NEPAL TRADE

Issue # 3
May 2012

SPECIAL
TEA

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INTELLECTUAL PROPERTY RIGHTS

FEATURE
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Federal Ministry for Economic Cooperation and Development

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EDITOR'S NOTE

Dear Reader,

Spring is the season when the best tea is produced in Nepal – the first flush! Therefore we are pleased to present to you the third issue of the NepalTrade Magazine, this time with an in-depth focus on the Nepalese Tea Sector.

One of the oldest and most revered drinks, tea holds a special place in the lives of the Nepalese. Being endowed with favourable geographic and climatic conditions, it is believed that exports of high quality tea from Nepal could grow significantly in the future. However, this potential has yet to be fully harnessed by Nepalese tea exporters.

In this issue, we have put together important aspects that need to be considered when discussing the trade of tea from Nepal – policies, issues of IPR and TBT, challenges and opportunities, international demand and some facts and events that could be of interest to you. As with our previous issues, we hope that this issue will prove to be informative and useful to our reader. We hope to be able to provide you with concrete and practical overview of the most pressing issues the sector currently faces. For updates from this sector as well as all other 19 products and services that have been identified as "export potential sectors" in the Nepal Trade Integration Strategy (NTIS), please also visit the website www.nepaltrade.org and request a username and password, if it applies to you.

We are looking forward to your feedback and wish you a happy and insightful reading!

Philipp Kruschel

IMPRINT

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Place and date of publication:
Nepal, May 2012

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Views expressed in Nepal Trade are those of the authors and do not necessarily reflect the official position of GIZ or its partner institutions.

8

17

20

CONTENTS

The Agreement on Technical Barriers to Trade (TBT) 4
Policy support for Tea sector in Nepal 6
Tea and Intellectual Property Protection 8
The Nepalese Tea Industry: Challenges and Opportunities 10
Access and Benefit Sharing and Traditional Knowledge 14
A PPP initiative for promoting organic tea 17
Beyond Chiya 19
10 Facts about Tea 24
EU requirements for Tea import 26
Calendar of Events 28

THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE (TBT)

Technical Barriers to Trade (TBT) do not only protect the health, safety and satisfaction of consumers but also present a challenge for export oriented producers.

Every country faces the demand of its people to ensure the supply of safe consumer goods. Furthermore many see that it is the responsibility of the state to secure the protection of human, animal and plant life as well as national security and the environment. As the understanding of "safe" consumer goods and the need for protection differs significantly between countries, also the policies implemented by governments vary. Being required to meet these varying national provisions, it is difficult and cost intensive for exporters and producers to achieve compliance. At the same time, standards and technical regulations can be misused to protect domestic producers and therefore serve as an excuse for protectionism, becoming obstacles to trade.

To ensure that regulations, standards, testing and certification procedures do not become unnecessary obstacles, the member countries of the World Trade Organisation (WTO) agreed to include the Agreement on Technical Barriers to Trade (TBT) in the regime of the WTO. Within the WTO regime the Agreement on TBT stands beside other agreements like the GATT, GATS or TRIPS. It is closely aligned with the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS), which relates to food safety (bacterial contaminants, pesticides, inspection and labelling) as well as animal and plant health (phytosanitation) with respect to imported pests and diseases.

Plainly said, TBT are a set of rules regulating e.g. product weight, size, packaging, ingredients or identity standards, mandatory labelling, shelf-life restrictions, and import testing and certification procedures.

In recognition of the diversity of people and nations and their different conception of consumer safety, the TBT Agreement seeks to provide member countries with sufficient domestic policy autonomy to pursue legitimate regulatory objectives. It counterbalances these granted autonomies with several provisions aiming on limiting harmful regulation. To prevent exporters from being confronted with a vast variety of different regulations and standards, governments are strongly encouraged to adhere to international standards. As it is the case with other agreements within the WTO, the most-favoured-nation provision prevents regulations that aim at the protection of domestic industries.

TBT Commitments of Nepal

Besides provisions regulating the trade in goods, services and aspects of intellectual property rights (IPR), the TBT agreement was one of the mandatory obligations of the WTO that Nepal adopted with the WTO accession package on 23rd April 2004.

Nepal made the following commitments under the TBT Agreement during its accession to the WTO

- The Amendment of Nepal Standards (Certification Mark) Act, 1980.
- The Amendment of Nepal Standards (Certification Mark) Regulations, 1982.
- The establishment of an Enquiry Point.

So far, the government has designated the Nepal Bureau of Standards and Metrology (NBSM) as TBT enquiry point. The national enquiry points are responsible for the provision of information about the country's technical regulations, test procedures, and adherence to various international standards. The amendment of the Nepal Standards (Certification Mark) Act and Regulation is currently under consideration.

Besides being responsible for the establishment of national standards and technical requirements and maintaining laboratories for quality tests, the NBSM monitors the implementation process of TBT related amendments of Nepal's provisions and acts as focal point in the WTO accession process. Since its establishment, the NBSM has been notifying and publishing information regarding TBT which includes national and international notice of standards, technical regulations and conformity assessment procedures and other relevant information.

Challenges and Chances of TBTs for Nepal

An insufficient level of awareness about TBT provisions within the public and the private sector has limited the export of quality products to foreign markets and encouraged the import of low quality products to the domestic market.

Most countries worldwide are using their right to restrict unsafe and low quality products from being imported by strict standards and technical requirements that are enforced by customs. Nepalese producers often face difficulties to attain these. Problems often arise because there are no internationally accredited testing laboratories in Nepal which may be able to issue the required quality documents. Because of the lack of these facilities, it is difficult for producers in Nepal to guarantee a specific quality and to achieve compliance with the high standards and requirements for exports to developed countries. The creation of an adequate quality infrastructure is essential in the acquisition of buyers from abroad. Chambers of commerce and industry and product associations could assist exporters through the provision of information about TBT in developed countries, and support the establishment of adequate testing laboratories. Awareness programmes for exporters in different parts of the country about the importance and impact of various provisions of the TBT Agreement for exporters could increase the producers' abilities to tackle such challenges effectively. The GoN is currently preparing to promulgate an Accreditation Act that includes the formation of an Accreditation Board. It will be the board's responsibility to foster the recognition of Nepalese laboratories by other countries.

www.world-geographics.com/maps/world/world-map

On the other hand, Nepal can use the provisions of the Agreement on TBT to protect its own consumers and industries against low quality and potentially harmful products from other countries. So far, the lack of sufficient infrastructure at the borders and inadequate TBT policies, have allowed low quality products to enter the domestic market. Training of customs officials and the provision of information is essential to address these problems.

TBT and Tea

The Agreement on Application of Sanitary and Phytosantinary (SPS) Measures that deals with food items is especially relevant for tea producers in Nepal that are exporting their goods to markets abroad. Tea is classified as food in many countries and therefore SPS measures apply for the import of tea. They take into account radiation level, pesticide maximum residue level, heavy metal contents, and microbial contamination, among others. Especially for Nepalese tea exporters it is challenging but essential to guarantee compliance with these measures.

Conclusion

Consumers in Nepal can benefit greatly from the adoption of the measures provided by the agreement on TBT. Effective standards and regulations not only protect the health and well being of the consumers, but also benefit local producers that are not able to underbid the low prices of low quality and harmful products and therefore suffer from unfair competition. Exporting producers in Nepal benefit from the compliance with TBT not only by gaining access to high-demand markets in the developed countries but also by gaining the trust of consumers abroad. ■

Rup Kumar BK, GIZ
Dominik Berger, GIZ

POLICY SUPPORT FOR TEA SECTOR IN NEPAL

The Government of Nepal has defined tea as one of the high potential export sectors in the NTIS 2010, but support by the government for the sector has its roots around 50 years ago.

