

Nepalese FDI Law and Policy with regard to the Belt and Road Initiative

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In 2013, China unveiled its dream of retrieving the ancient Silk Road by undertaking massive infrastructure projects and adding value to ports around the Silk Road. The Belt and Road Initiative (“BRI”) refers to China’s proposed Silk Road Economic Belt and Maritime Silk Road. This big project has recently been accepted by Nepal. Nepal has its own foreign direct investment (“FDI”) laws and policies. This paper aims to analyze these laws and policies from the perspective of China’s BRI. The specific objective is to explore the importance of BRI in Nepal and the major challenges for its implementation in reference to Nepalese FDI laws and policies. The essence of BRI is to promote regional and cross-continental connectivity between China and other countries along the Belt and Road. The BRI is relevant to social, cultural, and economic development of its associated countries. Trans-Himalayan connectivity, political transition of Nepal and property right of Nepal is the leading challenges for BRI implementation in Nepal.

Keyword: Nepal, FDI, BRI, Silk Road Economic Belt, Maritime Silk Road

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1. Introduction

Foreign direct investment (“FDI”) plays a key role in the economic growth and social development of a country. It is a basic mechanism that boosts the national economy in connection to global economy through a package of assets, including capital, technology, managerial capacities and skills, and access to foreign markets. FDI further stimulates technology capacity-building for production, innovation and entrepreneurship within the larger domestic economy through catalyzing backward and forward linkages.¹

Foreign investment involves the transfer of tangible or intangible assets from one country to another in order to generate wealth under the total or partial control of the owner of the assets.² FDI indicates some fundamental characteristics that are common to the countries or regions in which foreign investors tend to invest.³

The main idea underlying the FDI liberalization policies of many developing countries and the FDI promotion efforts of international donors such as the World Bank and the IMF and AIIB is the FDI injects cash inflows faster to national economy. As FDI is a composite bundle of capital stock, know-how and technology, its impact on economic growth is expected to manifold.⁴ FDI is an instrument which associates countries together to support their economy as well as trade. Alike many countries in the world, Nepal has also predetermined its FDI law and policies. Nepal is a developing country having plenty of opportunities in business of any kind, i.e., hydroelectricity, medicines, vehicles, transportation and so on. In regard to FDI, Nepal is a good platform to invest. Nepal has kept its bucket open to welcome FDI and has set efficient FDI policies to be followed for those willing countries.

China assures 8.35 billion Nepali rupees.⁵ Xinhua News Agency has reported that the Silk Road projects would connect the countries having 55 percent of world GNP, 70 percentage of global population, and 75 percent of known energy reserves with each other.⁶ China launched five years’ strategic planning in 2016, which is expected to be implemented in 2021.⁷ The BRI is “Open Cooperation (开放合作).”⁸ They believe that all the neighbors will join project because of the attractiveness of the initiative. To engine the global development, China is aiming to share the benefits of its economic growth.

Nepal is a landlocked country situated between China and India. It is one

of the least developed countries in the world. China's Belt and Road Initiative ("BRI") is significant for Nepal, as the BRI would play the vital role in the overall development of Nepal and South Asia. If successfully implemented, the BRI would be a milestone for economic development of Nepal through FDI.

FDI is defined as investment into business units in another country with an equity stake sufficient to influence the strategy of the foreign business. It is distinguished from foreign portfolio investment.⁹ The risks in FDI should be well documented because foreign investors put themselves under the rule of foreign government, which could treat them unfavorably.¹⁰ FDI is a key driver of a country's socio-economic development.¹¹ It is useful in sartorial distinctions which can still be drawn between market-seeking and resource-seeking motives of investors.

Nepal's Department of Industry shows that USD 51.77 million out of a total of USD 76.39 million FDI were pledged by China for Nepal in the first half of 2015-16 fiscal year.¹² This has further cemented China's position as the top contributor of FDI for Nepal.¹³

The Nepalese Government declared 2013 the Year of Investment in Nepal.¹⁴ The same year, China made the announcement of the BRI. Nepal finally signed Memorandum of Understanding ("MoU") of the BRI on May 12, 2017.

