, transit facilitation, national single window, policy and institutional arrangements and paperless cross border trade.

¹⁹⁸ A higher score indicated a higher level of implementation.

¹⁹⁹ UN Regional Commissions, Country Profile Mongolia, Global Survey on Trade Facilitation and Paperless Trade Implementation, October 19,2015

²⁰⁰ UN Regional Commissions, Country Profile China, Global Survey on Trade Facilitation and Paperless Trade Implementation, October 19,2015

²⁰¹ UN Regional Commissions, Country Profile India, Global Survey on Trade Facilitation and Paperless Trade Implementation, October 19,2015

TABLE 22: IMPLEMENTATION OF NATIONAL TRADE FACILITATION MEASURES				
	Mongolia	Nepal	China	India
Publication of regulations online	P	P	F	P
Stakeholder consultation	P	P	F	P
Advance publication /notification	P	P	F	P
Risk Management	P	P	F	P
Pre arrival clearance	P	N	P	P
Post clearance audit	P	P	P	P
Independent appeal mechanism	N	F	F	F

Source: UN ESCAP, APTFF 2012 survey - P Partial, F Full, N nothing

Table 22 above indicates several trade facilitation measures that were analyzed and the extent of their implementation.

Among the five core groups of trade facilitation measures, the most implemented trade facilitation measure was “Transparency” for Mongolia (60%), China (100%) and India (86.7%). For Nepal it was “Institutional arrangement and cooperation”. The least implemented measure was “Cross-border paperless trade” for Mongolia (0%), Nepal (11.1%) and India, (38.9%). For China, the least implemented are “Institutional arrangement and cooperation” measures (55.6%).

For Mongolia and Nepal implementation of “*Transparency*” measures is below both the regional and sub-regional averages. For China and India all “*Transparency*” measures were well above both the regional and sub-regional averages. The measure least implemented in the area of Transparency for Mongolia and Nepal is advance publication of regulation. For India, the measures least implemented are stakeholder consultations on draft regulations.

However, despite this seemingly clear picture, problems do prevail on transparency of administration and custom’s formalities in Mongolia, China, India and Nepal. The diversity of agreements and regulations for transport operators in particular road transport on both the Mongolian and Chinese side is onerous. As a result freight transport companies have to adapt to multiple requirements along a single transportation route.²⁰² This is compounded by at times frequent changes in legislation e.g. in China²⁰³ or lack of clarity on national law e.g. in Mongolia, the lack of clarity in national law and obligations at the national and aimag level made import of exploratory mining equipment difficult. The lack of transparency in turn has led to border disputes between China and Mongolia and rent seeking behavior of public officials.²⁰⁴ Linguistic differences also create an additional burden.

For Nepal’s trade with India, transparency was also an issue, owing to changing and at times complicated regulation, which transport operators and traders took time to adjust to. The situation is worse for SME traders with insufficient knowledge and experience of customs policy.

For Implementation of improved “*Formalities*”, (including usage of authorized economic operators (“AEO”), expedited shipments, risk management, paperless trade amongst others) Mongolia and Nepal, are both below the regional and sub-regional averages, whereas China and India, are above both the regional and sub-regional averages. The least implemented trade

²⁰² View expressed by freight forwarding and logistics company representatives, Ulaanbaatar, Mongolia, October 23-31, 2015

²⁰³ Interviews with freight forwarding representatives, Ulaanbaatar, Mongolia, October 26-31, 2015

²⁰⁴ World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

facilitation measures in this area for Mongolia is for AEOs, expedited shipments, and acceptance of paper or electronic copies. Mongolia has a high dependence on paper documents, complicated requirements for stamping of trade documents, and the absence of an AEO program.²⁰⁵

According to the UN ESCAP survey for China, the least implemented measures are risk management, pre-arrival processing, post-clearance audit, separation of release and clearance, publication of average release times, and acceptance of paper or electronic copies. In order to provide convenient clearance procedures, China has implemented the AEO system, guaranteed release of cargoes before customs clearance and has a lower inspection rate.²⁰⁶ For Nepal, according to the UNESCAP Survey, the least implemented measures in this area are publication of average release times, measures for AEOs and expedited shipments. For India, the least implemented measure is publication of average release times.

In the UNESCAP survey of “Paperless trade” measures, Mongolia’s and Nepal’s implementation is lower than both the regional and sub-regional averages. China’s and India’s implementation is higher than both the regional and sub-regional averages. The insufficient and asymmetric usage of electronic trade systems in Mongolia as opposed to China and in Nepal as opposed to India, is another problem. In the case of Mongolia, while most Chinese government agencies have implemented electronic information processing systems e.g. e-signature, e-document or Single Window laws, a limited number of Mongolia government agencies have adopted electronic systems. This has created an asymmetry where Mongolian trade formalities are more dependent on paper filings as compared to Chinese requirements.

The asymmetry in electronic systems prevails between India and Nepal as well. India follows the ICEGATE system (Indian Customs Electronic Commerce/Electronic Data interchange [EC/EDI] Gateway), and Nepal follows ASYCUDA ++ (Automated SYstem for CUstoms DAta). Further in India, there is limited implementation of EDI/IT systems to link up customs, ports and stakeholders, and no computerization of port operations at Kolkata and Haldia which has resulted in delays owing to the operations being manual.²⁰⁷

From the findings of the UN ESCAP survey on trade facilitation measures and interviews conducted in Mongolia, Nepal and India, Mongolia and Nepal appear to have scored the lowest in terms of implementation of trade facilitation measures as compared to their neighbors China and India respectively. This may have arisen due to the landlocked nature of Mongolia and Nepal, as well as the greater integration of China and India into global supply chains. While China has seemingly fully implemented transparency measures, Mongolia appears to lag behind in particular for advance publication of regulation before implementation. For instance while China has fully implemented website publication and advance publication/notification of regulation, Mongolia has only partially implemented this provision.

For implementation of improved “formalities”, Mongolia again lags behind China, however there are areas that China too can improve upon such as pre-arrival processing, publication of average release time and acceptance of paper/electronic copies. Finally, both Mongolia and China can implement common electronic systems to enable cross border paperless trade. If implemented in a cooperative manner, it would benefit China and Mongolia’s bilateral trade.

²⁰⁵ Interviews conducted in Ulaanbaatar, Mongolia, 23-31 October, 2015

²⁰⁶ Adhikari Ratnakar, Greater Tumen Initiative Trade Facilitation Study, July 2015

²⁰⁷ National Transport Development Policy Committee, “Promoting International Transport Connectivity between India and the South and South East Asia regions,” India Transport Report: Moving India to 2032, Volume 2, Part 2, Planning Commission, Government of India, New Delhi, 2014. Available at:

http://planningcommission.nic.in/sectors/NTDPC/voume2_p2/promoting_v2_p2.pdf

Operation and Performance of Border Management Agencies

The capacity and functioning of border management agencies in both the transit country and the LLDC are essential to facilitating transit of goods. Institutionally, China in comparison to Mongolia and Russia has more streamlined frontline agencies i.e. Customs, quarantine, security and immigration agencies. China customs appears to be fairly sophisticated and efficient in comparison to Mongolia and Russia, owing to various measures to simplify customs procedures and promote trade facilitation.

Mongolia on the other hand suffers from weak institutional capacity of local agencies and poor monitoring, and lack of accountability of the public sector agencies.²⁰⁸ Institutionally there is a duplication of mandates across agencies, not enough equipment and experts.²⁰⁹ Russia too has similar problems in terms of delays in completion of customs formalities as well as immigration health/quarantine related formalities.²¹⁰

Informal facilitation payments

A well-known cross border phenomenon is facilitation payments at scheduled/unscheduled roadblocks. These informal payments are usually small and predictable made to local police, military, or customs agents. For both Mongolia and Nepal, interviewees pointed out that the rent seeking mentality resulted in delays and increased costs, over which they had little or no control. Simplified facilities such as the ICP provided at the Birgunj dry port (Nepal) has reduced the incidence of informal payments.²¹¹

Excessive Physical Inspections

Another issue that was raised during interviews in Nepal and Mongolia was the frequency and at times non-usefulness of physical inspections. For instance, Mongolian customs have authorized laboratories and a State Professional Inspections Office to certify the quality and hygiene of wool and cashmere before it leaves for Tianjin (China) However, the Mongolian tests are not acceptable to Chinese authorities, even for transit through China by rail, necessitating further physical inspections.

Inconsistency of working hours

The inconsistency of working hours between Mongolia on one hand and Russia in particular but also China has caused delays for traders. While Chinese traders expect 24-hour clearance since they often have business around the clock, Mongolian and Russian Customs do not have a mechanism for 24-hour clearance, thus causing delays in trade between China, Mongolia and Russia.²¹² This is likely to be an issue particularly given Mongolia's future plans to act as a transit country between Russia and China. Similarly, for Nepal, weakly harmonized working hours between Kathmandu border agencies, and those in India and Bangladesh lead to delays.

Border clearance issues

Joint Border Management could help speed up the border clearance procedure. Government officials interviewed in Ulaanbaatar highlighted the success of the joint customs control between

²⁰⁸ WTO Trade Policy Review for Nepal, WT/TPR/S/257, 21 December 2011

²⁰⁹ Adhikari Ratnakar, Greater Tumen Initiative Trade Facilitation Study, July 2015

²¹⁰ Adhikari Ratnakar, Greater Tumen Initiative Trade Facilitation Study, July 2015

²¹¹ Interview conducted with Nepal representative in Geneva, November, 2015

²¹² Adhikari Ratnakar, Greater Tumen Initiative Trade Facilitation Study, July 2015

China and Mongolia, citing the pilot program launched in 2009 for Erenhot (China) - Zamiin-Uud (Mongolia) ports, which was later extended to Ganqimaodu (China) – Gashunsuhait (Mongolia) ports in 2011. The Mongolian government has also requested the Russian and Chinese government to set up similar border points system.²¹³

Lack of Implementation of International Agreements into National law, bilateral and regional trade and transport Agreements

International transit and trade agreements can play an important role in setting commonly acceptable reference standards. Several interviewees in Geneva underscored the facilitative role that incorporation of international transit agreements can have for both LLDCs and their transit partners.²¹⁴ Despite its obvious benefits, international transit conventions have not been incorporated into bilateral transit agreements such as the Mongolia-China and Nepal-India Transit agreements. There are several reasons for this including the specific nature of the LLDC-transit country relation; transit countries desire to maintain sovereignty, high cost of adjustment for domestic incorporation and the lack of institutional structures at a national level.²¹⁵ However recent developments at the global level --WTO's Trade facilitation Agreement-- and regionally – China led OBOR initiative—necessitate development and incorporation of international and regional transit agreements.