Peculiar weather, agro-climate, soil and geographical conditions of Nepal are in favour of tea plantation. Nepalese tea harbours a special aroma, fusion, taste and colour that attract tea lovers across the globe. Aroma from the Nepalese tea reflects the beauty of the Trans-Himalayan eastern hills.

The history of tea plantation in Nepal began in 1863 when the first factory was built in Ilam in 1878. After almost a century without government support for the sector, the government established the Nepal Tea Development Corporation (NTDC) in 1966. In 1982, five eastern districts were designated as 'Tea Zone': Jhapa, Ilam, Panchthar, Terhathum and Dhankuta. Since then, the government has supported the tea sector by a number of measures.

The government adopted the Nepal Tea and Coffee Board Act in 1992 and set up the National Tea and Coffee Development Board (NTCDB) in 1993.

Photo: Himadri Palikhe

The objective of this board is to promote and strengthen the tea and coffee sector through policy formulation, technical and managerial support. In addition, the government's privatisation and liberalisation policy in 1991 further benefitted the private sector. The introduction of the National Tea Policy in 2000 was another important step to support the sector. This policy ensured several facilities for entrepreneurs:

- ***Access to Credit***: Banks shall provide loans up to 80 % as priority credit with a grace period of 5 years for CTC and 7 years for orthodox tea plantations. In addition the government has exempted income tax for the above grace period.

- ***Access to Land***: Whoever buys land for tea plantations will get a 75 % exemption on land registration fees. In addition, the government provides appropriate public land on lease for up to 50 years for tea plantations. Likewise, the government arranges low interest loans to purchase land for tea cultivation.

- ***Access to tools:*** The government provides capital grants for irrigation, necessary agricultural and tea processing equipment. Furthermore, it is allowed to import fertilizers, pesticides, weedicide, and agricultural equipment required for the tea business. Electricity and agricultural roads to the place of tea cultivation are provided.

- ***Access to Infrastructure***: Priority is given for infrastructure development (roads, irrigation, electricity, communication, education and health) in the commercial tea plantation areas.

- ***Access to Market:*** Necessary information on the international tea market is provided via the Agro Enterprise Centre (AEC) and embassies abroad. A Tea Development Fund supports small and cooperative tea entrepreneurs to attend trade fairs, trade exhibitions, workshops and seminars for tea promotion.

- ***Access to Information***: National as well as international information covering studies and research, market development of tea and information to tea entrepreneurs is provided.

- ***Access to Technical Services***: Small tea farmers and cooperatives have access to free technical services including disease and pest control, plantation, harvesting, drying, organic farming etc.

- ***Human Resource Development***: The government provides national and international trainings under the Tea Development Fund for small tea farmers and members of tea cooperatives.

- ***Promotion of Auxiliary Industries***: The government levies a minimum customs duty on the import of machineries for the tea packaging industry. In addition, the duty levied on packing materials to export Nepalese tea shall be refunded under the Duty Drawback facility. Further, the government exempts income tax up to five years to those industries established for the packaging and exporting of tea.

After the promulgation of the National Tea Policy 2000, there has been a tremendous growth in the Nepalese tea industry *(refer to article on The Nepalese tea Industry: Challenges and Opportunities, below)*. Subsequently, the tea cultivation area has been extended to different districts from Jhapa in the Terai to Ilam, Panchthar, Dhankuta, Terhathum, Sankhuwasabha, Bhojpur, Dolakha, Ramechhap, Solukhumbu, Sindhupalchowk, Nuwakot, and Kaski in western Nepal.

The tea sector has been identified as a very promising sector for job creation. Especially orthodox tea gives higher returns compared to other crops, therefore it is a strong engine for income generation and poverty reduction for farmers especially in rural areas. ■

Rup Kumar BK, GIZ

TEA AND INTELLECTUAL PROPERTY RIGHTS

Intellectual property rights are an important tool to create and increase demand for tea from Nepal abroad.

Tea from the Himalayas is renowned worldwide for its flavour and quality that sets it apart from other teas. In many countries the name "Darjeeling Tea" evokes the picture of high mountain ranges and green tea gardens at the foot of high snow covered Himalayan peaks. Nepal has not only the same geographical conditions as Darjeeling, but also a similarly long tradition in the production of tea. Nepalese tea is already renowned by connoisseurs for its rich taste, similar to Darjeeling Tea, but with an even better reputation due to its outstanding aroma, fusion, taste and colour. Therefore it has the potential to become just as successful as the world famous tea from Darjeeling.

Photo: GIZ

"Darjeeling Tea" is not just the name of tea from Darjeeling, it is also registered and protected as Intellectual property (IP) in many countries. This protection is ensured by the tools of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organisation (WTO).

Intellectual Property is defined and regulated in the TRIPS agreement that has been ratified by all member countries of the WTO, including Nepal. The most common types of intellectual property are copyrights (*literary works, art, music etc.*), trademarks (*brand names and logos*) and patents (*industrially applicable inventions*) and have been discussed in the last issue of NepalTrade. Another less used type of intellectual property is geographical indication (*names and signs corresponding to a specific geographical location or origin*). Out of these classifications of intellectual property, trademarks (TM) and geographical indications (GI) are applicable for the protection of tea.

"Nepal tea is already renowned by connoisseurs for its rich taste, similar to Darjeeling tea, but with an even better reputation due to its outstanding aroma, fusion, taste and colour."

Registration of a *TM* or collective mark under the relevant trademark law gives the registering estate, organisation, cooperation or association the exclusive right to prevent others from marketing identical or similar products under the same or a confusingly similar name or logo. Without trademark registration, the efforts of marketing Nepalese tea abroad may not prove fruitful as other producers may use the same or a confusingly similar trademark to profit from the good reputation of tea from Nepal. Thereby customers could be misled into buying the competitor's tea thinking it is tea from Nepal, though its quality might be much lower. This could not only decrease the demand for Nepalese tea and confuse the customers, but may also damage its reputation and image.

A *GI* is a name or sign used on certain products which are associated by the customers to a specific geographical location or origin (e.g. a town, region, or country) and serves the same function as trademarks. The use of a GI may act as a certification that the product possesses certain qualities, is made according to traditional methods, or enjoys a certain reputation, due to its geographical origin. A widely-known example for this is the brand name "Champagne" which may only be used for particular sparkling wine products by producers from this particular region in France. Likewise, the name Darjeeling Tea has been protected in several countries by the Tea Board of India, thereby preventing producers from other areas to market or sell their tea as Darjeeling Tea. The success of this approach is the high reputation of Darjeeling Tea, a large demand and high prices.

For the registration of a mark, there are some international organisations that help in achieving protection for several countries or a whole region by only registering once. The Benelux Trademark Office and The Office for the Harmonization of the Internal Market of the European Union are two examples of such organisations. The Madrid system for the international registration of marks is administered by the World Intellectual Property Organisation (WIPO) and provides a mechanism for obtaining trademark protection in many countries around the world, which is more effective than seeking protection separately in each individual country or jurisdiction of interest.

The enforcement of a trademark or GI on an international level requires money and a substantial amount of effort. The unauthorised use of the trademarks or the name indicating a wrong regional origin must first be detected. Then negotiations and legal means have to be used to enforce the rights of the owner of the trademark or GI. Therefore it is important that the government and other stakeholders support the tea sector in the registration and enforcement of 'Nepal Tea' as intellectual property.