Nepal's Ministry of Industry announced the ambitious goal of attracting FDI of USD 241 billion in the next 10 years.¹⁵ This ambiguous goal will be successful if accompanied with valuable guidelines. This scenario is linking a big project to be implemented in Nepal. The BRI project will be the milestone to achieve the visible and invisible targets of Nepal.

The FDI inflow in Nepal began in the early 1980s through gradually opening up its economy. From 1980 to 1989, annual FDI inflow to Nepal was about USD 500,000. Such FDI inflow showed a distinct acceleration during the 1990s averaging USD 11 million per annum.¹⁶ FDI has become the most important component of economic development for Nepal.¹⁷

Participation contracts of various kinds have frequently been used in China. As early as 1979, China opened its borders for FDI¹⁸ and Nepal has always been benefited by China.

2. Historical Background of the BRI

For thousands of years, the Silk Road Spirit - “peace and cooperation, openness and inclusiveness, mutual learning and mutual benefit” - has been evolving generation by generation, promoting the progress of human civilization and contributing greatly to the prosperity of the countries along the Silk Road. Symbolizing communication and cooperation between the East and the West, the Silk Road spirit is a historic and cultural heritage shared by all countries around the world.¹⁹ The BRI consists of various mega-projects, but the main programs are “the Maritime Silk Road” and “Silk Road Economic Belt.”²⁰

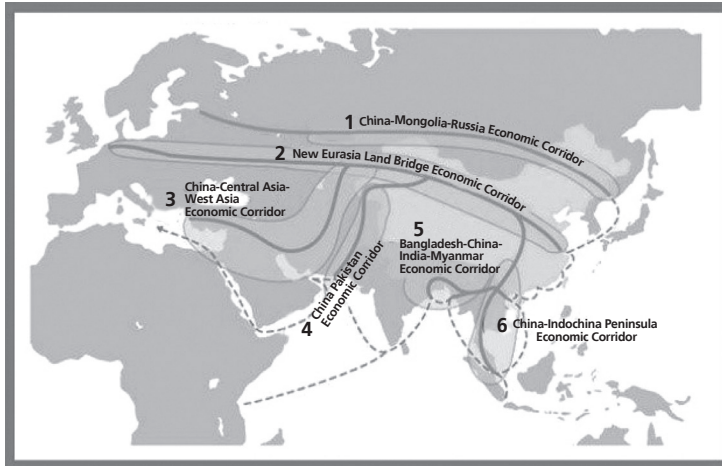
The BRI is composed of two outward facing strategies such like the Silk Road Economic Belt and the 21st Century Maritime Silk Road.²¹ It is a crucial project in development of infrastructure and economy. The BRI is geographically structured along 6 corridors, and the maritime Silk Road.

Table 1: Six Main Corridors along the Belt and Road

Six Corridors	Running Areas
New Eurasian Land Bridge	Western China to Western Russia
China–Mongolia–Russia Corridor	Northern China to Eastern Russia
China–Central Asia–West Asia Corridor	Western China to Turkey
China–Indochina Peninsula Corridor	Southern China to Singapore
China–Myanmar–Bangladesh–India Corridor	Southern China to Myanmar
China–Pakistan Economic Corridor	South-Western China to Pakistan
Maritime Silk Road, running	Chinese Coast through Singapore to the Mediterranean

Source: Blue Book “The Belt and Road” (2015)