There is in particular the absence of any kind of multi-modal transport policy in Mongolia or on a regional level. Discussions on the possibility of a multi-modal agreement between Mongolia, Russia and China, as set out in Box 1 began with the assistance of UNCTAD, but have not progressed.

Regional Considerations

Mongolia's lack of participation in regional trade and transit agreements could hamper Mongolia's participation in global and regional supply chains. Currently in the Greater Tumen Region, which includes Mongolia, China and Russia, regional transportation problems and burdensome border procedures were identified as amongst the top 3 worst market access barriers.²¹⁶ As a result the cost of regional transportation is higher for trading within the Greater Tumen region than outside. This is unlike Nepal that has a very active participation in SAARC regional initiatives both trade and transport.

(vi) Issues relating to Mongolia-China Bilateral Relations

An area of concern for Mongolia has been difficulties in implementation of bilateral transit agreements undertaken with China, specifically:

- a) Exclusive dependence on Tianjin and Inability to activate alternate ports in China²¹⁷
- b) Lack of freedom to use alternate road routes: In the case of Mongolia, Chinese trucks do enter Mongolia but Mongolian trucks are not allowed to cross the border into China.
- c) Lack of access to information for private sector participants such as freight forwarders, traders

²¹³ Interviews conducted with freight forwarding agencies, Customs officials in Ulaanbaatar, 23-30th, October, 2015. See also Adhikari Ratnakar, Greater Tumen Initiative Trade Facilitation Study, July 2015

²¹⁴ Interviews with WTO and ITC, Geneva, Switzerland, November, 2015

²¹⁵ National Transport Development Policy Committee, "Promoting International Transport Connectivity between India and the South and South East Asia regions," India Transport Report: Moving India to 2032, Volume 2, Part 2, Planning Commission, Government of India, New Delhi, 2014. Available at:

http://planningcommission.nic.in/sectors/NTDPC/volume2_p2/promoting_v2_p2.pdf

²¹⁶ Adhikari Ratnakar, Greater Tumen Initiative Trade Facilitation Study, July 2015

²¹⁷ Interviews conducted with Ministries of Trade and Transport, Ulaanbaatar, Mongolia, October 23-30, 2015

- and transport carriers of the terms of the Mongolia-China transport agreements. Private sector operators often find the transport requirements complex and burdensome to comply with.²¹⁸
- d) Lack of bilateral institutional cooperation at the policy making level.
 - e) Lack of Assessment of areas and border points of customs efficiency

Insufficient and inefficient domestic transport capacity to services, Mongolia's future transport needs

The insufficiency of capacity on the road and rail sector to meet future mining needs has been highlighted in Part I of this study. Interviewees highlighted the insufficiency of Mongolian trucking capacity in particular to meet current mining transportation needs. In the case of Nepal, Indian truck companies, close the gap in trucking service's needs.²¹⁹ A further issue was the difficulties in transport packaging of mined products, which has raised issues of environmental concern by the Chinese authorities.²²⁰ The railway system too suffers from a number of issues including the mismatch between trade projections and railway lines linked to mines.

Logistics services Industry problems

Mongolia's logistics sector lags behind its neighbors in the region. According to the World Bank, Mongolia's Logistics Performance Index stood at 2.355 in 2014, (out of a possible 5), below China (3.53), Kazakhstan (2.70), and South Korea (3.67).

The logistics services industry in Mongolia is underdeveloped due to fragmentation of players, undercapitalization and lack of industry expertise.²²¹ The existence of a substantial number of unqualified providers and the perception that clearing and forwarding business is not difficult has given rise to a number of "suitcase" company logistic providers.²²² There is an abundance of local knowledge but little expertise when it comes to handling major projects with the exception of key logistics companies such as Tuushin which have tied up with foreign logistic companies such as DHL and Fedex.

The sector also suffers from a dearth of consolidated logistics facilities such as warehousing, transfer zones, equipment etc. and the lack of a unified logistics sector policy. This has resulted in a loss of economies of scale, raising cost of imports and exports.²²³

(vii) Port Related Issues

Ease and efficiency of seaport access is essential as 70% of Mongolia's trade passes through Tianjin (China) and nearly all of Nepal's trade passes through Kolkata and Haldia ports (India). Mongolia and Nepal's main port access barriers are largely administrative problems, such as complicated and time consuming procedures (unclear and numerous documentary requirements, procedural controls, multiple checking agencies, actual documentary requirements higher than those specified in transit treaty) and overstretched capacity. Further, both Tianjin and Kolkata/Haldia are congested ports resulting in wastage of time in import or export procedures at the port, which is beyond the control of either the Nepalese or Mongolian customs authorities. The relatively minor share of traffic to/from LLDCs such as Mongolia and Nepal limits their

²¹⁸ View expressed by freight forwarding representatives interviewed in Mongolia October, 2015

²¹⁹ Interviews with Ministry of Transport, Delhi, India, February 2016

²²⁰ Interviews conducted with Ministry of Mining, Ulaanbaatar, October, 2015

²²¹ Boldbaatar Tumenjargal, Yoon Daegwun, A Study on Logistics and Development in Mongolia, Journal of Navigation and Port Research, Volume 36, 2012

²²² Interviews conducted with Mongolian Freight Forwarding Association, Ulaanbaatar, Mongolia, October 23-30, 2015

²²³ Oxford Business Group, A series of new logistics projects under construction in Mongolia

bargaining power for preferential treatments in coastal ports.²²⁴

Both ports have inherent localized problems. For instance in the case of Haldia and Kolkata ports there is insufficient channel depth to accommodate new generation larger vessels as well as labor unrest²²⁵ Further there is an absence of a separate container yard with necessary equipment which hampers quick dispatch of containers from the port.²²⁶ In Tianjin preference is given to Chinese freight forwarders as opposed to Mongolian freight forwarders.

Due to the congestion of existing port routes, Nepal has asked for usage of better-equipped and less congested alternate seaports with better infrastructure such as Vishakapatnam, which is currently under discussion. There are indications that use of Vishakapatnam port is likely to be permitted.²²⁷ Nepal also has access to Bangladesh's Chittagong port. However, this access has not been fully functional owing to the absence of a transit agreement for the use of Indian territory as a transport route for trade cargoes. This too is currently under discussion. More recently following 2015 events on Nepal's border with India, Nepal concluded a MoU with China, opening additional routes of transit.

Mongolia too has actively considered alternate transit routes. With China, Mongolia has identified and negotiated for several ports beyond Tianjin including Dandong – 1642 kms, Dalian – 1564 kms and Qingdao – 1702 kms. With Russia, Mongolia has explored the possibility of using the Vladivostok port. Mongolia new transport policy also deepens and expands existing transit routes overland to ports in Russia and China such as plans to build a 1000 km railway connecting Dalanzadgad in the southern Omnogobi with Choibalsan in Dornod province in the East that will enable it to export its mineral wealth via a Russian port.²²⁸

PART IV RECOMMENDATIONS FOR MONGOLIA BASED ON NEPALS TRADE AND TRANSPORT TRAJECTORY

(i) Environment Related Recommendations

Political Environment

For LLDCs good political relations with their transit neighbors is important. While LLDCs such as Mongolia have the right to sea access under UNCLOS, this right is given effect in the form of negotiated bilateral transit agreements and is tempered by the transit state's legitimate interest. India and Nepal for instance have an interest in maintaining good relations as they mutually benefit from each other on the trade and transit front.²²⁹ For Mongolia too it would be relevant to maintain good political and economic relations with its transit countries Russia and China as well as 3rd countries such as South Korea and Japan.

Mongolia's trade and transit relation with China in particular is crucial. Mongolia's dependence

²²⁴ Arvis Jean-François, Raballand Gael, Marteau Jean-François, The Cost of Being Landlocked: Logistics Costs and Supply Chain Reliability, World Bank Policy Research Working Paper 4258, June 2007

²²⁵ National Transport Development Policy Committee, "Promoting International Transport Connectivity between India and the South and South East Asia regions," India Transport Report: Moving India to 2032, Volume 2, Part 2, Planning Commission, Government of India, New Delhi, 2014.

²²⁶ Taneja, Bimal, Dalal, Nepal's Transit through India: An Assessment, Economic & Political Weekly, Volume No 45, November 7, 2015

²²⁷ Interview conducted with Department of Commerce, Delhi, India, February 9-12, 2016

²²⁸ Boldbaatar Tumenjargal, Yoon Daegwun, A Study on Logistics and Development in Mongolia, Journal of Navigation and Port Research, Volume 36, 2012

²²⁹ Interview conducted with Nepal representative in Geneva, November, 2015, Interview conducted with Department of Commerce, Delhi, India, February, 2016

on China goes beyond China's fundamental role as a transit partner, extending to China being the biggest consumer of Mongolia's exports as well as a key source of Mongolia's imports. In the short to medium term the role of China in Mongolia's trade trajectory is likely to grow, spurred on by China's continued expansion within the region and globally.²³⁰

Currently, China is a sufficient market for Mongolian mineral exports.²³¹ At the same time some views expressed concern on reliance on a single country for both trade and transit facilitation.²³² The need to consider alternate trade and transit partners in the longer term, as well as ensure Mongolian enterprises benefit from Mongolian-China trade and transit arrangements was highlighted.²³³ This China factor therefore needs to be acknowledged and actively worked towards in trade and transit policy making.

In the process of expanding its trade and transit partners, Mongolia would need to adopt a neutral stance to the extent possible given political dynamics in the region. Nepal too has worked towards preserving its independence between its powerful neighbors, India and China.²³⁴ Unlike Nepal, though Mongolia has a key advantage in that it is a resource abundant country, with exports of interest to China and 3rd countries; placing Mongolia in a stronger bargaining position.

A further political issue is the importance of creating a predictable legal environment for investors. Nepal for instance has succeeded in ensuring continuity in its investment policies and tourism industry, which generally remain unaffected in the face of political upheaval. In the case of Mongolia there is a need to address political uncertainty so as to ensure continuity in investment and infrastructure development.²³⁵

Developments on the Environment Front

On the environment front the recent Paris agreement and changes in national environment law as they impact the mining sector, have implications for Mongolia's future trade and transit policies. Mongolia should monitor developments to determine potential impacts on its economy.

