

**INDO-NEPAL
TREATIES OF TRADE, OF TRANSIT,
AND AGREEMENT FOR
CO-OPERATION TO CONTROL
UNAUTHORISED TRADE 1991**

**MINISTRY OF COMMERCE
GOVERNMENT OF INDIA
NEW DELHI**

TREATY OF TRADE BETWEEN THE GOVERNMENT OF INDIA AND HIS MAJESTY'S GOVERNMENT OF NEPAL

The Government of India and His Majesty's Government of Nepal (hereinafter referred to as the Contracting Parties).

Being conscious of the need to fortify the traditional connection between the markets of the two countries.

Being animated by the desire to strengthen economic cooperation between them,

Impelled by the urge to develop their economies for their several and mutual benefit, and

Convinced of the benefits of mutual sharing of scientific and technical knowledge and experience to promote mutual trade,

Have resolved to conclude a Treaty of Trade in order to expand trade between their respective territories and encourage collaboration in economic development, and encourage collaboration in economic development, and

Have for this purpose appointed as their Plenipotentiaries the following persons, namely,

For the Government of India

Shri P.Chidambaram,

Minister of State for Commerce

For His Majesty's Govt.of Nepal

Minister of Commerce

Who, having exchanged their full powers and found them good and in due form, have agreed as follows :

ARTICLE I

The Contracting Parties shall explore and undertake all measures, including technical cooperation, to promote, facilitate, expand and diversify trade between their two countries.

ARTICLE II

The Contracting Parties shall endeavour to grant maximum facilities and to undertake all necessary measures for the free and unhampered flow of goods, needed by one country from the other, to and from their respective territories.

ARTICLE III

Both the Contracting Parties shall accord unconditionally to each other treatment no less favourable than that accorded to any third country with respect to (a) customs duties and charges of any kind imposed on or in connection with importation and exportation, and (b) import regulations including quantitative restrictions.

ARTICLE IV

The Contracting Parties agree, on a reciprocal basis, to exempt from basic customs duty as well as from quantitative restrictions the import of such primary products as may be mutually agreed upon, from each other.

ARTICLE V

Notwithstanding the provisions of Article III and subject to such exceptions as may be made after consultation with His Majesty's Government of Nepal, the Government of India agree to promote the industrial development of Nepal through the grant on the basis of non-reciprocity of specially favourable treatment to imports into India of industrial products manufactured in Nepal in respect of customs duty and quantitative restrictions normally applicable to them.

ARTICLE VI

With a view to facilitating greater interchange of goods between the two countries, His Majesty's Government shall endeavour to exempt, wholly or partially, imports from India from customs duty and quantitative restrictions to the maximum extent compatible with their development needs and protection of their industries.

ARTICLE VII

Payment for transactions between the two countries will continue to be made in accordance with their respective foreign exchange laws, rules and regulations. The Contracting Parties agree to consult each other in the event of either of them experiencing difficulties in their mutual transactions with a view to resolving such difficulties.

ARTICLE VIII

The Contracting Parties agree to co-operate effectively with each other to prevent infringement and circumvention of the laws, rules and regulations of either country in regard to matters relating to foreign exchange and foreign trade.

ARTICLE IX

Notwithstanding the foregoing provisions, either Contracting Party may maintain or introduce such restrictions as are necessary for the purpose of :

- a) protecting public morals,
- b) protecting human, animal and plant life,
- c) safeguarding national treasures,
- d) safeguarding the implementation of laws relating to the import and export of gold and silver bullion, and
- e) safeguarding such other interests as may be mutually agreed upon.

ARTICLE X

Nothing in this treaty shall prevent either Contracting Party from taking any measures which may be necessary for the protection of its essential security interests or in pursuance of general international conventions, whether already in existence or concluded hereafter, to which it is a party relating to transit, export or import of particular kinds of articles such as narcotics and psychotropic substances or in pursuance of general conventions intended to prevent infringement of industrial, literary or artistic property or relating to false marks, false indications of origin or other methods of unfair competition.

ARTICLE XI

In order to facilitate effective and harmonious implementation of this Treaty, the Contracting Parties shall consult each other regularly.

ARTICLE XII

This Treaty shall come into force on the 6th December, 1991, and shall remain in force for a period of five years. It may be renewed for further periods of five years, at a time, by mutual consent, subject to such modifications as may be agreed upon.