The use of intellectual property rights for the protection of tea from Nepal is important. However, it can only be achieved in a collective effort of the tea estates, the tea factories, the tea associations and the government, working together in attaining the registration and enforcement of tea as intellectual property in particular as GI or trademark in major export markets. It is important to note that ensuring high quality of the tea (e.g. by the creation of a Code of Conduct (CoC), as done by the Himalayan Orthodox Tea Producers Association (HOTPA) is important to successfully establish 'Nepal Tea' as a brand abroad. ■

Dominik Berger, GIZ

Best practice: Darjeeling Tea

To promote the image and reputation of tea from Darjeeling, the Tea Board of India created the Darjeeling logo in 1983. Since then, there have been substantial efforts by the tea board to register the GI "Darjeeling" and the logo internationally.

Beside several individual country registrations, either as GI or as mark (trade mark, collective mark, certification mark), the Tea Board of India achieved a major success in the promotion of tea from Darjeeling when in 2011 the European Union (EU) granted India's Darjeeling tea protection rights as a Protected Geographical Indication (PGI). This means that the name "Darjeeling" can only be used to brand tea grown in Darjeeling, which is processed in the typical Darjeeling style of manufactured in the factories situated within the specified gardens and within the defined tea-growing area. The tea may be packaged outside of Darjeeling and teas from different Darjeeling tea gardens may be blended, but if Darjeeling tea is blended with other teas the use of the word Darjeeling is not permitted.

The successful registration marked a major victory for the protection of tea with GI in the EU and is an example of best practice for the protection of tea as Intellectual Property.

THE NEPALESE TEA INDUSTRY: CHALLENGES AND OPPORTUNITIES

Overcoming major challenges and taking advantage of opportunites is important for any thriving industry to make a mark at the global level.

Nepal's unique geo-physical character and climatic variation provide ideal conditions for the production of two varieties of tea: orthodox and CTC. While the Eastern hills *(Tea Zones)* of Nepal are frontrunners in production of high quality orthodox tea, crush-tear-curl *(CTC)* tea is produced in the plains or Terai, primarily in Jhapa district. Orthodox tea is generally exported to international markets and CTC tea is supplied for domestic consumption apart from some export to India and Pakistan.

Over the course of the last decade, Nepal's tea industry has witnessed a significant increase in the areas of cultivation and production. In 2000/01 about 11,997 hectares of land in Nepal was under tea plantation. This has increased to 17,137 hectares in 2009/10. The production of CTC tea increased from 5,537 tons in 2000/01 to 14,471 tons in 2009/10, and production of orthodox tea has increased from 1,100 tons to 2,135 tons during the same periods. The private sector is involved in the tea sector in Nepal in mainly three ways: i) tea farming by small-holder farmers; ii) establishment of bought leaf factories, which do not have their own tea plantation and therefore depend on small farmers for green tea leaves; and iii) establishment of big tea estates with tea processing factories. There are about 124 registered tea estates in Nepal and 40 private tea processing factories, of which 25 process CTC tea and 15 are orthodox tea processing factories.

Nepal's trade performance in Tea

During the last decade, the quantity of tea exported from Nepal shows an increasing trend from 69.5 metric tons (Mt) in 2000/01 to 8,498 Mt in 2009/10 (*see table below*). On the other hand, the import data shows fluctuation in import, primarily of CTC tea. However, the reasons for such fluctuations are not clear from the available literature. Based on volume, ITC data shows that in 2009/10 among others Nepal imported tea from India, China, Malaysia, Singapore, Sri Lanka, Hong Kong, Japan, the Republic of Korea and Saudi Arabia.

> *" ...Nepal's steady growth in tea export is a positive indication for this sector."*

Table 1: Trade performance in Nepali Tea

Year	Export (Mt)	Export (Rs. '000')	Import (Rs. '000')
2000/01	69.5	23084	98000
2001/02	79.6	27787	8838
2002/03	193	53908	468
2003/04	884	104822	992
2004/05	4316	438771	419
2005/06	4623	415632	5005
2006/07	7000	NA	19000
2007/08	8600	902122	13123
2008/09	8889	1160593	9624
2009/10	8498	1195319	36100

Source: NTCDB 2011.

Considering the trend above, Nepal's steady growth in tea exports is a positive indication for this sector. With favourable market access conditions in most of the export destinations; duty free access in destinations like Russia and Japan; and the world market showing positive signs of revival from the global economic crisis (*NTIS 2010*), Nepal has immense opportunities in enhancing the tea industry. However, this industry, like most industries in Nepal, is reeling under various problems, particularly its feeble supply side capacity.

Challenges faced by Nepali Tea Industry

Quality and standard: Quality and standard remains one of the major concerns for the Nepalese tea industry. Although Nepal produces and exports high quality orthodox tea, it is believed that some do not meet the standard requirements of the international market. Indiscriminate use of chemicals and pesticides has subsequently put Nepalese tea under high scrutiny in importing markets As these countries are usually extremely sensitive towards health hazards to citizens from imported products, standards related to food items are generally set high.

Nepal as a member of the World Trade Organization (WTO) has gained market access to developed countries, without being discriminated, but needs to comply with the agreements related to standards, among others. The Agreement on the Application of Sanitary and Phytosantinary (SPS) Measures that deals with food items allows the WTO members to set their own standards to protect the health of humans, animals and plants in their territory. Such measures take into account radiation levels, pesticide maximum residue levels, heavy metal contents, and microbial contamination, among others. The level of each component can vary depending upon the importing country. Similarly, the Agreement on Technical Barriers to Trade (TBT) is associated with packaging and labeling of the product. As for Nepal, there have been no reported cases related to TBT but exporters have had their consignments rejected after test results showed traces of high pesticide residue.

Nepali tea producers and exporters need to rethink their strategies related to maintaining quality and standards of Nepalese tea. A strong monitoring mechanism must be applied to ensure quality is maintained from cultivation, harvesting, until packaging and export. Producers need to adhere to good agricultural and manufacturing practices and factories should also acquire quality certifications such as ISO/ Hazard Analysis and Critical Control Point (HACCP) certification to gain the confidence of the buyers. Exporters also need to bear in mind SPS and TBT requirements in destination countries. Adhering to these requirements ensures that the consignments are not rejected by the buyers and no loss is borne. Producers and exporters have the opportunity to check the WTO website or contact the destination countries' enquiry points to learn about tariffs, and quality and standard requirements to facilitate export. Trainings and awareness on WTO issues are imperative for Nepal's tea industry. If the quality and standard issues are taken seriously by the Nepalese tea industry, Nepal can definitely increase its share in world tea exports.

Nepal lacks internationally accredited laboratories with modern equipment and technologies that can test and certify the quality and standard of food products. Hence, exporters are compelled to send their samples to Kolkata in India, to export to India or to destination countries for testing. This is not only costly but is also very time-consuming.

Considering the difficulty in establishing a new laboratory for testing and certification, upgrading and accrediting the existing Department of Food Technology and Quality Control (DFTQC) Laboratory seems to be a reasonable option. It can be mandated to carry out commercial testing of export samples of all agricultural products so their certifications can be accepted worldwide. Nepal being a least developed country can seek technical or financial assistance, from other WTO members to enhance the tea sector. The Government, having already prioritized the tea sector, must do its homework to avail such assistance.