Map 1: The BRI: Six Economic Corridors



Source: Compiled by the author

3. FDI related Law and Policy in Nepal

A. Foreign Direct Investment Policy in Nepal

Nepal always welcomes foreign investment. Nepalese FDI laws confirm foreign experts, working in Nepalese Industries with prior approval from countries where convertible currencies are in circulation, shall be permitted to repatriate in convertible currency up to 75 percent of the amount received.²² Foreign investment shall be permitted up to 100 percent in large and medium scale industries.²³ Facilities on electricity-industries shall be given priority to supply electricity. No fee shall be charged if an industry generates electricity for its own use. The Government of Nepal shall take necessary action to conclude agreements for the avoidance of double taxation with the countries of the concerned foreign investors.²⁴ Government land and land within the industrial districts shall be available for establishing industries on priority basis.²⁵ As regard FDI policy, a non-tourist visa will be granted to foreign investors or their authorized representatives as well as dependents to stay in Nepal for the period of investment.²⁶

The foreign investor can invest in any industry. The government guarantees

that no industries shall be forcibly nationalized.²⁷ Since joining the WTO in 2004, Nepal has been expanding the FDI sectors. Nepal is also a member of the South Asian Preferential Trade Arrangement (“SAPTA”) and the Bay of Bengal Initiative for Multi-Scrotal Technical and Economic Cooperation-Free Trade Area (“BIMST-ECFTA”). New initiatives on FDI are aiming to enhance sustained growth and reduce poverty.²⁸

The Nepalese government permits the patents, designs and trade-marks registered in foreign countries without conducting any enquiries if an application is filed for their registration along with certificates of its registration in a foreign country. The government shall provide the facility of pursuant to the Paris Convention for the Protection of Industrial Property 1883 to the registration holder.²⁹

To those foreign investors involved in the highly prioritized projects, the Central Bank of Nepal has allowed to capitalize their expenses at home country for Nepal-based projects as FDI. Nepal *Rastra* Bank (“NRB”), the Central Bank of Nepal permits foreign investors who spend their money at home for such task as feasibility study, geological survey and designs of Nepal-based projects without opening their offices in Nepal to enjoy such facility.³⁰

The Nepalese Constitution also encourages and mobilizes FDI in the areas of import substitution and export promotion as well as infrastructure building, in consonance with national interest.³¹

B. Foreign Direct Investment Law in Nepal

The Industrial Policy and Industrial Enterprise Act of 1987 of Nepal (hereinafter The 1987 Act) opened up the economy to FDI. The Nepalese laws define Foreign Investment as “Investment in Share (Equity), Reinvestment of the earnings derived from the investment as referred Share, Investment made in the form of loan or loan facilities.”³² In this regard, the “Technology Transfer” means any transfer of technology to be made under an agreement between an industry and a foreign investor on these matters:

Use of any technological right, specialization, formula, process, patent or technical know-how of foreign origin. Use of any trademark of foreign ownership, acquiring any foreign technical, consultancy, management and marketing service.³³

The 1987 Act also provides the six-month's visa for the foreign investor, who wants to research the investment project.³⁴ A foreign investor's or dependent family or authorized representative of such a foreign investor and dependent family of such authorized representative can also get a business visa to stay in Nepal until the foreign investment is retained.³⁵ The 1992 Act stipulates that a foreign investor who, at a time, makes investment in an amount no less than USD 100,000 or in convertible foreign currency equivalent thereto, and his/her dependent family shall be granted residential visa until such investment is retained.³⁶

In case of dispute between a foreign investor, national investor and the concerned industry, the concerned parties shall be required to settle the dispute by mutual consultations with the Department of Industry. If the dispute could not be settled in the manner as referred to in Department, it shall be settled by arbitration in accordance with the prevailing arbitration Rules of the United Nations Commission on International Trade Law ("UNCITRAL").³⁷

Foreign investor should pay the tax under prevailing Nepal law within the last day of the month of *Ashwin* (Nepali month) of each year.³⁸ Foreign Investment Tax Rule of Nepal also mentions such a kind of provisions in investment tax, statement to be furnished, valuation of foreign investment and assessment of tax, matters to be taken into consideration while evaluating foreign investment and assessing foreign investment tax, etc.³⁹

The tax officer has to assess the amount of foreign investment tax to be recoverable in a month as far as possible after the statement of foreign investment has been furnished.⁴⁰

The Constitution of Nepal 2015 has stipulated the importance of foreign capital for the economic development of the country and the protection of foreign investments. Part IV of the 2015 Constitution has committed to attract foreign investment and technology by framing various policies, directives, and undertaking as State responsibilities.