RECOMMENDATIONS
<ul style="list-style-type: none">• Develop good political relations with transit neighbors keeping in mind China's dominant role in the Mongolian economy, work towards incorporating the China factor within Mongolia's trade and transit policy in a manner that benefits the Mongolian economy and Mongolian enterprises.• Maintain political neutrality to the extent possible.• Create a predictable legal environment for investment and infrastructure development• Monitor developments in climate change negotiations to determine potential impacts on Mongolia's trade and transit profile

(ii) Trade Related Recommendations

Diversification of Exports

²³⁰ Interviews held in Mongolia with representatives of the Mining Sector, Ministry of Mining, October, 2015

²³¹ Interviews held in Mongolia with representatives of the Mining Sector, Ministry of Mining, October, 2015

²³² Interviews with representatives of Mongolia's private sector, Ulaanbaatar, Mongolia, October 23-30, 2015

²³³ Interviews held with representatives of Mongolia's private sector, October 2015.

²³⁴ Thapa Ranjit Major, Nepal's Strategic Future: Following India, or China or Middle Road, Thesis presented to the Faculty of the U.S. Army Command and General Staff College 10, December 2010.

²³⁵ Interview conducted with international trade expert, Geneva, November, 2015

Diversification of exports away from Mongolia's natural resource dependency is essential for Mongolia's future trade trajectory. Mongolia's national SDG based plans highlight Mongolia's intention to use mineral revenues to diversify its export basket. Export areas under consideration include information and communication, bio- and nano-technology, transit transportation, logistics, financial mediation services and deeper processing of agricultural products.²³⁶ Nepal's trade strategy too has worked on diversification of exports, away from its traditional exports of jute, clothing etc. towards newer products such as cardamom, tea, honey, industrial products and tourism.

Diversification of exports requires an increase in the physical quantity of goods traded as well as an increase in the value of goods currently traded by way of further processing or value addition. In the *meat sector* for instance, the potential of Russia as an export market for Mongolia's meat and dairy exports has not been fully exploited. Currently, Russia accounts for 95% of Mongolia's meat exports. It is likely that with Russia's current membership at the WTO, or within the context of the Russian led EEU, quota restrictions on the import of Mongolian meat products may be lifted.

In order for Mongolian beef to compete with imports from other countries, it will need to be processed and packaged according to international standards.²³⁷ The Mongolian, Ministry of Industry and Trade has recognized the need for acceptance of sanitary conditions for slaughtering, veterinary treatment, and the application of international (mostly EU) requirements.²³⁸ UNIDO has recommended that Mongolia adopt the guidelines of the Code of Meat and Meat Products (Codex Alimentarius). Specifically equipped processing zones for assembling, processing and packaging meat products at a single border hub as for instance Altanbulag will require to be established.

From the transport perspective, special carriers for the transport of frozen meat such as refrigerated wagons for trains will require to be purchased. Potential meat exports to Ukraine and Russia could use the Mongolian Vector rail container service, provided that this service can operate refrigerated containers. Similar transport options of using refrigerated containers on non-electrified railways will have to be found for the export of meat to Vietnam and Philippines. Pet food exports to South Korea and China could make use of the belly freight of passenger aircraft as these products would not need refrigeration.²³⁹

Mongolia's *mineral's sector* provides a very strong opportunity for value addition to mineral exports. This is because outputs from one industry act as inputs into others. For instance Nitric acid produced in large volumes from the copper refinery requires phosphorites and fluorides to enable the stabilization of the acid, both of which are mined in Mongolia. By products of copper mining also act as fertilizer for agriculture.²⁴⁰

To date Mongolia has not been able to participate in the further refining and standardization process of its mineral products due to lack of financial capacity. As a result, exports are sold raw often on a spot purchase basis at the Mongolia-China border. For Mongolia to sell its mineral exports directly to end users, which are metallurgical plants and refineries, standardization facilities of export quality would be important. These standardization facilities would classify, test and bring to uniform standard mineral exports.²⁴¹

²³⁶ WTO Trade Policy Review for Mongolia, WT/TPR/S/297, 15 April 2014

²³⁷ World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

²³⁸ Interview conducted with Mongolian Ministry of Industry and Trade, October 26-30th, 2015

²³⁹ World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

²⁴⁰ Interview conducted with Mongolia, Ministry of Mining, Ulaanbaatar, Mongolia, 23-30 October, 2015

²⁴¹ Interview conducted with Mongolia, Ministry of Mining, Ulaanbaatar, Mongolia, 23-30 October, 2015

Mongolia could also create value in the domestic *cashmere industry* by moving towards more readymade cashmere garments. This would not only result in lower transport requirements and costs, employment generation locally and reduce the large scale illegal export of Mongolian cashmere.

RECOMMENDATIONS

Vienna PoA stresses the importance of structural economic transformation, in order to achieve this Mongolia can:

- Diversify exports in terms of volume and value addition in existing sectors of minerals, meat, and cashmere.
- Process mineral exports within Mongolia, especially where outputs from one industry can feed into another. Set up intermediaries to classify, test and bring uniform standards in mineral exports. Focus on technology partnerships with advanced countries for small size and high value commodities exploration.
- Build Mongolia’s Transport and transit policy and infrastructure links to meet future plans for diversification of exports.
- Develop internal road/rail networks, as well as specialized transport vehicles for specific sector needs.²⁴²

Mongolia’s Maritime capacity and export Potential

Mongolia’s shipping activities can translate into export opportunities in the future. In fact Mongolia has already taken several steps to exercise fully its maritime rights under UNCLOS and stemming from its membership of the International Maritime Organization. Mongolia’s has established a profitable ship registry, with most ships registered in Singapore. Given the profitable nature of Mongolia’s ship registration business, suggestions have been made to deepen Mongolia’s ship registration activities.²⁴³

Further, jointly with South Korea, Mongolia has launched an initiative to train Mongolian seafarers. These seafarers can form a skilled labor force to work on foreign ships, sending back remittances which the Mongolian economy can benefit from. Suggestions have also been made for Mongolia to purchase its own ships at a later stage, keeping in mind commercial viability. For instance the cost of ship financing, the specialized nature of ship financing, insurance aspects and crewing costs are on an average 40% of the operating costs of a ship.

RECOMMENDATIONS

- Mongolia should strengthen shipping exports in terms of ship registration, training of ship crew.
- Mongolia can strengthen its own role within the shipping industry in cooperation with other trade partners in particular South Korea.

Diversify Trade Partners

Mongolia’s policy is also to diversify its trade and investment partners away from single country dependence. Nepal’s for instance has a more diversified trade structure as compared to Mongolia. Its trade partners beyond India include the US, UAE, EU and China.²⁴⁴ In fact one view in Nepal, is in order to reduce trade and transit dependency on India, Nepal should look towards its borders with China. This view holds that tariff free access to the Chinese market along with construction of

²⁴² Interview conducted with Mongolia, Ministry of Mining, Ulaanbaatar, 2015

²⁴³ Interviews conducted with Mongolia’s maritime administration, Ulaanbaatar, December 2015

²⁴⁴ Interview conducted with international trade expert, Geneva, November, 2015

railway links could boost Nepal's export.²⁴⁵

Further Mongolia trade profile as primary commodities exporter is not currently in competition with its trade partners including China. This provides Mongolia with an opportunity to expand its trade basket. This is unlike Nepal, whose exports can be similar to Indian exports.²⁴⁶

This diversification of Mongolia's trade partners is a good strategy as on one hand it enables Mongolia to establish links with its neighbors Russia and China on whom it depends for transit and trade purposes. It will also encourage Mongolia to look towards more developed countries such as South Korea, Japan, USA, EU for stronger trade ties which could bring much needed technology and investment into the mining and cashmere sectors in particular. In the mining sector, the export to 3rd countries such as Japan and South Korea, in the medium to long term appears is a direction Mongolia wishes to head to. However to achieve this it would be necessary to have an agreement on chargeable tariffs for goods transiting through China for 3rd country export.²⁴⁷

Given Mongolia's high volume of livestock, destinations for Mongolian meat exports can be expanded. Currently Russia is the largest importer of Mongolian meat products, but possible alternate destinations could include Ukraine, EU, China, Vietnam and the Philippines. In fact, a recent study by USAID²⁴⁸ found evidence of a relatively large potential market for pet food exports from Mongolia to South Korea and Japan.²⁴⁹

In an effort to diversify trade and business opportunities; Mongolia concluded in 2014, its first major trade deal with Japan, which will exempt all Mongolian exports to Japan from duties, while customs will be levied on just 4% of Japanese products coming into Mongolia.²⁵⁰ Similar trade deals with trade and transit partners is likely to benefit Mongolia.

RECOMMENDATIONS

- Diversify trade partners regionally and globally e.g. South Korea, Japan, EU, US. To achieve this conclude FTAs with preferential terms and negotiate with transit countries on tariffs for goods transiting for 3rd country exports.

Mongolia as a Transit Country

Given Mongolia's geographic location, it would be well placed as a transit point between Russia and China, as well as East Asia and Europe by rail and road. Just as Switzerland benefits from transit charges from France and Germany, similarly Mongolia can benefit from transit charges from Russia, China and other countries.

Mongolia's role as a transit country could (i) lead to growing trade integration with production networks within the region and globally, owing to better transport and transit networks. (ii) larger export diversification possibility as transit costs and time falls. This in turn will enable Mongolia to benefit from the prosperity and rising incomes of regional neighbors e.g. China, Japan, South Korea and Russia. In fact initiatives under the Mongolian government's "Strategic Transportation Policy 2020" are already underway setting out a new vision of Mongolia "becoming the main point

²⁴⁵ Prasai Laxmi Prasad, Foreign Trade Pattern of Nepal: Gravity Model Approach, National Rashtrya Bank Working Paper No. 21, January 2014

²⁴⁶ Interview conducted with Department of Commerce, Delhi, India, February, 2016

²⁴⁷ Interviews conducted with Ministry of Mining, Ulaanbaatar, Mongolia, October 26-30th, 2015

²⁴⁸ Potential target export markets for Mongolian pet food products, USAID, June, 2005

²⁴⁹ World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

²⁵⁰ Oxford Business Group, Mongolia Economy, Mongolia Trading Up, Economic News Update, 19th August, 2014

of connection for Northeast Asia”. (iii) revenue generation by way of fees which could cross subsidize Mongolia’s carriage of social cargo (iv) better logistics and passenger connectivity.