Infrastructure: Infrastructure remains a bottleneck in the development of the tea industry in

Photo: GIZ

Nepal. Lack of electricity has forced the industry to opt for alternative energy thereby increasing the cost of production and making it difficult to compete in international markets. Similarly, fuel shortages, lack of roads, especially in the hills, and a lack of quality processing facilities have not helped the sector to export to its potential, as well. With respect to processing facilities, the existing ones are considered average, which are neither capable of catering to production increases nor are they in the condition to maintain the quality. It is believed that due to this fact, farmers are forced to sell their products to Indian factories, which are then sold in the world market as Darjeeling Tea. It is guesstimated that about 90 per cent of green leaf finds its way into Indian factories in Darjeeling and elsewhere.

To improve the supply side capacity, Nepal needs to improve basic infrastructure. Until these basic amenities are provided, Nepal cannot develop any industry, including tea. Likewise, NTCDB and donor agencies should support the development of processing units to prevent the raw materials from going into India.

Branding/Marketing: It is not only important to produce quality products but also to assure the buyers of a minimum standard and quality through branding and correct marketing. People pay a premium price for products with distinct identities and quality features. At a time when India has made its mark by registering "Darjeeling Tea" under geographical indication and as a trademark, Nepal has lagged behind. Nepal too can avail such an opportunity and establish itself as an exporter of high quality orthodox tea in the world market. However, uniformity in quality and standard must be strictly adhered to in order to benefit from the use of such IP vehicles. Nepal can learn the costs and benefits of such use from its neighbour. Though NTCDB has developed logos to popularize "Nepal Tea", marketing the brand and ensuring uniform quality remains a challenge.

Research and Development (R&D): One of the major drawbacks of the Nepalese tea industry is its negligible amount of R&D by the Government or the private sector. Investment on R&D to identify new locations feasible for high quality orthodox and bio-organic tea cultivation; improvement and development of new plant varieties; market research and analysis to identify new markets and diversify products as per the demand to remain a step ahead from other competitors can pave the way for the expansion of the Nepalese tea sector and multiply socio-economic benefits. NTCDB has the mandate to lead the way but requires institutional strengthening and financing to conduct such activities.

Labour: The development of the tea sector has immense socio-economic implications, particularly in the form of job creation. According to ITC (*2007*), Nepal's tea sector employs more than 100,000 people, the majority of them being rural women. The Nepalese tea industry is thus considered important from the perspective of poverty alleviation and empowerment of rural women. However, the shortage of qualified labour, primarily due to the emigration of Nepalese youth for jobs abroad, and the lack of technically skilled human resources is also haunting the tea industry. Likewise, industrial unrest has created problems. There is a need to strike a balance by creating a win-win situation for both employers and employees, without politicizing a situation in which employees are seeking better pay and employers to retain competitiveness. Finally, the existing labour force as well as farmers should be provided with proper training and guidance, which will ultimately increase the productivity and export of Nepalese tea in the international market.

Auction market: Establishment of an auction market for tea is necessary to bring together buyers and sellers, and ensure transparency. International buyers will have an opportunity to bid and purchase Nepalese tea in bulk, depending on the quality. This will ensure fair prices for the producers and also increase exports. Due to the lack of auction markets in Nepal and Nepalese tea not being allowed in Indian auction markets, Nepalese exporters have been relying on personal contacts to sell tea in the international market. In major exporting countries like India, Sri Lanka and Kenya, of the total production, 75 per cent, 90 per cent and 85 per cent respectively, must be sold through auction. Although the government had adopted a plan to develop infrastructure for tea auctions in the National Tea Policy 2001, the lack of appropriate laws has been blamed by the authorities for the inability to initiate the programme.

Nepal has immense opportunities and potential to establish itself as an exporter of high quality tea, particularly orthodox tea, in the international market. As Nepalese tea possesses quality that can compete with the likes of high exporting countries such as Sri Lanka, Kenya, China and India, Nepalese tea farmers, producers, exporters as well as policymakers need to set up their effort towards the overall development of this sector. There are many challenges, as mentioned above, but if different organizations involved can come up with a coordinated effort, not only in policy (on paper) but also in practice, there are possibilities and opportunities to enhance Nepal's tea industry, increase exports and reap subsequent socio-economic benefits. ■

Niraj Shrestha, SAWTEE

Photo: Himadri Palikhe

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ACCESS AND BENEFIT SHARING AND TRADITIONAL KNOWLEDGE

The concept and its application in Nepal.

Photo: GIZ

" Nepal still has to update its National Biodiversity Strategies and Action Plans/Local Biodiversity Strategic Action Plans and set national targets and indicators. "

The use of genetic resources and their traditional knowledge used to be free for all mankind. Industries such as the food, pharmaceutical, and perfume industry, used these resources to make commercialized products from them. Though there were significant economic benefits, these benefits mostly stayed with the large industries and didn't quite reach the community from where these resources and the knowledge on its usage were sourced from. Because of this, a number of countries developed legal provisions for access and benefit sharing during the late 1900's. This was however not effective in solving the problem. Thus many countries resorted to restricting access to these resources. This led to the negotiation of an international regime to regulate access and benefit sharing known as the Convention on Biological Diversity (CBD) in 1992. This convention is a binding international agreement. Its implementation is not only a moral obligation for the contracting parties but also a legal one.

The CBD has three objectives: 1) the conservation of biological diversity; 2) the sustainable use of its components; and 3) the fair and equitable sharing of benefits arising out of the utilization of genetic resources. The CBD introduced a system for the regulation of collection and other types of access to genetic resources. This system is known as the Access and Benefit-sharing (ABS) system. The CBD has the following elements as the core standards for ABS:

1. ***Prior Informed Consent (PIC)*** is a consent obtained by the user from the government and other providers, as the case may be, after fully disclosing all the required information that permits access to their genetic resources and associated traditional knowledge, under Mutually Agreed Terms..
2. ***Mutually Agreed Terms (MAT)*** are conditions and provisions of access and benefit-sharing, among others, negotiated between the user and the provider and involving other relevant stakeholders.
3. ***Benefit-sharing*** is participation in the economic, environmental, scientific, social or cultural benefits resulting or arising from access to genetic resources and associated traditional knowledge under Mutually Agreed Terms.

The Best Practice Standard contains two additional standards for specific situations. If access involves traditional knowledge associated with genetic resources and local or indigenous communities, standard 4 will be applicable.

4. ***Traditional Knowledge (TK)*** refers to the content or substance of knowledge resulting from intellectual activity in a traditional context, and includes the know-how, skills, innovations, practices and learning that form part of traditional knowledge systems, and knowledge embodying traditional lifestyles of indigenous and local communities, or contained in codified knowledge systems passed between generations. As the protection of TK varies from country to country in accordance with national legislation, policy and practices, it is important to consult with the competent national authorities when applying this standard.