Done in duplicate in Hindi, Nepali and English languages, all the texts being equally authentic, at New Delhi on 6th December 1991. In case of doubt, the English text will prevail.

(P.CHIDAMBARAM)
Minister of State for Commerce
For the Government of India

(GOPAL MAN SHRESTHA)
Minister of Commerce
For His Majesty's Govt. of Nepal

PROTOCOL TO THE TREATY OF TRADE

I. With Reference to Article I

1. It is understood that the trade between the two Contracting Parties shall be conducted through the mutually agreed routes as are mentioned in the Annexure A. Such mutually agreed routes would be subject to joint review as and when required.
2. It is further understood that the exports to and imports from each other of goods which are not subject to prohibitions or duties on exportation or importation shall continue to move through the traditional routes on the common border.

II. With Reference to Article II

1. It is understood that all goods of Indian or Nepalese origin shall be allowed to move unhampered to Nepal or India respectively without being subjected to any quantitative restrictions, licensing or permit system with the following exceptions:
 - (a) goods restricted for export to third countries,
 - (b) goods subject to control on price for distribution or movement within the domestic market, and
 - (c) goods prohibited for export to each other's territories to prevent deflection to third countries.
2. In order to facilitate the smooth flow of goods across the border, the list of commodities subject to restrictions/ prohibitions on exports to each other's territories shall be immediately communicated through diplomatic channels as and when such restrictions /prohibitions are imposed or relaxed.
3. It is further understood that when notifications regarding restrictions on exports to each other are issued, adequate provisions will be made therein to allow the export to each other of the goods which are already covered by Letter of Credit or goods which are already in transit and/ or booked through the railways or other public sector transport undertakings or goods which have already arrived at the border customs posts on the day of the notification.
4. In respect of goods falling under prohibited or restricted categories as mentioned in Para 1 above and where needed by one Contracting Party, the other shall authorise exports of such goods subject to specific annual quota allocations. Specific request list of such goods shall be furnished to each other by the end of November, and specific

quota allocations for the following calendar year shall be made by the end of December with due regard to the supply availability and the overall need of the other Contracting Party. The quota list may be jointly reviewed as and when necessary.

5. The Contracting Parties shall take appropriate measures and cooperate with each other to prevent unauthorised import in excess of the quota of goods the export of which is prohibited or restricted from the territory of the other Contracting Party.

III With reference to Article III

1. The Government of India will allow to His Majesty's Government of Nepal payment of the excise and other duties collected by the Government of India on goods produced in India and exported to Nepal provided that :
 - (i) such payment shall not exceed the import duties and like charges levied by His Majesty's Government of Nepal on similar goods imported from any other country, and
 - (ii) His Majesty's Government of Nepal shall not collect from the importer of the said Indian goods so much of the import duty and like charges as is equal to the payment allowed by the Government of India.

IV. With Reference to Article IV

1. The following primary products would be eligible for preferential treatment :
 1. Agriculture, horticulture and forest produce and minerals which have not undergone any processing,
 2. Rice, pulses and flour,
 3. Timber,
 4. Jaggery (gur and shakar)
 5. Animals, birds and fish,
 6. Bees, bees-wax and honey,
 7. Raw wool, goat hair, and bones as are used in the manufacture of bone-meal,
 8. Milk, home made products of milk and eggs,
 9. Ghani-produced oil and oilcakes,
 10. Ayurvedic and herbal medicines,
 11. Articles produced by village artisans as are mainly used in villages,
 12. Akara,
 13. Yak Tail,
 14. Any other primary products which may be mutually agreed upon.

2. It is understood that in the matter of internal taxes or charges the movement of primary products of either Contracting Party to any market destinations in the territory of the other shall be accorded treatment no less favourable than that accorded to the movement of its own primary products within its territory.
3. It is also understood that the aforesaid provisions will not preclude a Contracting Party from taking any measures which it may deem necessary on the exportation of primary products to the other.

V. With Reference to Article V

1. (i) The Government of India will provide access to the Indian market free of basic and auxiliary customs duty and quantitative restrictions. Generally, for all manufactured articles which contain not less than eight per cent of Nepalese materials of Nepalese and Indian materials.