Nepalese Patent, Design and Trade Mark Law has further provided the facility for investors. The title of the patentee shall be valid only for a period of seven years from the date of registration except for the case when it is renewed under this law.⁴¹ This law has provided the renewable facility to the patient. This law guarantees the right of investors to patent.

The Nepalese government has given an authority to establish the foreign

company.⁴² The Nepalese Company Law has laid down that any foreigner obtaining approval under the prevailing law to invest in Nepal, shall be provided with the facility.⁴³ It is because the FDI is taken as a meaningful source of the economic development.

C. Foreign Direct Investment Condition of Nepal in 2015/16

In 2015-16 Fiscal Year, the FDI was falling down and 77.5 percent's investment was gone. In addition, there was 7.3 percent decline in the number of projects under FDI. During the fiscal year, the Department of Industry ("DOI") approved a total of 341 foreign and joint-investment projects with foreign investment commitments amounting to Rs. 15.14 billion. In 2014-15, the DOI approved 368 projects with foreign investment commitments amounting to Rs. 67.42 billion.⁴⁴ Among the 341 projects registered in 2015-16 Fiscal Year, the number of service-related projects was 143: tourism-related was 122; production-related, 50; agriculture and forestry-related, 22; energy-related 3; and construction-related, 1.

Table 2: The Countries wise investment Ratio of Nepal (Fiscal Year 2015/16)

Countries	Registered Projects
China	125
South Korea	55
USA	40
India	23
Japan	18
UK	11
Other Countries	69
Total	341

Source : Nepal Rastra Bank Report

The projects approved were estimated to generate direct employment for 11,426 people.⁴⁵ In this regard, the FDI is the most important factor to social development as well as economic growth. The report of Nepal Rastra Bank shows that transfer

under the capital account decreased by 14.7 percent (Rs. 2.18 billion) to a surplus of Rs. 16.99 billion. The FDI under financial account rose by 35.1 percent (Rs. 1.54 billion) to Rs. 5.92 billion in 2015-16 Fiscal Year. The FDI increased by 37.2 percent in 2014-15 Fiscal Year.⁴⁶

D. FDI related Agreements for the implementation of BRI in Nepal

1. Transit and Transport Agreement between China and Nepal

The Transit and Transport Agreement was signed between China and Nepal on March 21, 2016. The preamble of this Agreement provides the relevant international legal instruments, especially the 1982 United Nations Convention on the Law of the Sea, recognizing that Nepal, as a land-locked country, has the right to have permanent access to and from the sea, and the right of freedom of transit, and realizing the need to facilitate the transit transport through their territories.

2. 2010 MoU between Nepal and India for cross border railway connectivity agreement.

The MoU between India and Nepal related to cross border railway connectivity can be useful for the BRI. China's BRIs planning to construct six corridors, one of which is running from China to Myanmar and Myanmar to India. If Nepal takes part in the BRI, another corridor will run from Keyrong to Kathmanu which will connect Nepal with India. India and Nepal already signed the MoU of cross border railway connectivity. The following are the agreements that Nepal signed.

1. Bangladesh, Bhutan, India (BBIN) signed the Motor Vesicles Agreement (MVA) on June 15, 2015.⁴⁷
2. Nepal signed the Trans Asian Railway (TAR) Agreement on November 10, 2006 and Approved March 6, 2012.⁴⁸
3. Agreement between India and Nepal was signed on May 21, 2004. This agreement mentioned rail links between Raxaul (India) and Birgunja (Nepal).⁴⁹

4. The BRI in South Asia including Nepal

A. The BRI in South Asia

South Asia consists of eight countries: Afghanistan, Bhutan, Bangladesh, India, Maldives, Nepal, Pakistan, and Sri Lanka. These countries share social, cultural, linguistic and economic practices. The South Asian Association for Regional Cooperation (“SAARC”) is a regional organization between them.