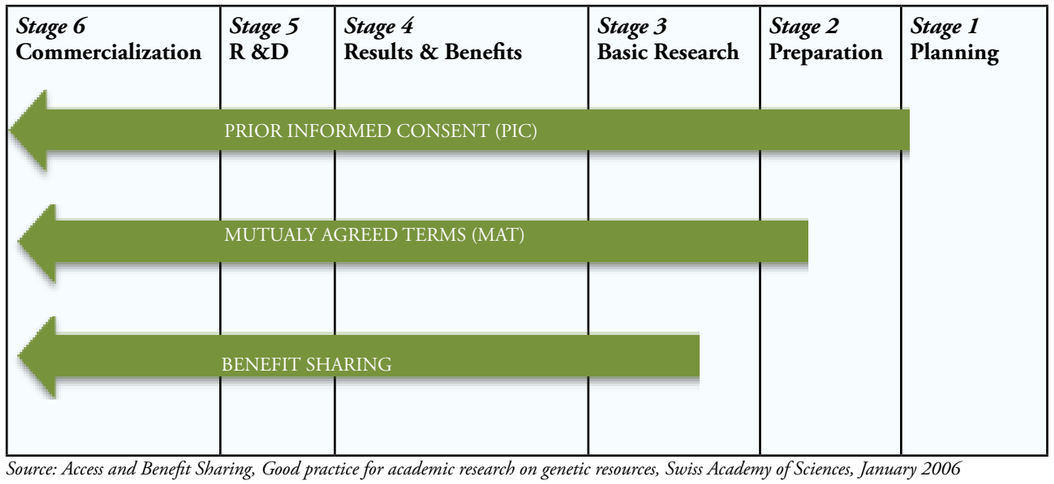
If access involves wild collection or in situ wild sources of genetic resources, standard 5 will be applicable.

5. ***Conservation + Sustainable Use*** are practices that ensure or contribute to the maintenance of the diversity of genetic resources accessed.

193 nations around the world including Nepal are party to the CBD and have made commitments on the three aims of the Convention. Nepal signed the CBD on June 12, 1992, which was ratified by the Nepali parliament on November 23, 1993, and has been enforced in Nepal since February 21, 1994.

This system is very relevant for a country like Nepal which has immense bio-cultural diversity & agro-biodiversity yet many people are poor and natural resources are depleting. There have been quite a few actual and claimed cases of inappropriate collection or use of genetic resources - biopiracy. After

These standards are applied in different stages of commercializing the genetic resources:



Source: Access and Benefit Sharing, Good practice for academic research on genetic resources, Swiss Academy of Sciences, January 2006

Genetic resources are defined by the CBD as genetic material, i.e. material containing functional units of heredity that is of actual or potential value. The value of the genetic resources need not be commercial (i.e. monetary), but may be scientific or academic in nature. The ABS system covers all types of genetic resources, be they wild or domesticated; of animal, plant, microbial or other origin; situated on or in private or public land or waters. Excluded from the scope of application of the CBD are human genetic resources. It applies to research on resources that are both located and collected in situ or procured from ex situ facilities or from academic partners.

signing the CBD, a certain level of progress has been made in Nepal to implement the concept of ABS. The National Focal Point for this purpose is the Ministry of Forest and Soil Conservation. Nepal is now engaged in formulating and implementing national policies and laws to implement the CBD. In 2002, Nepal developed a comprehensive Nepal Biodiversity Strategy (NBS) with the participation of a broad cross-section of Nepali society as well as in consultation with international experts to fulfil its obligations of being a party to the Convention. A Nepal Biodiversity Implementation Plan 2006 – 2010 has also been prepared.

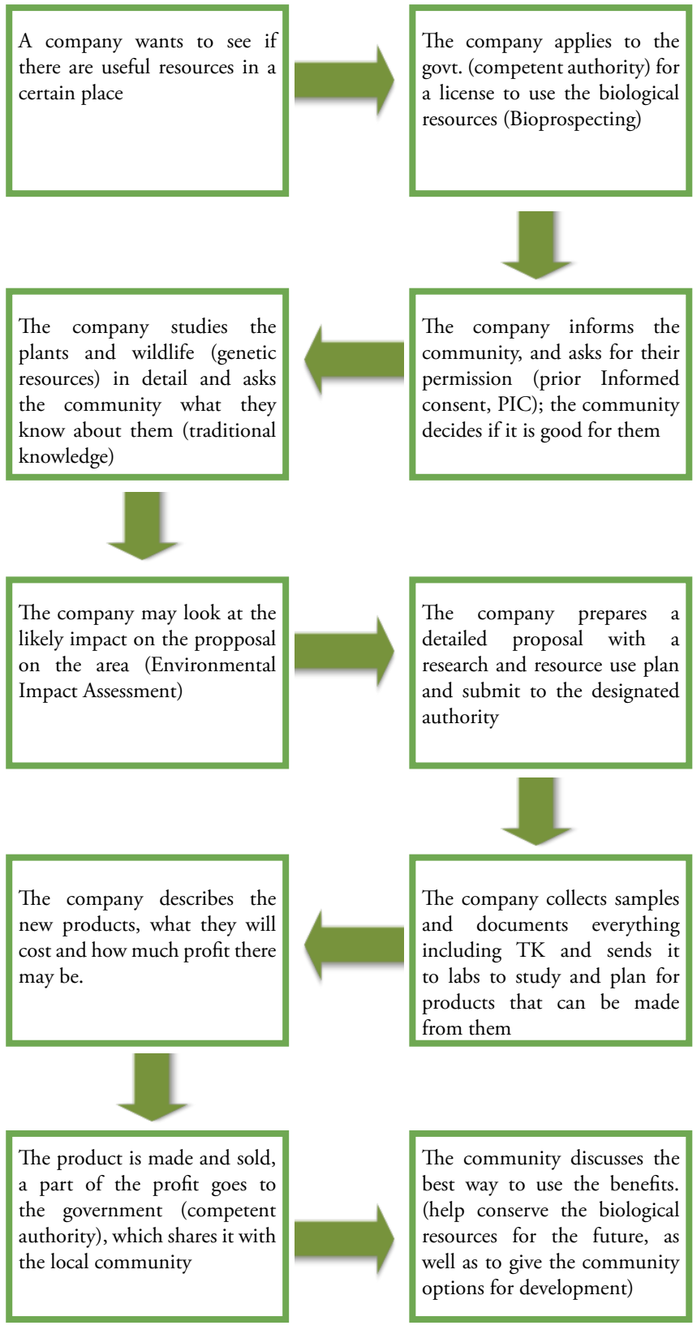
Additional progress is seen in the form of signing and ratifying the Nagoya Protocol on ABS, the Biosafety protocol, establishment of a Clearing-house Mechanism, formation of District and local level Biodiversity Committees and some documentation of Biological resources and associated Traditional Knowledge. The government is also creating awareness and trying to mainstream the elements of ABS.

Nepal still has to update its National Biodiversity Strategies and Action Plans/ Local Biodiversity Strategic Action Plans and set national targets and indicators. Further challenges lie in ratifying and getting consensus on ABS and linking Bio-trade with ABS and Intellectual Property Rights into a functioning system.

Once Nepal is able to put all the mechanisms needed in place, it can reap long-term benefits in the form of economic benefits through the payment of royalties and joint ventures and social benefits in terms of institutional capacity building, food and livelihood security benefits and social recognition. ■

Himadri Palikhe, GIZ

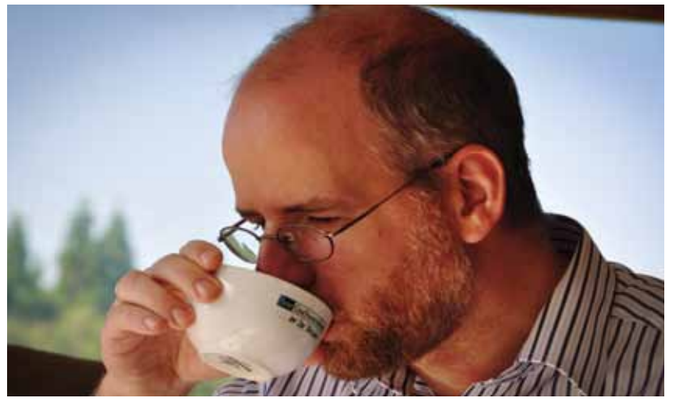
A general legal process for Access and Benefit Sharing from genetic resources and associated traditional knowledge is shown in figure 1



Adapted from general legal process for Access and Benefit Sharing, ICIMOD

A PPP INITIATIVE FOR PROMOTING ORGANIC TEA

A success story



Photos: Himadri Palikhe

Within the framework of GIZ, a Public Private Partnership (PPP) is also known as a development partnership with the private sector. Under this partnership, GIZ cooperates with businesses and business associations in developing and transition countries to combine the respective strengths of public and private partners. PPP projects are planned, financed and implemented jointly. One such example is a PPP in the organic tea sector in Fikkal, Ilam.