In terms of North-South connectivity Mongolia’s neighbors would also benefit from Mongolia acting as a transit hub. China and Russia would have faster access to each other’s markets; through the Trans-Siberian railway. In terms of East-West connectivity, the Mongolian Vector currently runs a weekly container train from Hohhot, Inner Mongolia (China) to Brest (Belarus), via Ulaanbaatar with a transit time between Ulaanbaatar and Brest of between 8 and 14 days. An additional three days would be needed to reach Kiev giving a total of between 11 and 17 days. The comparable time by sea via Tianjin and Hamburg would be more than 30 and up to 50 days.²⁵¹ It has been suggested that the Mongolian Vector can be leveraged to enhance connectivity between East Asia in general including China and Europe, with Ulaanbaatar acting as a transit point.²⁵²

Mongolia could also benefit from China’s OBOR initiative on the transit and economic front. On the transit front the OBOR initiative will attract funds for infrastructure investment from the Asian Infrastructure Investment Bank and the Silk Road Infrastructure Fund, which are expected to be substantial.²⁵³ On the economic front, Mongolia would benefit from OBOR linked industries such as logistics, tourism, real estate, and industrial parks. This in turn would generate employment and development in surrounding areas.

To avail of OBOR benefits Mongolia could negotiate road and/or railway project - e.g. the China-Mongolia-Russia transit economic corridor -- as part of its bilateral arrangement with China, thereby benefitting from OBOR linked funds and transport infrastructure connectivity, which are part of the OBOR project.²⁵⁴

To achieve this status as a transit hub Mongolia would have to put in place several measures. From an infrastructure perspective specific transport corridors would need to be built upon or expanded with China and Russia. Further en route facilities such as gas stations, repair facilities would need to be provided. Road signs and signals, regulations relating to dangerous goods and perishable foods and other common regulations would need to be harmonized.²⁵⁵ Lowering of tariff discounts for transit freight would also help. Currently, the Mongolian government offers a 15-30% discount for rail freight from Russia to China and a 30-50% rate cut on the opposite route.²⁵⁶ This proposition can be enhanced and highlighted.

RECOMMENDATIONS

Vienna PoA stresses the importance of regional cooperation. Mongolia as a regional hub can be achieved by:

- Establish Mongolia as a transit hub in the North South i.e. Russia-China and East-West i.e. China-Europe context.
- Mongolia as a transit hub would lead to greater regional and global trade integration, export diversification, revenue generation and better logistics and passenger connectivity
- Identify specific transport corridors for development including in the context of the Trans-Siberian railway, China’s OBOR initiative and the Mongolian Vector.

²⁵¹ World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

²⁵² Interview conducted with Tuushin Logistics, Ulaanbaatar, Mongolia, October 2015

²⁵³ The Asian Infrastructure Investment Bank aspires to raise USD 100 billion for the OBOR initiative, the Chinese government alone has contributed USD 40 billion Silk Road Infrastructure Fund. See Knight Frank India, The Silk Road Economic Belt and 21st Century Maritime Silk Road: Implications for India, 2015

²⁵⁴ Knight Frank India, The Silk Road Economic Belt and 21st Century Maritime Silk Road: Implications for India, 2015

²⁵⁵ Interview conducted with international trade organization, Geneva, November, 2015

²⁵⁶ Asian Development Bank, Report on Trade Facilitation and Logistics Development Strategy, 2010

- Remove disruptive factors, which impede goods in transit e.g. Customs/security clearance
- Harmonize and simplify regulation that applies to carriage of goods within Mongolia
- Within Mongolia set up gas, repair and other facilities and efficient check points
- Lower tariff discounts for transit freight

Diversification of Modes of Transport

Diversification of modes of transport, will benefit Mongolia in two ways, the first is utilization of the mode of transport most cost effective to the transport of specific kinds of goods. For instance Mongolia has a well-functioning and efficient air transport sector, which can be utilized for time-sensitive and high value-added exports.²⁵⁷ Suggestions have been made to depend more heavily on air transport for sectors such as (i) Tourism (ii) perishables (iii) high value low weight exports such as uranium, rare earth etc.²⁵⁸

The second benefit of diversification of modes of transport arises from Mongolia's future trade needs in the mineral sector. For instance as set out in Part I Mongolia's mineral output is expected to increase exponentially making the current usage of trucking services inadequate, cumbersome and expensive. The usage of the Railway system for transport of mineral output within the country and for export would be more efficient.²⁵⁹ The trucking system in Mongolia can undertake live animal or livestock transport.

RECOMMENDATIONS

- Use Mongolia's efficient air transport sector, for time-sensitive and low weight -high value-added exports uranium, rare earths
- Change modes of transport to suit specific exports, e.g. Railways for mineral exports, trucks for livestock exports

Enhance the role of Mongolia's logistics services sector through the creation of a Logistics Services Industry Policy

The logistics sector in Mongolia is a prerequisite to any trade and transit initiative that Mongolia undertakes including in the context of bilateral transit agreements including with China. In order to take advantage of the opportunities that are likely to arise from Mongolia's transport sector, there is a need for a clear logistic services policy.²⁶⁰

Several elements were suggested as requiring consideration under such a logistics services policy.²⁶¹ These included consolidation of the industry, so that efficient Mongolian logistics operators remain in the market, reflection of the needs of the logistics services industry by involving them in bilateral and multilateral transit negotiations, providing for facilities such as centralized storage facilities and integrated logistics center. The logistics policy can also include a service grading system thereby providing credibility and enhancing service quality.

RECOMMENDATIONS

²⁵⁷ For more information on the use of air transport for LLDC trade, see also Arvis Jean-François, Raballand Gael, Marteau Jean-François, The Cost of Being Landlocked: Logistics Costs and Supply Chain Reliability, World Bank Policy Research Working Paper 4258, June 2007

²⁵⁸ Interview held with Mongolia's Ministry of Trade, and Ministry of Mining, 23-30 October, 2015, Ulaanbaatar, Mongolia.

²⁵⁹ Interview conducted with UNCTAD, Geneva, November 2015 and Interview conducted with Ministry of Mining, Ulaanbaatar, Mongolia, 23-30 October, 2015.

²⁶⁰ This demand was reiterated by several logistics services companies interviewed in Ulaanbaatar, October 26-31, 2015.

²⁶¹ Interviews with logistics services companies, Ulaanbaatar, October, 26-31, 2015.

- Improvement of logistical factors within Mongolia which would harm Mongolia's ambition to establish as a Transit country.
- Coordinate with transit neighbors to improve logistical process.
- Develop a logistics services policy for the sector which deals with issues of competition, storage and warehousing, service grading and quality.
- involve private logistics operators in bilateral/regional negotiations relating to the logistics sector.

(iii) Infrastructure Linked Recommendations

Improvement and Expansion of Mongolia's transit related Infrastructure

In order to leverage its extensive mineral reserves and as set out in Part I of this report, Mongolia's transport infrastructure needs to match current and future trade needs in the mineral, meat and cashmere sectors. For current mineral output, there is a need for maintenance and expansion of existing road and rail infrastructure, so as to maintain all weather capability of transport corridors and reliability of service delivery. For the future, Mongolia needs to match transport infrastructure with future economic and trade projections. Nepal's choice of selected transit corridors for instance is based on the distance from port, condition of the corridor, congestion levels and infrastructure facilities.²⁶²

Cross border and regional infrastructural initiatives, involving China, Mongolia's largest trade partner, is essential. In the case of Nepal cross border infrastructural initiatives are jointly addressed by both the Nepalese and Indian government, with generally both sides undertaking infrastructural developments on their respective side of the border. More recently India has undertaken to complete certain cross border infrastructure developments.²⁶³ In terms of planning and coordination during construction of transport related infrastructure, both sides are involved. Further several sub-regional transport infrastructure plans involving India, Nepal, Bhutan and Bangladesh are underway in the context of SAARC and BIMSTEC.

Transport Corridors

The most effective transit facilitation measures concentrate on trade and transport corridors linking inland origins/destinations in landlocked countries with entry/exit seaports in coastal countries."²⁶⁴ The Nepal-India transit regime appears to focus on specifically identified transport corridors as set out in Table 10 of this report. Issues relating to Nepal-India transport are addressed in detail and regularly revisited within the context of Nepal-India discussions, SAARC and transport infrastructure planning. Two factors of success in the development of transport corridors are joint border management and the development of monitoring indicators, both of which are addressed within the Nepal-India transit regime.

Mongolia Road Transport Plan intends to connect the country by road and rail from North to South and East to West identifying and opening up key transport corridors.²⁶⁵ These transport corridors should be backed by treaty obligations with Mongolia's transit partners (Russia, China), which cover a range of interlinked issues including infrastructure development and maintenance, customs efficiency, addressing bottlenecks etc. There should be some manner of institutional and

²⁶² Interview conducted with Nepal representative in Geneva, Switzerland, November, 2015

²⁶³ Interviews conducted with Department of Commerce, Delhi, India, February, 2016

²⁶⁴ UNCTAD, Strategies for Landlocked and Transit Developing Countries, 2003, UNCTAD/SDTE/TLB/2003/2

²⁶⁵ Interview with Ministry of Foreign Affairs, Ulaanbaatar, October, 2015

implementation mechanism that involves the key agencies in the transit countries and Mongolia (e.g. transport, customs, railways) as well as other stakeholders (private sector associations of freight forwarders or logistics companies).²⁶⁶

Investment in Transport Related Equipment in particular for Transshipment purposes

Suggestions have been made to move towards greater containerization of transport,²⁶⁷ invest in transshipment equipment for loading and unloading including flexible gauge chassis amongst others. This is an area that can be negotiated bilaterally with China.

Development of Trade, Logistics and Transport Hubs

The establishment, development or upgrading of trade, logistics and transport hubs either at key border posts e.g. Zamiin-Uud (China) or Altanbulag (Russia) or at key transit hubs e.g. Ulaanbaatar planned Industrial Complex would promote economies of scale for transport and logistics systems.²⁶⁸ In this respect Nepal's Birgunj dry port was widely acknowledged as having a positive impact on trade and transit facilitation, between India and Nepal.²⁶⁹ These hubs or dry ports can perform a range of functions ranging from infrastructure services such as container handling, storage or warehousing facilities, facilities for freight forwarding, trucking operations etc. to providing specific trade facilities e.g. Health, sanitary, weight certification or dealing with specific logistic issues for the completion of joint/single customs formalities.