There are two routes along the BRI: one is China–Myanmar–Bangladesh–India Corridor, while, the other is China–Pakistan Corridor. Also, China is planning to connect the Qinghai-Tibet rail line with Nepal under the BRI. Chinese Foreign Minister Wang Yi asked Nepal to conduct a feasibility study whether the rail line could be extended to Kathmandu.⁵⁰ In March 2014, Chinese Premier Li Keqiang called for accelerating the BRI along with the Bangladesh-China-India-Myanmar Economic Corridor.⁵¹

China–Myanmar–Bangladesh–India Corridor is one of the prominent chunks of the BRI. A point at issue is the Indian opposition, valid as it may be, to the China-Pakistan Economic Corridor (“CPEC”) based on the fact that it runs through Gilgit-Baltistan, mountainous region in the far north-east corner of Pakistan, which is claimed by both India and Pakistan.

B. The BRI Situation in Nepal

Nepal has signed a MoU with China on Cooperation under the BRI on May 12, 2017. Both have agreed in principle to build railways and road connecting each other under the BRI. This MoU has been an important source of FDI in Nepal since 2013 as well as the second largest ODA to Nepal after Britain during the same period. It is desirable to promote FDI on mutually beneficial areas between the two countries under the BRI to expand equitable sharing of benefit from goods, technology, capital and human resources.⁵²

Both sides have mutually agreed the term to realize economic growth and sustainable development, thereby enabling them to further develop friendly relationship, enhance economic ties, deepen cooperation, and promote people-to-people exchanges.⁵³

China recently declared an investment of USD 8.3 billion at the Nepal Investment Conclave 2017 held in Kathmandu.⁵⁴ China tries to connect the Qinghai-Tibet rail

line with Nepal (Kathmandu). This connection is significant because the routes of BRI go through South Asian Region including some ASEAN countries. If the rail line will be connected to Kathmandu from Tibet, it can be further extended to Lumbini from Kathmandu. Lumbini is the birth place of Buddha, a pilgrimage Buddhism which is a tourism hub.

In order to develop rail connectivity passing through its territory, Nepal already established the Department of Railways in 2011. In 2012, the Nepalese government completed feasibility study of Kathmandu valley metro rail. In addition, a project report of Simara-Bardibas and Birjunj link (136km) was finished in 2013 and then the Bardibas rail line construction was started in 2014. These infrastructure developments could be going together with the BRI.

Today, China's motto is to promote the border trade, tourism and culture cooperation between Tibet Autonomous Region and neighboring countries such as Nepal.⁵⁵ Former Deputy Prime Minister of Nepal Kamal Thapa declared that Nepal would contribute to enhancing better economic cooperation with China and India in line with the BRI.⁵⁶

The Prime Minister of Nepal conveyed its support to the BRI for economic development and prosperity.⁵⁷ The Chinese side stated that Nepal would be an important partner in this Initiative and China would benefit for Nepal in many ways.⁵⁸ The requisite of the BRI is increasing which is green signal for the economic flourishing of Nepal. In 2016, Nepal signed the agricultural products and food exchange information platform for the BRI.⁵⁹

5. Major Projects under Chinese Assistance

Nepal has some important projects in association with China. Table 3 shows the on-going projects under Chinese assistance.

Table 3: Major On-going Projects under Chinese Assistance

Project Name	Assistance Process
Upper Trishuli 3A Hydropower Project – Power Station and Transmission Line Projects	Concessional Loan
Food/Material Assistance in Northern 10 bordering Districts	Grant
Kathmandu Ring Road Improvement Project with Flyover Bridges	Grant
Tatopani Frontier Inspection Station Project (Construction of ICDs at Zhangmu- Kodari)	Grant
Acquisition of Aircrafts under the Chinese Government	Grant Assistance
Procurement of Aircrafts under the Chinese Government	Concessional Loan
National Armed Police Force Academy Project	Grant
Pokhara International Regional Airport	Loan
West Seti Power Project	Loan
Installation of Solar Energy in Singha Durbar	Grant
Upgrading Kyorong border, earthquake recantation	Grant

Source: Nepalese Embassy of China

Some of the projects are already assisted by China, while others are planned. China is the biggest investor country in Nepal today. Overall development projects of Nepal are affiliated with the BRI. The Nepalese government is planning to construct railways connecting Rasuwagadhi to Kathmandu and Kathmandu to Pokhara and Lumbini as a part of the BRI. The Chinese Government has just finished the field visit program.