The overarching goal of organic farming, according to the International Federation of Organic Agriculture Movements (IFOAM) states that "Organic agriculture is a production system that sustains the health of soils, ecosystems and people. It relies on ecological processes, biodiversity and cycles adapted to local conditions, rather than the use of inputs with adverse effects. Organic agriculture combines tradition, innovation and science to benefit the shared environment and promote fair relationships and a good quality of life for all involved."

This PPP Project was launched with the objective that a group of selected tea farmers and processors in the tea supply chain in eastern Nepal produce high quality tea complying with international standards for organic tea production and have an improved access to services related to cultivation, processing, and marketing of organic tea. The project was a joint cooperation between the three parties: the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH; TeeGschwendner (TG) – a German company; and the Gorkha Tea Estate (GTE) – a Nepali company.

The project was designed to cover a target group of 131 smallholder tea farmers groups in the Sunderpaani tea cooperative (Fikkal, Ilam) who are having their tea processed at GTE. The farmer households in the Cooperative were divided into five groups according to their locations. Each group consists of 15-20 households on an average and is

TeeGschwendner GmbH (TG), founded in 1978, is the biggest tea retailer in Germany with a market share of about 25% of the specialized tea trade. It sells in the segment of "best quality" tea, which is the top 0.5% of the world's tea production. It has more than 120 franchise shops in Germany and a few more in neighboring countries as well.

Gorkha Tea Estate Private Limited (GTE) is a private firm located in the hills of eastern Nepal – Fikkal, Ilam. The production capacity of the factory is 150, 000 tons. It is currently producing 50,000 tons only due to shortage of quality tea leaves. The major export destinations are to Germany and Calcutta.

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH supports people and societies in developing, transition and industrialised countries in shaping their futures and improving living conditions. As a federally owned enterprise, GIZ supports the German Government in achieving its objectives in the field of international cooperation for sustainable development.

managed by a coordinator selected within the group.

Under the PPP arrangement, GTE and these smallholder tea farmers were provided with technical support in the areas of organic cultivation *(soil conservation, nutrient contents, composting, organic standards and certification process, pruning and skiffing, record keeping, etc.*). A group of 100 farmers were given a Training of Trainers in these areas and later, these 100 farmers conducted 50 trainings for other farmers. In total, the project was successful to give a basic training on organic tea production to approximately 1000 people.

Apart from the trainings, Biogas facilities have been installed in around 50 households. The farmers are well trained to prepare organic compost using the slurry from the biogas. To ensure delivery of quality green leaves, some 400 nets and 90 crates have already been distributed to the smallholders. Additionally, 167 barrels to make organic fertilizers and the same number of fertilizer sprays have been distributed to the farmers. Furthermore, an irrigation dam has been constructed in order to cater to the irrigation needs of farmers in the vicinity.

Traceability software has been installed in GTE to check the quality of tea starting from the acquiring of the green leaves from farmers to the packaging of the tea for export.

Though the project started out with 131 farmers only, seeing the health and economic benefits of shifting to organic farming, additional farmers joined the project's initiative during the mid of the project duration. Now, a total of 166 farmers are certified as organic by IMO and additional 64 are still in conversion stage. In total, these certified farmers account for 250 tons (approx) of Organic Green leaves which is processed to form 53 tons (approx) of tea. This organic tea is purchased by TeeGschwendner and sold all over the world as organic tea from Nepal, with labels such as: "Suderpaani tea".

Another remarkable outcome of this project is the fact that the farmers are being reimbursed up to NPR 55 per kg for their organic green leaves. It must be noted that this amount paid by GTE is more than double the Nepali national average for orthodox tea green leaves.

This project was successfully realized by a strong cooperation between public and private actors. This same modality can be replicated for organic tea in other regions, or with some customization, in other sectors as well. ■

Himadri Palikhe, GIZ

BEYOND CHIYA

What's in your cup today?

Photo: GIZ

Chiya or "tea" is in fact the most popular non-intoxication beverage in the world enjoyed by many. But have you ever wondered what all the fuss over tea is about? Tea has become famous mostly for its medicinal value and health benefits because of its high antioxidant content. However, whether you are a casual tea drinker, an enthusiast or just taking a tea break, you know that many things can happen over a cup of tea. And a good of cup tea is enticing to many.

Tea Processing

It is amazing how many different types of tea exist. And all the more amazing how many complex flavours can be found. An understanding of the different types can make the experience of drinking tea more stimulating. Generally tea is divided into two categories: orthodox tea and crush-tear-curl (CTC) tea. Orthodox tea refers to either hand-processed tea or tea that is rolled with a machine in a manner that mimics hand-rolling. CTC tea is machine-processed by chopping the leaves into uniformly-sized bits. Most specialty tea is made with orthodox production methods. orthodox tea processing generally has four stages:

- *Withering* - freshly harvested tea leaves are spread out onto tables or trays, which are then left to dry. Moisture is removed and the leaf becomes soft and prepared for rolling.

- *Rolling* is the process where machines break the cells in the leaves. This releases the tea leaf juices and enzymes and exposes them to the air to enhance oxidation.

- *Oxidation*, also known as fermentation, begins during the rolling process. The rolled leaves are spread out in a temperature and humidity controlled room where the leaf colour deepensfrom green to reddish-brown and then to black.

- *Firing* is a process where the tea leaves are fired (or dried) by slowly heating them in a drying chamber. This stops the oxidation process and the leaves are prepared for storage.

Orthodox tea has many varieties such as black tea, white tea, oolong tea, green tea, silver tips tea, post-fermented tea (like Pu-erh tea), matcha (powdered Japanese green tea), yellow tea and others. Amongst them the ones grown in Nepal are:

Orthodox Tea Types

Photos: Jakob Elbæk Egegaard Pedersen

Green tea

The processing of green tea is short. It is made in two ways - either by putting it in the dryer or by steaming it to half the oxidation process. There is minimal oxidation (around 5%) involved in processing green tea. This helps the tea to preserve its medicinal values. It is then blended according to the blend order and packaged for sale.

Silver tips tea

Silver tips are delicate leaf-buds which are at the point of developing. It undergoes the slightest of processing, therefore retaining higher levels of antioxidants than others. After withering, the buds are then dried in smouldering fire. The tea is then packed right after drying, while it is still warm. This is important as it preserves its needle like shape, since cooling will make the tea vulnerable to breakage while packaging.

Black tea

Black tea is the most commonly consumed and undergoes a huge amount of processing to transform it from leaf to tea. After the leaves are picked, withering takes place over a course of several hours. Then the leaves are rolled, oxidized and dried. It is then sorted accordingly, graded and packaged.

White tea

The least processed of all is white tea. After it is withered for a certain period of time, it is then dried through air drying, solar drying or mechanical drying and white tea is processed. It does not need to go through the processes of oxidation and there is in fact no rolling, breaking or bruising. It is this lack of processing which helps it to retain most of its beneficial compounds.