(ii) Further, the Government of India will provide access to the Indian market, on case to case basis, free of basic and auxiliary customs duty and quantitative restrictions for manufactured articles which contain not less than fifty five per cent of Nepalese materials or Nepalese and Indian materials.
2. Further, when such articles are manufactured in "small" units in Nepal, the "additional" duty on these articles will be equivalent to the rates of excise duty applicable under the Indian Customs and Central Excise Tariff to articles produced in similar units in India.
3. In regard to "additional" duty collected by the Government of India in respect of manufactured in "small" units : Wherever it is established that the cost of production of an article is higher in Nepal than the cost of production in a corresponding unit in India, a sum representing such difference in the cost of production, but not exceeding 25 per cent of the "additional" duty collected by the Government of India, will be paid to his Majesty's Government of Nepal provided :
 - (a) Such manufactured articles contain not less than eighty percent of Nepalese and Indian materials, and
 - (b) His Majesty's Government of Nepal have given assistance to the same extent to the (manufacturer, exporter).
4. Procedures to determine the eligibility of industrial products to these concessions and for the verification of the values of different components of

Nepalese industrial products shall be as already in force under the 1978 Indo-Nepal Treaty of Trade Changes, if any, in the procedures which may be considered necessary may be agreed upon mutually.

5. List of articles produced in Nepal already exempted from ‘basic and auxiliary’ customs duty and quantitative restrictions under provisions of para 1 above is at Annexure ‘B’.
6. In the case of other manufactured articles in which the value of Nepalese and Indian materials including labour added in Nepal is at least 40 percent of the ex-factory price, the Government of India will allow the articles on case by case basis for following preferential treatment keeping in mind the need for expeditious clearance in the Indian market :
 - (a) barring exceptional circumstances, exemption from quantitative restriction, and/or
 - (b) tariff concessions to the extent of fifty percent of the MFN rate of import duty where the value added in such articles is less than eighty percent but more than forty percent of the ex-factory price.
7. His Majesty’s Government will furnish the request list of the articles eligible for preferential access to the Indian market as per the Para 6 above as and when required and on receipt of which the Government of India will communicate expeditiously to His Majesty’s Government the scope of preferential treatment offered to such articles.
8. It is also understood that in the case of other manufactured articles in which the value of Nepalese and Indian materials and labour added in Nepal is less than forty percent of the ex-factory price, the Government of India will provide normal access to the Indian market consistent with its import regime and MFN treatment accorded.
9. Where for social and economic reasons, the import of an item into India is permitted only through public sector agencies or where the import of an item is prohibited under the Indian Trade Control regulations, the Government of India will consider any request of His Majesty’s Government of Nepal for relaxation and may permit the import of such an item from Nepal in such manner as may be found to be suitable.
10. For the purpose of calculation of import duties customs valuation procedures, as prescribed under the Indian Customs Act, will be followed.
11. Export of articles eligible for preferential treatment in accordance with above mentioned paragraph shall be covered by a certificate from His

Majesty's Government of Nepal or an authority designated by it which shall certify the extent of material component or value added involved as the case may be.

VI. With Reference to Article VI

His Majesty's Government of Nepal, with a view to continuing preferences given to Indian exports, will waive additional customs duty on all Indian exports during the validity of the Treaty.

IX. **New Protocol to Article IX of the Treaty has been introduced with effect from 6.3.2002 (Attached).**

ANNEXURE "A"

AGREED ROUTES FOR MUTUAL TRADE

1. **Pashupatinagar/Sukhia Pokhari**
2. **Kakarbhitta/naxalbari**
3. **Bhadrapur/Galgalia**
4. **Biratnagar/Jogbani**
5. **Setobandha/Bhimnagar**
6. **Rajbiraj/Kunauli**
7. **Siraha, Janakpur/Jayanagar**
8. **Jaleswar/Bhitamore (Sursand)**
9. **Malangawa/Sonabarsa**
10. **Gaur/Bairgania**
11. **Birgunj/Raxaul**
12. **Bhairahawa/Nautanwa**
13. **Taulihawa/Khunwa**
14. **Krishnanagar/Barhni**
15. **Koilabas/Jarwa**
16. **Nepalgunj/Nepalgunj Road**
17. **Rajapur/Katerniyaghat**
18. **Prithvipur/Sati (Kailali)/Tikonja**
19. **Dhangadhi/Gauriphanta**
20. **Mahendranagar/Banbasa**
21. **Mahakali/Jhulaghat (Pithoraghar)**
22. **Darchula/Dharchula.**

ANNEXURE "B"