The FDIs must be reviewed and approved by the relevant authorities under the Chinese law.⁶⁰ When Nepal proposes projects to China for investment, China will decide the sectors. The Chinese government is conducting field study on these projects including the rain line construction before investment.

6. The Industries Approved for FDI by the Nepalese Government

The Department of Industry has approved FDIs in 2016-17 Fiscal Year in different categories. Table 4 shows the categories of investment, total capital, fixed capital, working capital, foreign investment and employment.

Table 4: Industries Approved for FDI by Category in 2016/17 Fiscal Year

Category	No. of Projects	Total Capital	Fixed Capital	Working Capital	Foreign Investment	No. of Employment
Agro and Forestry Based	231	5,490.62	4,277.39	1,213.23	4,049.58	8,817
Construction	45	3,825.34	2,856.10	964.7	2,972.81	3,151
Energy Based	75	153,564.68	150,102.15	5,362.53	87,572.36	10,917
Manufacturing	995	92,552.82	73,260.59	18,430.27	38,586.29	93,148
Mineral	66	6,538.12 5	183.10	1,355.02 4	159.35	8,070
Service	1,257	62,242.33	39,766.17	22,330.49	40,974.09	54,657
Tourism	1,104	36,589.75	33,659.37	2,660.69	21,518.18	41,609
TOTAL	3,776	360,857.78	309,142.98	52,332.94	199,881.57	220,496

Source: Department of Industry of Nepal / Unit: Millions of NPR

As shown at Table 4 China mainly invests in tourism and services, energy, manufacturing, and construction sectors. It is positive for Nepal because these are long lasting projects with the long term vision.

7. Modern Relations between China and Nepal

China and Nepal are interrelated culturally, socially and geopolitically. They have been building up proactive relationship. In 1955, Chinese delegation led by China's Ambassador to India Yuan Zhongxian visited Nepal for a detailed discussion to establish diplomatic relations. An agreement formalizing diplomatic relations on the basis of *Panchasheel*, the "Five Principles of Peaceful Coexistence," was signed in

Kathmandu by Principal Royal Adviser *Sardar Gunja Man Singh* and the Chinese Ambassador Yuan Zhongxian.⁶¹

China and Nepal opened its residential Embassy in the other's capital city – Kathmandu and Beijing – in 1960 and 1961, respectively.⁶² Nepal is the only country that has been privileged to maintain a Consulate General in Lhasa, the capital of the Tibetan Autonomous Region. There is a large presence of Nepali people in Tibet living in harmony with the locals pursuing different vocations. Nepal also maintains Consulate General in Hong Kong and Guangzhou.⁶³ Kathmandu is connected by direct air links from Lhasa, Chengdu, Kunming, Guangzhou, Hong Kong and Xi'an. Nepal is always committed in "One China policy." Also, China has helped Nepal in every difficulty and situation including the international forum.

China has been maintaining peaceful relationship with Nepal. Also, Nepal sponsored China's admission to the UN and all other international organizations. In the UN human rights body sessions, Nepal has consistently voted for China. China has deeply appreciated Nepal's stand in this respect.⁶⁴ In 2016, Kathmandu and Chengdu City of Sichuan Province signed an agreement on establishing sister city relations in Kathmandu.⁶⁵ This agreement, in the one hand, is to enhance mutual understandings and friendship between the two cities. In the other, they are trying to cooperate with each other in such areas of trade, culture, tourism, education, agriculture, health-care, urban planning, etc.