Oolong tea

Oolong tea goes through a similar process like the black tea. The first two steps are withering and rolling; however sometimes rolling is replaced by shaking to bruise the outer edges of the leaves. The oxidation period for Oolong is half of that of black tea. It is then dried, graded and packaged.

Of course there many other intricate details which are part of making each different type of tea more interesting and valuable. The quality of tea also depends on storage. Fine teas are very fragile and they should be stored in airtight containers to ensure longevity. Storing is about flavour control and ensuring value, long after production.

Flushing

The "Flushing" season which refers to the tea growing seasons, plays an important role in giving quality tea. The orthodox tea in Nepal is characterized by four flushes:

Spring marks the beginning of the first flush during the fourth week of March till the end of April. The tea produced has tender leaves and the liquor is light yellowish green in colour with delicate taste, subtle aroma and flavour. It is the most expensive of all flushes because of its high quality and the low quantity produced.

May to June yields the summer flush or the second flush. Connoisseurs believe that the second flush gives the best tea as the liquor is bright yellowish with an extraordinary flavour.

The "Rainy tea" or the monsoon flush is tea produced during the months of July to September also know as the monsoon period. The liquor is dark in colour and is of standard quality. Unlike the spring and summer flush which are afternoon tea, the monsoon flush is a morning tea.

A fantastic combination of musky flavors, tangy aromas and amber liquor can be found in the autumn flush which begins in October and lasts until the end of November. ■

Jannu Chudal Sherpa, GIZ

The art of making a good cup of tea

"The journey of a thousand cups begins with a single sip" -Steve Schwartz

Photo: GIZ

Making a good cup of tea and being able to find the perfect taste is an art in itself. In fact one should enjoy the process of preparing tea as it could be a part of your daily ritual. There are various ways of making tea depending on the tea type. Teas with little or no oxidation period (green tea, white tea) are prepared at lower temperatures, whereas teas with longer oxidation period are prepared at higher temperatures. The step for preparing tea differs from culture to culture and individuals.

A typical way to brew orthodox tea would be to:

- Boil a kettle of fresh water.
- Place the right amount of leaves (depending on the quantity of cups) in a tea infuser into a tea pot, or leaves directly into the pot.
- Pour the hot water over the tea leaves and cover the pot.
- After a few minutes remove the tea infuser, or strain the tea while serving.
- Enjoy your freshly home brewed cup of orthodox tea.

Another way of making tea is by adding milk and additives.

Making a cup of Nepali style masala chiya:

1. Boil a mixture of fresh water, CTC tea and spices in a vessel. (One can either purchase readymade spices comprising of clove, cinnamon, bay leaves, pepper, ginger and cardamom or add them individually according to one's preference). Once the tea has acquired an intense flavour and a certain colour, strain it in a cup and add milk. Add sugar for taste and your cup is ready. This is usually considered a healthier way of making tea. Moreover, it also ensures that the desired amount of milk is added.

2. There is yet another way of making tea. Simmer a mixture of milk, water, CTC tea, sugar and spice. The solid tea and spice residues are then strained and served as "masala chiya".

However, there is no "fixed" recipe in making a good cup of 'masala chiya.' Different people have their own special recipe for their cup! What's yours?

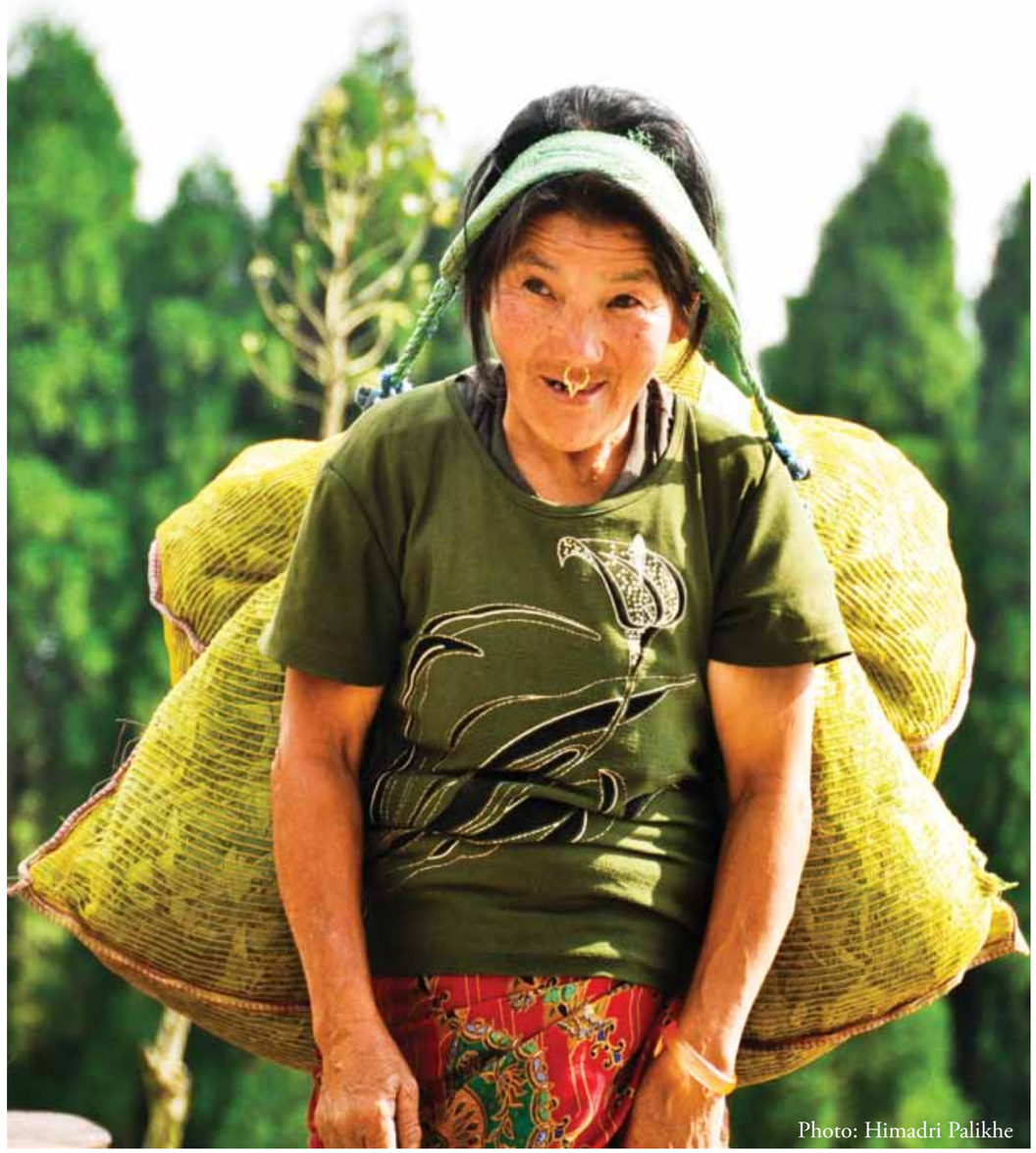


Photo: Himadri Palikhe

10 FACTS ABOUT TEA

1. Tea is the second most consumed beverage in the world, second only to water.
2. Tea was created more than 5000 years ago in China.
3. Tea breaks are a tradition that have been with us for approximately 200 years.
4. Tea comes from the leaves of a tree called Camellia sinensis.
5. The four main types of tea are Black, White, Oolong and Green. Herbal tea does not come from the leaves of a tea plant, therefore, is not considered to be real tea.
6. Tea is rich in antioxidants and can strengthen our immune systems, help protect against tooth decay and gum disease, stop infection, prevent cardiovascular disease and even help us lose weight!
7. The largest per capita consumer of tea is the Republic of Ireland followed by Britain. China is the largest producer of tea followed by India.
8. The number of recommended cups of tea to drink each day is four; this gives you optimal health benefits.
9. It has been found that tea can work as an odour absorbent, removing bad smells especially from your skin. Pouring a cup over your hands is said to work wonders for all kinds of bad odours.
10. Tea can be used to soothe burns and sunburns. Put wet tea bags onto the affected areas or keep in place with gauze. You can also put tea into your bath water.