Development of Special Economic Zones

SEZs would be a positive development in overcoming Mongolia's landlocked status and enhancing its transit country status. SEZs could attract investment, create transport infrastructure, generate jobs and develop rural/local areas. To date, the Mongolian Government has designated four free zones at Zamiin-Uud, Choir, Altanbulag, Tsagaannuur.²⁷⁰ Nepal on the other hand does not currently have SEZs. The Government is however, preparing a bill on SEZs, with proposed SEZ sites already identified in Bhairahawa, Simara, Birgunj and feasibility studies underway for 4 additional SEZ sites.²⁷¹

Cross border and value add SEZs could be of specific benefit to Mongolia.²⁷² Cross border SEZs could be set up to mirror specific bilateral trade flows with Russia and China. Example: setting up cross border SEZ at Altanbulag for Mongolia's livestock exports to Russia, potentially Europe and Japan, with Russian/Japanese FDI, sanitary and technical facilities and usage of the Vladivostok port.

Value add SEZs for Mongolia would involve several industries that feed into each other located in the same geographical area resulting in common infrastructure development and economies of scale.²⁷³ Example: Mongolia plans to enhance the industrial complex at Sainshand. This industrial

²⁶⁶ A good example of this kind of arrangement is the Northern Corridor Transit Agreement signed in 1985 between Kenya, Uganda, Burundi, Rwanda and Zaire (now Democratic Republic of Congo), which established the Northern Corridor Transit Transport Coordination Authority.

²⁶⁷ Interview conducted with international trade organization, Geneva, November, 2015

²⁶⁸ Interviews conducted with freight forwarding companies, Ulaanbaatar, Mongolia, October 23-30, 2015

²⁶⁹ Interviews conducted with Nepal stakeholders November 2016 and Interviews conducted with Department of Commerce and Ministry of Transport, Delhi, India, February 2016.

²⁷⁰ WTO Trade Policy Review for Mongolia, WT/TPR/S/297, 15 April 2014

²⁷¹ WTO Trade Policy Review for Nepal, WT/TPR/S/257, 21 December 2011

²⁷² For further information on the success and usage of cross border SEZs see Anh Thu, Nguyen, "Cross-border economic zones and their role for Vietnam's border economic development: The case of North Vietnam." http://dl.ueb.edu.vn/bitstream/1247/5346/2/NguyenAnhThu_TruongDHKinhte_En.p df

²⁷³ Interview conducted with Mongolia Ministry of Mining, Ulaanbaatar, 23-30th October, 2015

complex will contain a section with heavy industrial projects and plants such as cement, coking and coal, power, copper smelter, coal liquefaction, steel. The other section will be a light future industrial park, with lighter industries to be determined. Industries will feed into each other e.g. power plant into copper smelting and cement coking and coal into power plant etc. thereby adding value to and benefiting from economies of scale. In terms of transport, plans are to upgrade and expand existing road structures and build a new rail yard marshaling.

RECOMMENDATIONS

The Vienna PoA stress the importance of infrastructure development. This can be implemented by:

- Develop or enhance road and rail infrastructure to meet trade needs current and future
- Develop specific transport corridors (bilateral or regional) with transit countries with inbuilt facilities, which are oriented towards trade movement
- Build institutional mechanisms to address bottlenecks on transport corridors
- Monitor and evaluate developments on transport corridors to determine effectiveness
- Consider financing possibilities through or with (a) bilateral transit partners e.g. China, Russia (b) multilateral financing institutions including the Aid for Trade and Trade facilitation context (c) contractual obligations with private sector that match trade and investment opportunities with developing Mongolia's transport needs.
- Establish, develop or upgrade trade, logistics and transport hubs at key border posts Zamiin-Uud (China) or Altanbulag (Russia) or at key transit hubs e.g. Ulaanbaatar.
- Develop cross border and value added SEZs near the Mongolia-China South Gobi area and the Mongolia-Russia border.
- Develop strong legal basis and institutional foundation for SEZs or industrial complexes as they will involve a significant second partner i.e. either a sovereign neighboring state or a private sector company or MNC.
- Invest in greater containerization of transported goods, establish border equipment to reduce cost of transshipment²⁷⁴

(iv) Institutional Linked Recommendations: Customs and Administrative

Simplification, Harmonization and Automation of Trade Procedures

The diversity of agreements and regulations applicable to transport operators on both the Mongolian and Chinese side is onerous for transport operators. As a result Mongolian freight transport companies have to adapt to multiple requirements along a single transportation route, making it difficult for transport service providers to optimize their operations and minimize costs.²⁷⁵

As set out in Part III of the Report, this was a problem faced extensively in Nepal as well. In fact even though Nepal ranks higher than Mongolia on the UNESCAP survey of national trade facilitation measures implemented, interviews with stakeholders in Nepal, India and Mongolia indicated that there were several customs related procedures that needed to be addressed. Many of these issues can be addressed within the context of the WTO's TFA, for which a few recommendations are set out later on in this section. Nepal has put in place several policy changes in order to facilitate trade and transit including the Customs legislation (2007), which simplifies customs procedures, and transit procedures and reduces documentary requirements.

²⁷⁴ Interview conducted with international trade organization, Geneva, November, 2015

²⁷⁵ View expressed by freight forwarding representatives interviewed in Mongolia October, 2015

Moving towards Single window Clearance

The Single window clearance permits traders to submit documents once and for all for regulatory purposes. It would speed up border crossings and trade into and out of Mongolia. This is an important step for Mongolia given its landlocked status and its ambition to establish as a transit country. The single window clearance goes hand in hand with Mongolia's automation and harmonization of trade procedures with its neighboring transit countries. A further step would be the creation of an online database setting out regulatory requirements, procedures and updates for with updates for transport operators and traders, in China and Mongolia.

Harmonization of Trade Procedures

Harmonization of documentary requirements across Mongolia's trade and transit partners should be actively pursued. Harmonize rules and documents especially for (i) technical issues such as vehicle technical standards, documentation, inspection, driver licenses, special certificates (in relation to cargo or other operations). (ii) cross cutting issues e.g. for visa issuance, insurance regulation for truck drivers, the transport operator, vehicle, cargo, security regulations.²⁷⁶ Again this can be achieved on a regional basis as Nepal is seeking to do through SAARC and BIMSTEC²⁷⁷ or it can be achieved on a bilateral basis with the incorporation of international transit conventions.

Automation of Trade Procedures

Mongolia would greatly benefit from the automation of trade procedures, in line with those of its transit and trade partners. Currently, Mongolia is heavily dependent on paper documents. A strategic review of IT infrastructure of various aspects of the logistics chain needs to be undertaken, taking into account the future projections of Mongolia's trade. This will ensure optimal development of computer communication networks and minimize piecemeal development of IT infrastructure.

Modernization of customs and port operations entail usage of IT enabled services to computerize transit documentation. This can reduce the time spent in initiating transit or in final clearance. Nepal's customs clearance for instance has been facilitated by the application of, several computerized systems including ASYCUDA with the Brokers Module (in ten major customs offices), Selectivity System (in five major customs offices), Post Clearance Audit, and Wide Area Network (WAN) (in ten major customs offices).²⁷⁸

Pre Arrival Clearance

Mongolia may also wish to enhance pre-arrival clearance measures²⁷⁹ within Mongolia and with trade partners.²⁸⁰ Pre arrival clearance would save traders time and cost by enabling Mongolian, Russian and Chinese officials to conduct risk assessment and process the declaration with a view to preparing the release decision prior to the arrival of goods. There is great potential for Mongolia to cooperate with partners in South Korea, China, Russia and within the EEU context on the issue of pre arrival clearance, given that their pre arrival clearance measures are more sophisticated than that of Mongolia's currently.

One way to institute pre arrival clearance is through the classification of enterprises trading cargo

²⁷⁶ Kunaka, Tanase, Latrille, Krausz, Quantitative Analysis of Road Transport Agreement (QuARTA) World Bank Study, 2013

²⁷⁷ See Part II of this Report, Nepal has concluded a motor vehicles agreement in the context of BIMSTEC in 2014.

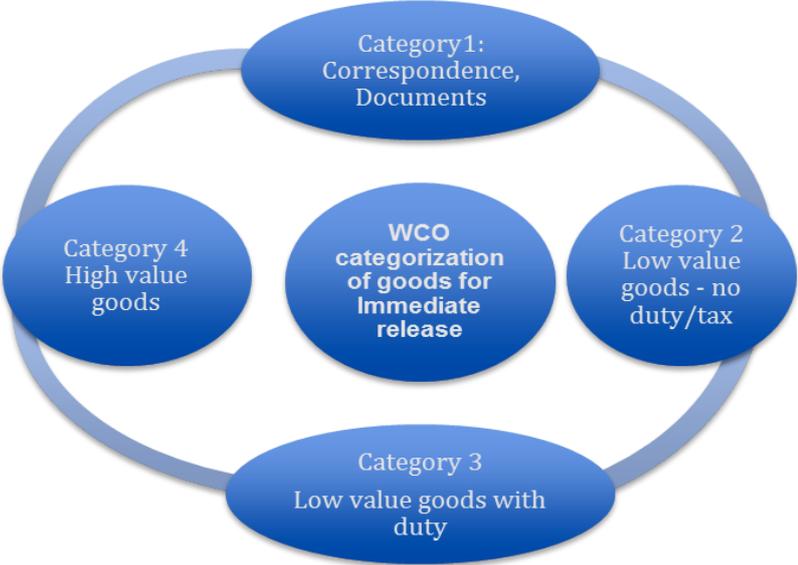
²⁷⁸ WTO Trade Policy Review for Nepal, WT/TPR/S/257, 21 December 2011

²⁷⁹ Pre-arrival processing involves the (electronic) submission of relevant goods and/or cargo declaration data to the relevant authorities prior to the arrival (import) or departure (export) of goods.

²⁸⁰ Interviews conducted in Geneva with representatives of international trade agencies, October, 2015

according to their risk profile, ensuring faster clearance procedures for trade enterprises with good record and lower risk profile as opposed to trade enterprises with high risks will be inspected and verified more strictly.