8. Relations between FDI Law and Implementation of BRI in Nepal

The ASEAN countries have been freely attracting FDI. The foreign investment in the ASEAN accounts for 10 percent of the total FDI in the developing countries. FDI is also growing between the ASEAN countries.⁶⁶

Most of the major investors would come from developed countries. China is an exception. It is a developing country, but a major investor. Chinese policy is to steer FDI to particular sectors interrelated with the BRI.⁶⁷

Migration of both skilled and unskilled workers can facilitate the outflow of FDI from the destination of the origin country.⁶⁸ The BRI is ground for FDI which

is all that economic development. FDI plays a crucial role in export, import and technology transfer. Nepal is a small country situated between two big neighboring countries - China and India. Nepal believes that the BRI will play a vital role in its economic development. This landlocked country relies heavily on imports from both India and Indian ports towards the ocean. The BRI is also important for the infrastructure development of Nepal. “China’s socio-economic, infrastructure and cultural development is role model [for Nepal].”⁶⁹

Nepal expects the BRI to be a new opportunity for development and cooperation with China and South Asia. Nepal’s FDI law and policy are directly related to the Implementation of BRI in Nepal. The Agreement between China and Nepal on cooperation under the BRI highlights the economic growth, transit-transport, and people to people tie.⁷⁰ The Agreement also refers to the Free Trade Agreement (“FTA”)⁷¹ to open up markets and expand two-way trade. It demands supportive Nepalese law in its implementation. Beijing has put a total of about USD 100 billion to a trio of new infrastructure funds: USD 40 billion to the Central Asia-Focused Silk Road Fund; USD 50 billion to a new Asian Infrastructure Investment Bank (“AIIB”); and USD 10 billion to the BRICS-led New Development Bank.⁷² Therefore, the BRI is a milestone for the development of Nepal.

9. Challenges for Implementing the BRI in Nepal

*A. Political Challenge*⁷³

The ASEAN nations are strategically interdependent with both two inside powers in Asia, China and India, and two outside powers, the US and Russia. However, some unresolved maritime and territorial claims still remain in ASEAN. It is a big challenge to coordinate regional economic cooperation. India is another concern. In spite of its promising visions of the BRI, there is significant political distrust between China and India.⁷⁴

*B. Labor Challenge*⁷⁵

Chinese labor environment is different from that of South Asia. There is also security concern with border-crossing labor workers. Labors can be a hindrance to

the BRI.

C. Interconnectivity

Another challenging factor is the Nepalese geographical difficulties covered with high mountains. It will be hard to manage route of the BRI.

D. Domestic Politics

Nepal is politically unstable. Every year the government has changed. It is a hidden but major problem in implementing the BRI in Nepal. Recently, the new constitution was enacted. If the government lasts for one tenure, domestic politics would be more stable.

E. India⁷⁶

Nepal openly borders India, which has sometimes conflicts with China such as the question of Dalai Lama who was the ex-prime minister of the Tibet.

F. Environmental Challenge⁷⁷

Nepal is a small country. When the BRI is fully implemented, environmental problem may arise, because new infrastructure development needs some deforestation.

G. Property Right

The Constitution of Nepal shall guarantee the property right fundamentally.⁷⁸ However, such property could be nationalized under the Land Acquisition Act 1977 for the implementation of the BRI. Such a situation is not fully consistent with constitutional right of all Nepalese citizens to their private properties.