Photo: Himadri Palikhe

EU REQUIREMENTS FOR TEA IMPORT

The concept and its application in Nepal

Tea is one of Nepal's products considered to have a good potential(*NTIS 2010*) for increased export. Tea currently has a share of only 2% of Nepal's overall exports. In the international market Nepal's role as a tea exporter is also fairly small with a share of only 0.26%. Despite this relatively small number in national and international export performance, it is worth to promote this sector. Not only because Nepal has very favourable climatic and geographical conditions for this product, but also because the demand is steadily increasing, as drinking tea is being trendy. Worldwide the consumption has steadily grown over the last years.

World Import of Tea (HS code 0902, including all types of tea)

	US$ value	Quantity (t)
2007	4.508.080	1.696.312
2008	5.367.402	1.797.114
2009	5.017.243	1.638.090
2010	5.765.553	1.819.151

(Source: ITC statistics, 2012)

Looking at countries to which Nepalese tea (HS code 0902) has been exported - India dominates with more than 90% of Nepalese tea exports. The remaining export is designated to countries like Germany (e.g. 2.8% share), The Czech Republic (1.1% share), Kazakhstan (0.8% share), The USA (0.4%), Canada (0.3%), France (0.3), etc. Looking at this data, it becomes obvious that the market for Nepalese tea exports should be diversified.

For identifying new markets a detailed market analysis is necessary. Looking for new markets and thinking about market entry strategies, not only criteria like high demand play a role but also the buyer requirements. Tea is regarded as a food item and therefore underlies high food safety regulations in many markets. In the following, this aspect will be highlighted with a special focus on the EU, as the EU is one of the leading markets for tea, accounting for 15% of global consumption.

“ Customers love to feel a connection to the source or know more about the origin of the tea they drink.”

Photo: Himadri Palikhe

What Types of Buyer Requirements Exist?

Buyer requirements are all the requirements an exporter can expect from a “buyer”. They can be divided into two groups: legislation and additional (non-legal) requirements. If legal requirements are not met, products cannot be imported. Additional requirements go beyond legislation. The main categories of additional requirements are environmental and social requirements and are set by companies, not the EU or individual EU Member States.

For the EU market, legal food sector requirements focus on consumer safety – hygiene and traceability, emphasizing the importance of guaranteeing hygiene measures throughout the whole supply chain. Additionally maximum levels for pesticides and contaminants (maximum residue levels-MRL) are defined. For tea, numerous laws and regulations exist - general food laws (*e.g. regulation (EC) 178/2002*), hygiene of foodstuffs (*e.g. regulations (EC) 852/2004; 853/2004; 854/2004*), contaminants in food (*e.g. regulation (EC) 1881/2006*), food contact materials (*e.g. Regulation 1935/2004*), general requirements on packaging (*Directive 94/62/EC*), food control (*e.g. Regulation (EC) 882/2004*), food labelling (*e.g. Directive 2000/13/EC*), organic production and labelling (*e.g. Regulation (EC) 834/2007*)and others (for detailed information please see www.CBI.eu – Compliance with EU buyer requirements for tea).

There has been growing public awareness in the EU for some years, of the social hardships associated with tea cultivation. This increasing awareness of environmental and social aspects of production methods, and their impact on poor people and the environment, has been translated into various standard systems which seek to address these concerns. In terms of social requirements the international ILO (International Labour Organization) standards have therefore high relevance such as -the right to union membership and to negotiate; non-discrimination, forced labor, minimum age, working hours, equal remuneration, minimum wages, and occupational health and safety. An important initiative based on these standards is the “Ethical Tea Partnership” (ETP). Participants of this initiative are companies like Unilever, Twining & Coe which hold a major market share of the EU tea market. Other important initiatives are the “Rainforest Alliance”, “trade –fair” and “UTZ Certified”. Compliance with national environmental laws and regulations in the country of origin often play an important role. As the EU can only restrict product-related issues, this requirement focuses on production processes which are not visible in the final product. This is required by most large companies like Unilever.

The market share of certified tea in general has grown rapidly over the past years. It is projected to reach almost 13% of the global production by the end of 2011. Within this “fair trade-labelled” tea has only around 1% of the total market. As many large EU brand owners have committed themselves to a certification scheme, certification is increasingly the standard in the EU tea market.

Very little information is available on organic tea. This market seems less dynamic than the organic coffee market. Leading countries for organic tea are Germany and the United Kingdom. However, the awareness of organic consumption generally is increasing across (Western) Europe, and the role of organic tea is also expected to expand as the consumers move more and more towards a healthier life style

Additionally to the important trend of “sustainability” in terms of socially and environmentally tea production, as mentioned above, some other trends of tea consumers in EU can be mentioned which are indirectly related to the above: There is an expanding group of knowledgeable tea consumers in Europe looking for products which fit their lifestyle. Double income households, as well as single households, are increasing. Wellness is on the mind set of these consumers and they are looking for healthy tea varieties. There is a trend and change in terminology from “specialty” to “premium” tea observable using “premium” when referring to high-quality tea including traditionally labour-intensive and rare teas. More and more specialized tea retail shops are opening, trying to build-up relationships with the tea manufacturers and the customer as a marketing strategy. Customers love to feel a connection to the source or know more about the origin of the tea they drink. And there is a clear trend towards more sophisticated packaging in the EU. ■

Sources:

- *Centre for the Promotion of Exports from Developing countries (CBI) (www.cbi.eu): European buyer requirements: coffee, tea and cocoa, 2011; Compliance with EU buyer requirements for tea, 2011; International Social Code of Conduct: Ethical Tea Partnership; Trends and segments for tea, 2011; Promising EU export markets for tea, 2011.*
- *International Trade Center (ITC), Market analysis tool, trade map (www.trademap.org)*
- *Trade and Export Promotion Centre (TEPC): Nepal Foreign Trade Statistics 2009/10 and 2010/2011.*

Gabriele Schlaeger, TEPC

Calendar of Events

If you are interested in what has been discussed in this issue, feel free to get informed about or participate in these events.

China International Tea Fair, Shanghai, China
18-21 May
www.tea-shexpo.com

Tea Expo, Guangzhou, China
24-28 May
www.teaexpo.cn

World Tea Expo, Las Vegas, USA
1-3 June
www.worldteaexpo.com

Macao Tea Expo, Macao, China
29 June - 1 July
www.teaexpo.cn/macao

Hong Kong International Tea Fair, China
16-18 August
www.hktdc.com

3rd North American Tea Conference, Canada
11-13 September
www.tea.ca

COTECA, Germany
20-22 September 2012
www.coteca-hamburg.com

World Tea East 2012, Pennsylvania, USA
2-3 October
www.worldteaeast.com

India International Tea Convention and Fair, India
November 8-10
www.indiatea.org

Bio Fach India 2012, India
Nov 29- Dec 1
www.biofach-india.com

Photo: Himadri Palikhe