FIGURE 10: WCO CATEGORIZATION OF GOODS FOR PRE ARRIVAL CLEARANCE



As above the World Customs Organization classifies goods into 4 categories to enable immediate release. Category 1 relates to correspondence and documents. These are items without commercial value released on the basis of the transport document. Category 2 relates to low value goods for which no duty/taxes accrue. Depending on value of the goods set by country concerned, release can be granted against a simplified declaration sent in advance. Category 3 is Low-value dutiable goods, whose value limit may vary. Duty/tax that has to be paid can be deferred against a guarantee but a simplified or periodic declaration may apply. Category 4 relates to High-value goods for which facilitated clearance is granted, provided necessary information has been lodged with Customs in advance. Immediate may be permitted if payment of duties and taxes is guaranteed.

Establish a system of Authorized Economic Operators

Mongolia could also put in place an AEO system, which would provide convenient clearance procedures, including guaranteed release of cargoes and lower inspection rate. The AEO system has been fully put in place in South Korea and initiated in China. Russia too appears to have developed an AEO system through the Eurasian Economic Union (“EEU”), which in June 2012 and October 2014 introduced obligatory advanced notification by economic operators to customs authorities on goods imported into the EEU territory by road and rail transport. Since Mongolia’s transit neighbors have implemented the AEO system, Mongolia would benefit from doing the same given its desire to establish as a transit hub.

BOX 2: AUTHORISED ECONOMIC OPERATOR SYSTEM

The WCO Standards to secure and facilitate global trade (SAFE) Framework incorporates the concept of AEO. An AEO is a party involved in international trade transaction (manufacturers, importers, exporters, brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses and distributors) that have implemented required security measures and “Best Practices” to the satisfaction of the relevant Customs authorities.

AEOs benefit from reduced risk-targeting assessments and inspections and expedited processing of their goods by Customs in return for security investments and assurances they are able to provide to the Customs authorities.

Others

Harmonize Customs opening days and hours and minimize physical inspection to the extent possible.

RECOMMENDATIONS

The Vienna PoA also stress the importance of transport and partnerships with transit countries and the WTOs TFA stresses the importance of transit facilitation. In the context of Mongolia, this could involve:

- Moving towards single window clearances
- Harmonizing documentary requirements across countries as well as Customs opening days and hours
- Setting up twinning programs with South Korea, China, to enhance, learn, harmonize pre-arrival clearance measures
- Modernizing trade procedures through the use of electronic software
- Minimizing physical inspections
- Instituting pre arrival clearance processing potentially based on WCO categorization of goods to assess risk
- Establishing an AEO system

Enhance the Performance of Mongolia’s Border Management Agencies

While Mongolian border agencies have undertaken several changes for improvement, there are several areas in which further improvement can be implemented. Areas identified as requiring improvement in Part III of this report include reform of highway agencies, quarantine inspection service, risk management aspect of all border agencies, use of ICT, cargo tracking system, single window system and collaborative border management which can enhance the capacity of Mongolia’s border management agencies.²⁸¹

Mongolia’s commitment to the operation of a single window system, reduction in number of documents for trading across border and assigning clear responsibility for border management issues would be useful in streamlining its customs formalities in line with its neighbors, in particular China.

²⁸¹ Interviews conducted with freight forwarding agencies, Customs officials in Ulaanbaatar, October, 23-30, 2015. See also Adhikari Ratnakar, Greater Tumen Initiative Trade Facilitation Study, July 2015

Joint Border Management

Mongolia may wish to consider setting up of joint border management and Integrated Check Posts (“ICPs”) at key cross border points with China, Russia. Nepal has successfully implemented elements of joint border cooperation and management at Birgunj and also ports of Kolkata and Haldia.²⁸² See Part III of this Report for further detail. Elements which could be included in this joint border control include operating customs control jointly by coordinating export/import controls, coordinating opening hours and inspections, setting up customs officers with shared physical and technical infrastructure. For land and rail transport this would avoid duplication of export formalities in the exiting country i.e. China/Russia and a repeat of similar formalities in the importing country i.e. Mongolia. It would also streamline clearance processes and strengthen customs control capacity. Nepal and India have utilized at border towns such as Birgunj.

To some extent this system of joint border management has already been set up along the Mongolia-China border at Erenhot (China) and Zamiin-Uud (Mongolia). The Erenhot –Zamiin-Uud pilot was repeated at Ganqimaodu–Gashunshaitu border as well. The Mongolian government may wish to replicate and enhance the pilot projects set up on the Mongolia-China border at Erenhot (China) and Zamiin-Uud (Mongolia) Ganqimaodu–Gashunshaitu at other border points.

RECOMMENDATIONS

- Enhance performance, capacity and expertise of Mongolian border agencies
- Set up joint border management posts along key trade points on the Mongolia-China and Mongolia-Russia border.
- Joint endeavors of Chinese, Russian and Mongolian government for inspection, manifest pre-declaration, closing technology gaps, and mutual recognition of inspection reports would reduce duplication of processes.
- Use Aid for Trade and trade facilitation processes to bolster Mongolia’s efforts.

(v) International Trade and Transit framework

Implementation of International Agreements into National law and bilateral and regional trade and transit agreements

Mongolia should consider implementation of international trade and transit agreements into national law and bilateral/regional agreements keeping in mind domestic considerations. By providing already agreed standards and unified transport documents, international agreements facilitate harmonization of transport regulations for inter-state transport. They therefore save time, cost and effort in negotiations with bilateral neighbors (China, Russia) and provide a common reference point for harmonizing customs and transit related regulation.

As set out in Part II, there are a range of international transit conventions and agreements that apply to Mongolia including seven key international transport conventions that UNESCAP recommends for adoption by countries in Asia and the Pacific.²⁸³ These are the Convention and Statute on Freedom of Transit; Convention on Transit Trade of Landlocked States, Convention on the Law of the Sea, WTO GATT (Article V, Transit); and various conventions on road traffic, road signs and signals.

An example of how international conventions can facilitate transport is the TIR Convention.

²⁸² Interview conducted with Ministry of Transport, Delhi, India, February, 2016

²⁸³ See UNESCAP issued Resolution 48/11 in 1992

Complex transit control at the border for LLDCs results in a “triple clearance” time, which is taken away through the usage of the TIR carnet system. In Europe the TIR carnet system has had a strong impact on boosting intra-European trade by modernizing the logistics sector.²⁸⁴ While, Russia and Mongolia are signatories to the TIR convention, China is not yet a member. China’s reluctance to accede to the TIR Convention could be because China would have to permit trucks from its neighboring countries to operate freely within its territory, a measure that it has so far resisted.²⁸⁵ However, it is likely that China may in the near future accede to the TIR Convention.

Another example of an international convention that can facilitate transport and trade is the Revised Kyoto Convention, which is an international blueprint for facilitating customs regulatory procedures. It provides a set of comprehensive customs procedures to facilitate legitimate trade while ensuring effective customs control, based on the key principles of predictability, transparency, due process, maximum use of information technology, and modern customs techniques. The Convention also covers measures such as single window clearance, coordination of border management, risk management, authorized economic operator program and transit practices.

The WTO’s Trade Facilitation Agreement is a likely game changer for all LLDCs including Mongolia. Quicker, easier and cheaper trade facilitation through the WTO’s TFA would allow Mongolia to benefit more fully from market access provisions in the WTO and bilateral trade and transit agreements, some of the potential benefits accruing to LLDCs from the WTOs Trade facilitation Agreement are set out in Box 3.

BOX 3: POTENTIAL IMPLICATIONS OF THE WTO’S TRADE FACILITATION AGREEMENT FOR MONGOLIA

Mongolia, China and the recently acceded Russia are all WTO members and therefore bound to WTO Agreements. Article V of the GATT which guarantees the Freedom of Transit, is further clarified and improved upon in the recent WTO TFA. Several provisions of the WTO TFA as set out in Part II are relevant to future revisions and negotiations of Mongolia’s bilateral transit agreements with China and Russia. Further Category A notifications made under the WTOs TFA by China and Mongolia appear quite encouraging.

Monitoring and implementation of commitments made under the WTO’s TFA is enhanced through the WTOs institutional set up and dispute settlement body.

Mongolia may therefore wish to consider matching its transit treaty commitments with commitments undertaken under the WTOs TFA.

Finally given that Mongolia would like to position itself as a Transit country between Russia and China, it would need to ensure some degree of commonality with the Russian and Chinese transit systems. To achieve this WTO’s TFA is a good starting point.

Progress under the WTO TFAs Category A notification are of relevance to Mongolia and its trading partners. Based on the outcome of the Category A notifications and the results of the UN ESCAP survey on national implementation of trade facilitation measures as contained in Part III of this Report, common areas of complementarity that Mongolia can seek to include in its Mongolia-China transit arrangements are:

- Transparency: Since China has already implemented all transparency provisions, Mongolia can ask for areas such as advance rulings, opportunity to comment on regulation/information

²⁸⁴ Arvis Jean-François, Raballand Gael, Marteau Jean-François, The Cost of Being Landlocked: Logistics Costs and Supply Chain Reliability, World Bank Policy Research Working Paper 4258, June 2007

²⁸⁵ World Bank, Mongolia Trade and Transport Facilitation Action Plan, No. 70012, January 20, 2009

before entry into force, stakeholder consultations amongst other areas.

- Implementation of improved formalities: both China and Mongolia have made Category A notifications in areas least implemented by both sides specifically Formalities related to importation, exportation and transit (Article 10) and release and clearance of Goods. These are areas both sides can work on to create on the ground improvements in areas such as risk management, expedited shipments, pre arrival processing and acceptance of paper or electronic copies as well as the implementation of a system of authorized operators.
- Cross border paperless trade: Specific systems for paperless trade that could be considered and jointly implemented by both sides are E-Single window, E-Trade licenses, E-Preferential Certificate of Origin and E-Application for Customs refunds. Given the large number of import-export regulations and information, it would be useful to set up joint multilingual Mongolia-China-Russia website with consolidated regulation and regulatory updates for government, traders and transport operators.