The BRI is just a five-year's old project. It will face more challenges in upcoming days, because the major implementation of BRI has not started yet. It is the time to wait and watch. The European Council of Foreign Relations said: "One Belt one Road is the best international economic strategy, but for now it is certainly not an easy one."⁷⁹

10. Benefits of the BRI to Nepal

The BRI has the following benefits for Nepal:

- ▶ Nepal can get economic and social achievements from the BRI.
- ▶ Nepal is a landlocked country, so that the BRI is a gateway to the world directly.
- ▶ Nepal makes a win-win cooperation as a partner of the BRI.
- ▶ Nepal can bridge China and India.
- ▶ Nepal can develop its agro-economic sector as a party to the eco-agriculture and food safety forum.
- ▶ Nepal can build the rail line reaching Kathmandu through Kerung, which his historical benefit of Nepal.
- ▶ Nepal can carry out joint research, personnel exchanges and professional training, technological exchanges and cooperation, knowledge sharing and capacity building.⁸⁰
- ▶ Nepal can develop credit management.⁸¹
- ▶ Nepal can promote cross border infrastructure projects, including railway, road, civil aviation, power grid, and communication.⁸²
- ▶ Nepal can make economic cooperation with China who is emerging as an important global economic power.
- ▶ Nepal can solve the economic crisis based on the BRI.
- ▶ Nepal will directly join the world through road lines.
- ▶ Nepal can join trade, manufacturing and production network as a party to the BRI.
- ▶ Nepal can establish harmonious relations with other parties of the BRI.
- ▶ Nepal can transfer the technology as well as education.
- ▶ Nepal can be a party to FTA under the BRI.
- ▶ Nepal can make cultural exchange; establish sister-city relations; and facilitate cooperation agreements on media, education, health, culture art, tourism, biodiversity protection, poverty alleviation, and public welfare.⁸³
- ▶ Nepal can make extra benefit from the FDI under the BRI.
- ▶ When BRI is implemented in full-flexed; Nepal's Lumbini (Birth place of Buddha) can be develop as a tourism hub.

11. Conclusion

FDI is an efficient way to overall economic development process, but the rule of law is the most important factor in these areas. Without clear law and policy, the investment is not fully guaranteed. So law and policy is a primary condition

for FDI. Nepal is trying to facilitate the foreign investors. The report of Nepal Rastra Bank of 2015/16 shows that China is the greatest investor of Nepal in the FDI sector. It shows that among 341 projects invested in Nepal 125 are China's investment.⁸⁴

Nepal already signed the MoU of the BRI on May 12, 2017. The essence of BRI is to promote regional and cross-continental connectivity between China and other developing countries. Connectivity covers five major areas of interest: policy coordination, infrastructure construction (including railways and highways), unimpeded trade, financial integration and people-to-people ties. The proposed BRI has connected 55 countries from East (The Philippines) to West (Europe).

Nepal should face some challenges in the implementation of the BRI related to world politics. These challenges can be described as major hurdles in implementation of BRI in Nepal. In the context of Nepal, however, benefits are much higher than challenges.

Nepalese FDI law and policy have highly welcomed foreign investors and projects. Regarding same scenario, the Agreement of Transit Transport will help develop the Nepalese economic sectors. If the BRI is success fully implemented, it will be a milestone for economic as well as social development of Nepal. The BRI will be further a gateway for Nepal to sea.

With regard to the BRI's infrastructural development, China plans to connect the Qinghai-Tibet rail line with Nepal (Kathmandu). Also, Nepal is a member of SAARC. SAARC countries share common culture, socio-economic value and legal practices and concept. Therefore, Nepal can analyze the scope of the BRI in relation to FDI under its condition and SAARC periphery.

Chinese President Xi Jinping announced at the Beijing Forum 2017 his willingness for cooperation and partnerships without confrontation; he focused on friendship rather than alliance, respecting each other's sovereignty, dignity and territory. In this course, Nepal would get more benefit from the BRI.

The BRI is beneficial to all countries along the Belt and Road. President Xi Jinping proposed to establish a network of railways, roads, pipelines, and utility grids that would link China to Central Asia, West Asia, South Asia and parts of South East Asia.

The BRI aims to create the world's largest platform for economic cooperation, policy coordination, trade collaboration, and social and cultural development.

The BRI can be an economic platform to create benefits for everyone. This kind of large project has some challenges, but, most importantly, gives benefit to all tributes by FDI. Nepal hopes to get more benefit through the BRI.

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