At the UN level Vienna PoA provides Mongolia with a strong normative background to utilize during its trade and transit/transport negotiations. To begin with the Vienna PoA, calls upon LLDC's trading partners to grant better market access for goods from LLDCs in particular in the context of non-tariff barriers. Mongolia may therefore make similar requests of its trade and transit partners China, Russia, Korea and Japan. Along with the relatively substantial commitments being undertaken under the auspices of the WTOs TFA, this has strong positive implications for Mongolia's bilateral and regional transit and trade agreements.

Further the Vienna PoA highlights regional integration/cooperation and structural economic transformation of LLDCs as priority areas. This can be used by Mongolia to move towards greater regionalism in the North East Asian sub regional grouping, the EEU regional groupings as well as in any transit cooperation agreement between Mongolia-Russia and China. In terms of means of implementation the Vienna PoA highlights the importance of ODA, AfT and South-South cooperation which in turn can be utilized by Mongolia in the context of its transport infrastructure financing needs on a national, bilateral and regional basis.

RECOMMENDATIONS

Vienna PoA stress the importance of international partnerships. Consider therefore:

- Implementation of international transit conventions such as TIR Convention, WCO's Revised Kyoto Convention amongst others based on domestic needs.
- WTOs TFA likely to be a game changer for LLDCs such as Mongolia, by providing an opportunity and common reference point for the simplification and harmonization of trade related formalities as well as institutional enforcement mechanism
- Match provisions of the WTOs TFA, Category A notifications to determine areas that Mongolia can utilize in its bilateral and regional transit and trade negotiations. Specific areas to consider relate to Transparency, implementation of improved formalities and paperless cross border trade
- use Vienna PoA as a basis for bilateral/regional negotiations on transit and trade in particular in the areas of addressing non-tariff barriers, exemption of charges on Mongolia's 3rd exports, infrastructure finance, regional cooperation in trade and transit
- Utilize financial and technical resources available through WTOs Aid for Trade initiative or the trade facilitation agreement.

(vi) **Regional Cooperation on Trade and Transit**

Regional and bilateral transport agreements can open up transport traffic, promote international

conventions and harmonize formalities/procedures. Nepal has significantly used regionalism to conclude a range of transit related agreements within the context of SAARC and BIMSTEC with India, Bangladesh and Bhutan in particular. See Part II of this Report for further detail. At a later stage there is the possibility of these transit agreements to be regionalized on a South Asian level, institutionalizing the freedom of transit for LLDCs Nepal and Bhutan and potentially integrated regional road freight markets for instance.²⁸⁶

Regional cooperation in the trade and transit sphere can be of particular benefit for Mongolia giving Mongolia access to global and regional production chains and leading towards regulatory harmonization in the spheres of transport and trade. The current regional trade and transit developments in Central Asia is likely to result in a greater movement of goods, services and infrastructure development. Given this regional potential Mongolia can benefit by leveraging regional initiatives on Transport and Trade. India would like to regionalize existing sub regional transport initiatives such as the BBIM Motor Vehicles Agreement. The ultimate objective is to move towards the US and EU single form transit model, which allows for electronic tracking, designated routes and sealed containers.²⁸⁷

Regional cooperation in the transport sector can be effectively leveraged by Mongolia in several areas:

- Use regional institutions to simplify and harmonize customs and logistics related processes and reduce delays. In Africa for instance SADC and COMESA, have introduced common licenses and third-party insurance guarantees across countries, significantly reducing transit costs.
- Strengthen and build regional transport infrastructure: also occurring to a large extent in SADC/COMESA, and to a less extent in SAARC. Mongolia and transit partners should develop and implement key regional transport projects including in the context of SEZs, road and railways. To a large extent this is already happening with China and to a lesser extent with Russia.
- Use regional institutions to create and integrate transport policy and provide for freedom of transit. Again examples include Southern African Transport and Communications Commission and similar transport related initiatives in the East African community.

Mongolia should also anchor Transit and trade facilitation provisions in bilateral/regional trade agreements e.g. GTI and the Eurasian Economic Union. The inclusion of transit provisions in wider regional trade agreements strengthens Mongolia’s ability to implement transit provisions as Mongolia can resort to in built provisions for institutional cooperation and dispute settlement.

RECOMMENDATIONS
<p>Vienna PoA stresses the importance of regional cooperation</p> <ul style="list-style-type: none"> • Consider participating in regional arrangement which provide for (i) building of transport related infrastructure (ii) harmonization of customs and logistics related processes. • Anchor transit and trade facilitation provisions within larger regional or bilateral trade agreements, as they will automatically provide access to institutional collaboration and dispute resolution. • possibility of using the Aid for Trade and Trade facilitation financing for Mongolia’s regional transport infrastructure development

²⁸⁶ Views expressed by trade interviewees in Geneva, Switzerland, November, 2015

²⁸⁷ Interview conducted with Department of Commerce, Delhi, India, February, 2016

(vii) Mongolia-China bilateral relationship

While Mongolia has concluded transit agreements with China, its main trade and transit partner China, an area of concern has been the actual implementation of these transit Agreements. This section is intended to complement the earlier recommendations made in this Part, which can be directly applied to the Mongolia-China transit arrangement. During interviews conducted with multiple stakeholders in Ulaanbaatar and in Geneva, several useful suggestions especially from the private sector were made on how things could move forwards. Set out below is several specific recommendations that Mongolia may wish to consider:

a) Activate alternate ports in China as a joint Mongolia-China transport corridor: The recently signed Mongolia-China transit agreements (2014) provide access to several ports other than Tianjin including Dandong, Dalian, Qingdao, some of which are further away than Tianjin. However, distance does not have to be the sole deciding factor. For instance Nepal is negotiating with India for the use of the Vishakhapatnam port, which is further from the current Indian ports. However Nepalese traders are of the view that Vishakaptanam would be commercially viable due to its infrastructure, coastal locations, and comparative lack of congestion, shorter sea route and better transit equipment.²⁸⁸ Mongolia should undertake a comparative analysis of these port options based on criteria such as distance from Mongolia, levels of congestion, trade flows, licenses and conditions to operate, benefits and drawbacks, procedural restrictions for Mongolian freight forwarders, condition of transport infrastructure, port facilities, amongst others. Based on this analysis, Mongolia should then select one or two ports apart from Tianjin and jointly with China establish a transport corridor focusing on infrastructural and customs facilitation.²⁸⁹

Allow Mongolian carriers into Chinese territory: It was pointed out that a large portion of the trucking services on a given transit route between Mongolia and China tends to be run by Chinese companies. A key reason for this is that Mongolian drivers are permitted to drive only 100km beyond the border into China (not far enough to reach any of the coal consumers), but Chinese trucks drive all 260km to Tavan Tolgoi to pick up coal.²⁹⁰ Mongolia should bilaterally negotiate for goods in transit by road to be transported by Mongolian carriers within Chinese territory. India and Nepal allows each other's trucks to enter their respective territories for a limited period of time. This is likely to become even more permissive with the conclusion of the BBIM Motor Vehicles Agreement.²⁹¹

Explore alternate road routes: In the case of Nepal, due to restrictions of routes in the transit agreements, carriers are often permitted to deliver goods only to pre-determined destinations, and as a result economic efficiency is significantly reduced because of empty return of trucks.²⁹² Mongolia suffers from a similar problem on its transit routes. Alternate road routes may enable Mongolian transport carriers to access other trade points in China for picking up or dropping off goods. This may help reduce the trade imbalance that occurs in Mongolia-China transit process.

Explore the probability of underpinning Mongolia-China bilateral transit treaties (as well as treaties with Russia) with reference to international transport and trade treaties including the WTO's TFA and GATS whose core principles are free trade in transport services, seamless transfer of capital in

²⁸⁸ Interview conducted with representative of Nepal, November 2015, Interview conducted with representative from Embassy of Nepal, Delhi, India, February 2016

²⁸⁹ Interview conducted with international trade organization, Geneva, November, 2015

²⁹⁰ Interviews conducted with freight forwarding companies, Ulaanbaatar, Mongolia, October 23-30, 2015

²⁹¹ Interview conducted with Ministry of Transport, Delhi, India, February, 2016

²⁹² National Transport Development Policy Committee, "Promoting International Transport Connectivity between India and the South and South East Asia regions," India Transport Report: Moving India to 2032, Volume 2, Part 2, Planning Commission, Government of India, New Delhi, 2014.

setting up transport companies, smooth movement of people, vehicles and goods across frontiers and application of MFN and national treatment standards to benefit carriers.²⁹³ Facilitation measures contained in the Trade and transit agreements also work to China's advantages as China can benefit similarly with Mongolia as a transit country.

Text of Mongolia-China transport agreements needs to be conveyed adequately to their intended users in particular the private sector such as freight forwarders and transport carriers.²⁹⁴ Use of bilingual website would be useful.

Institutional measures: Both Mongolia and Nepal have successfully concluded bilateral transit agreements with their neighboring countries. The Nepal-India transit and trade regime has been operational for over 60 years, and while it does have issues, it remains a workable structure. The relative success of Nepal-India transit arrangements can be attributed to an ongoing institutional and consultative structure. The Nepalese government follows up actively on the implementation of the Nepal-India Transit agreement. This is done through its commerce and transport ministries in terms of policy and inter-government negotiations. The ministry of foreign affairs through embassies and consulates also addresses operational issues in particular but policy issues as well.²⁹⁵ Suggestions for Mongolia's institutional cooperation with China include:

- For on the ground resolution of issues, base customs officials of transit countries (China, Russia) in Mongolia and vice versa. Chinese customs officials based in Mongolia, could clear goods for export and Mongolian customs officials based in Chinese ports could clear imports destined for Mongolia.²⁹⁶ Nepal already places its consular officials at ports in Haldia and Kolkata
- Create a border liaison committee consisting of customs officials between Mongolia and China to handle day-to-day issues at the border.²⁹⁷
- Establish strong high level institutional mechanism to discuss policy level changes on a regular basis. Nepal has effectively established an ongoing institutional dialogue with India, which it uses to progressively advance its transit regime and address problems. The Nepal-India joint committee for instance meets every 6 months to discuss issues.²⁹⁸

Facilitation at Ports: Simplification of administrative regulations at Ports would benefit Mongolian trade. India's single lock arrangement with Bhutan, is subject to Bhutan's execution of a sovereign guarantee. Mongolia can try to establish a similar system with China. Vis-à-vis Nepal, India would like to move towards an electronic tracking system.²⁹⁹

Assessments: Conduct joint Mongolia-China assessments through pilot projects to determine bottlenecks to smooth transit. Improve initiation of transit at the gateway, through a streamlined transit regime (such as a carnet system). Improve clearance at destination, especially for non-recurrent shipments.³⁰⁰

Multimodal Legislation

Given developments in trade and transit in the region, China's OBOR initiative in Central Asia and

²⁹³ Kunaka, Tanase, Latrille, Krausz, Quantitative Analysis of Road Transport Agreement (QuARTA) World Bank Study, 2013

²⁹⁴ Interviews conducted with freight forwarding companies, Ulaanbaatar, Mongolia, October 23-30, 2015

²⁹⁵ Interview conducted with representative from Embassy of Nepal, Delhi, India, February 2016

²⁹⁶ Interview conducted WTO, Geneva, November, 2015

²⁹⁷ Interview conducted with ITC, Geneva, November 2015

²⁹⁸ Interview with representative from Ministry of Commerce and Supplies, November 2015

²⁹⁹ Interview conducted with Ministry of Transport, Delhi, India, February, 2016

³⁰⁰ Arvis Jean-François, Raballand Gael, Marteau Jean-François, The Cost of Being Landlocked: Logistics Costs and Supply Chain Reliability, World Bank Policy Research Working Paper 4258, June 2007

the development of the WTOs TFA Agreement, it may be a good time for Mongolia to establish a law on multimodal transport at the national level as well as at the regional level. The conclusion of the UNCTAD Tripartite multimodal agreement negotiation between China, Russia and Mongolia could be a useful starting point.

BOX 4: Elements for consideration in a bilateral/regional multi modal transit agreement involving Mongolia, China and Russia

- Focus on qualitative over quantitative: E.g. improved logistics and supply chain services quality, better delivery scheduling, freight rate competitiveness
- Focus on multilateral over bilateral regulation E.g. WTO, GATT etc.
- Include international operations, transport permits, security, road safety, taxes, prescribed routes, facilitation measures.
- Harmonize rules, procedures and documents
- Mutual recognition of certificates, licenses and polices
- Special rules for products of export interest to Mongolia e.g. Mining or livestock
- Adoption of the TIR system or a similar regional equivalent
- Investment in infrastructure hardware as well as software
- For transparency purposes regulation should be published in the official journals of contracting parties as well as provided on a private sector knowledge platform
- Use of ICT in trade administration
- Effective dispute settlement and risk management systems
- Negotiations should be inclusive of the private sector

(viii) Monitoring and Assessment

One of the key factors in ensuring the implementation of any agreement is a process of assessment on the progress of the agreement and recourse to some manner of authority to sort out arising disputes on the ground and at a policy level. In terms of assessment, while the Nepal-India transit agreement does not set out indicators for assessment, it does provide for regular institutional exchange and discussions in particular in the automatic renewal of the Nepal-India transit agreements.

These institutional meetings are utilized not just for Nepal and India to make mutual transit related demands of each other, but also as a forum to resolve issues of concern. For instance Nepal has in the most recent round of discussions, requested access to further ports in India such as Vishakapatnam. India has raised issues of security, counterfeit goods and entry of 3rd country goods in Nepal's transit process. Mongolia should aim to develop similar institutional arrangements at a policy level as well as on the ground, to enable resolution of issues as they arise.

A key area that Mongolia and in fact all LLDCs have lacked is a monitoring exercise of its LLDCs status and progress. The Vienna PoA has suggested that this be carried out based on a set of clearly defined indicators. This set of indicators, can in the future be used by Mongolia as a form of assessment and monitoring. In the context of performance indicators, the Nepal-India transit agreement does not have any clear benchmarks for performance assessments. However other regional arrangements could provide an indication for Mongolia. For instance the Trade and Transport Facilitation in South East Europe ("TTFSE") as set out in Box 5 has developed a set of indicators to monitor general performance and real time impact of pilot initiatives in the trucking

industry. These indicators include Average border exit and entry time, survey occurrence of corruption, truck examination.

BOX 5: PROGRAM OF TRADE AND TRANSPORT FACILITATION IN SOUTHEAST EUROPE

Aim: to create a framework, to reduce transport costs, fight corruption; align customs administrations gradually with EU standards.

Date of Creation: 1998

Countries included: Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Romania, Serbia, landlocked Moldova, FYR Macedonia

Features

- Multi-stakeholder: national agencies, customs officials, transport operators
- majority of countries involved fall within the TIR system
- most trade flows are bound to or from the EU, so a strong transit base
- builds on a number of regional mechanisms

Institutional Elements

- High-level Regional Steering Committee convening all countries twice a year to facilitate cooperation and experience sharing.
- regional website with all requirements and procedures of border agencies
- Public-private working groups interacting quarterly
- Regional learning programs to harmonize quality of transport service providers
- Paired local project teams gathering all border agencies at pilot border crossing points with interactions across the border.
- Indicators that monitor border crossing times.

Success assessment

- customs modernization implemented at select border crossing points, inland clearance terminals
- significant reduction in waiting time
- establishment of a transparent customs performance monitoring
- visibly improved dialogue among Customs administrations

Source: TTFSE report 2002

RECOMMENDATIONS

- Ensure implementation of bilateral and multilateral trade and transit agreements by putting in place institutional structures with regular consultations as well as avenues for settlement of disputes.
- Develop of Performance indicators to assess if transit commitments contained in multilateral and bilateral trade and transit agreements are being met.

Role of Private Sector

The private sector both transport operators and logistics services providers play an active role in implementing policy and agreements. The Mongolian government can actively involve the private sector through regular consultations and involvement in transit negotiations. For the Nepal-India Transit negotiations both sides draw on inputs provided by private sector chambers

of commerce in Nepal and India. In fact the Indian private sector has been active in recommending the setting up of integrated customs checks and computerized customs.³⁰¹ Mongolian private sector can also participate in Transit infrastructure financing and partnerships as for instance Mongolia has done with mining agreements in coal and copper.

RECOMMENDATIONS

- | |
|--|
| <ul style="list-style-type: none">• Involve the private sector in regular consultations while devising national transport policies and in negotiations of bilateral/regional/multilateral transit agreements |
|--|

(ix) Customized Research on Mongolia’s Trade and Transit issues

Mongolia should set up a think-tank to address holistically Mongolian transit and trade policy. The think tank consisting of involving private and public stakeholders would be qualified to connect the entire transit supply chain from point of entry to destination in the case of imports and point of production to exit in the case of exports. It would track Mongolia’s commitments at the bilateral, regional and multilateral so as to monitor specific provisions of transit treaties and their implementation. The ITT for LLDCs can play a key role in this process.

The International Think Tank (“ITT”) for LLDCs can play a key role in providing tailor made research and advisory inputs for LLDCs such as Mongolia. ITT for LLDCs can also provide the institutional basis to form an advocacy group for LLDCs issues in the transit and trade sphere. Apart from cross country best practice research inputs, ITT for LLDCs could provide technical advice for LLDCs in their trade and transit negotiations at the bilateral, regional and multilateral level based on its cross country body of knowledge and experience. Formulating performance indicators for implementation of transit agreements including the WTO’s TFA would be a useful first step in this direction.

³⁰¹ Interviews with Indian Chamber of Commerce, Delhi, India, February 2016

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ANNEX 1: LIST OF INTERVIEWEES FROM MONGOLIA, SWITZERLAND, NEPAL, INDIA

LIST OF PERSONS INTERVIEWED FROM MONGOLIA October 26-30, 2015	
Names of participants	Organizations
Mr. Odbayar E. / Interim Director Mr. Dulguun D/ Research Coordinator	International Think Tank for LLDCs
Ms. Doljinsuren Ts. / Team Leader Ms. Tsetsgee P. / Programme Officer	UNDP Mongolia
Mr. Enkhbayar N. / Head of Division, Finance and Investment	Ministry of Mining
Mr. Enkhbold L. / Senior specialist of Department for Trade Policy and Coordination (represented Ms. Zoltuya. D/ Director of Department for Trade Policy and Coordination) Ms. Zolzaya / Specialist Department for Trade Policy and Coordination	Ministry of Industry
Mr. Enkhbaatar Kh. / Director Ms. Baigalmaa D. / Senior specialist	Maritime Administration of Mongolia
Mr. Manlaibayar Yo. / Director of Department for Economic Cooperation	Ministry of Foreign Affairs
Ms. Chuluuntsetseg / Customs Control and Clearance Division	Mongolian Customs Administration
Mr. Munkhbold A./ President of Mongolia Association of Logistics	Mongolian Association of Logistics
Mr. Enkhtuvshin D. / General Director Chairman of Board of Directors, Mongolian Freight Forwarders Association	Landbridge LLC
Mr. Purevchuluun B / Vice President Mr. Oyunkhuu J. Deputy Chief of Operation Department Mr. Khishigdorj D. / Deputy Chief of Transit and Neighboring countries Transport Department	Tuushin Co ltd.

LIST OF PERSONS INTERVIEWED FROM INDIA 9 – 12, February 2016, Delhi, India	
Names of participants	Organizations
Somnath Ghosh Ambassador	Embassy of India in Mongolia
Debpriya Banerjee Regional Director	Indian Chamber of Commerce
AB Joseph Director	Ministry of Road Transport & Highways
Tapan Mazumdar Director of International Trade	Department of Commerce
Dasgupta Under Secretary	Department of Commerce

LIST OF PERSONS INTERVIEWED FROM NEPAL December-January, 2016	
Names of participants	Organizations
M. Manoj Kumar Acharya, Deputy Permanent Representative	Nepal Mission to the WTO
Ravi Bhattarai Local Development Officer, Government of Nepal, Former Deputy Permanent Representative to the WTO	Government of Nepal
Anita Paudel Section Officer	Ministry of Commerce and Supplies
D. Pokhrel Economics Minister	Embassy of Nepal to India

LIST OF PERSONS INTERVIEWED FROM GENEVA November 2016	
Names of participants	Organizations
Mr. Gunther Fisher	UNCTAD
Jan Hoffman, Chief Trade Facilitation Section, Trade Logistics Branch	UNCTAD
Poul Hansen Economic Affairs Officer, Trade Logistics Branch	UNCTAD
Raul Torres Counselor, Development Division	WTO
Mohammed Saeed Senior Technical Advisor on Trade Facilitation	ITC
Nicholas Frank	ICTSD