LIST OF NEPALESE INDUSTRIAL PRODUCTS WHICH HAVE BEEN ALLOWED
PREFERENTIAL ENTRY INTO INDIA UNDER NOTIFICATION NO.203/90-
CUSTOMS (AS ON 6TH DECEMBER, 1991)

Sl.No. Description of Goods

1. Biscuits
2. Refined Ghee
3. High Boiled Sweets
4. Salseed Oil, Rice Bran Oil, Salseed Extraction and Rice Extraction
5. Straw Board
6. Plywood
7. Magnesite
8. Marble Blocks, Slabs and Chips
9. Wet Blue Chrome Tanned Goat Skins
10. Cast Iron Goods
11. Raw Talc
12. Ice Blocks
13. Wooden Articles and furniture
14. Katha and Kutch
15. Wheat Bran
16. Jute Manufactures-all sorts
17. Mustard Oil
18. Resin
19. Oil Cakes
20. Chuni, Bhusi & Akra
21. Hnadicrafts and Handlooms
22. Linseed Oil
23. Match Splints
24. Ground Talc (other than cosmetic grade)
25. Saw Dust
26. Rice Bran
27. Sugar
28. Slate
29. Powdered Lime
30. Cattle and Poultry Feed
31. Split crust (Cow and Buff)
32. Wet Blue Hides (Cow and Buff)
33. Wet Blue Split (Cow and Buff)
34. Vegetable Tanned Buff Sole Leather
35. Chrome Upper and & Lining Leather
36. Leather Board
37. Ginger Oil
38. Fruit Jam, Jelly and Squash
39. Lemon Barley

40. **Vinegar**
41. **Pineapple Crush**
42. **rose Syrup and Khus Syrup**
43. **Tomato Sauce and Tomato Ketchup**
44. **Golden Mist Marmalade**
45. **Noddles and Spaggheti**
46. **Hides and Skins (processed and semi processed)**
47. **Redried Tobacco (Non-processed)**
48. **Footwear and Closed Leather Uppers**
49. **Mama Snacks (Corn puff)**
50. **Pan Masala that is to say, any preparation containing betal nuts and any one or more of other ingredients such as lime, katha (catechu), cardamom, copra, menthol and tobacco.**
51. **Emery Cloth**
52. **Emery Paper**
53. **Sand Paper**
54. **Rosin**
55. **Turpentine**
56. **Dressed Bristles**
57. **Paint Brushes**
58. **Wood Veneer**
59. **Pasteurised Butter**
60. **Chocolate pastry**
61. **Coconut Cakes**
62. **Dead Burnt Magnesite**
63. **Linchin Resinoid**
64. **Pineapple Pulp**
65. **Orange juice**
66. **Orange Extracts**
67. **Lead Pencils**
68. **Writing and Printing Papers**
69. **Solid Wood Panel Door**
70. **Solid Wood Parquet**
71. **Fruit Juices packed in bottles or cans, made of soft steel Plate with a coating of pure tin.**
72. **Tomato juice packed in bottles or cans made of soft steelplate With a coating of pure tin.**
73. **Pine apple slices packed in cans made of soft steelplates with a coating of pure tin.**
74. **Tomato Puree packed in cans made of soft steel plate with a coating of pure tin.**
75. **Wire Nails**
76. **Barbed Wire**
77. **Aluminium Utensils**
78. **Laundry Soap**

79. **Cube Sugar**
80. **Terry-Towel and Terry-Towel Cloth**
81. **Winter Green Oil**
82. **Abies Oil**
83. **Artemisia Oil**
84. **Juniper Oil**
85. **Balladone Extracts**
86. **Palmarosa Oil**
87. **Zanthoxylum Oil**
88. **Bidi**
89. **Chewing Gum**
90. **Bubble Gum**
91. **Asbestos Cement Pipes**

These products have been exempted from submission of proformae.

**TREATY OF TRANSIT
BETWEEN
THE GOVERNMENT OF INDIA
AND
HIS MAJESTY'S GOVERNMENT OF NEPAL**

The Government of India and His Majesty's Government of Nepal (hereinafter also referred to as the Contracting Parties).

Animated by the desire to maintain, develop and strengthen the existing friendly relations and cooperation between the two countries,

Recognising that Nepal as a land-locked country needs access to and from the sea to promote its international trade,

And recognizing the need to facilitate the traffic in transit through their territories,

Having resolved to conclude a Treaty of Transit, and

Have for this purpose appointed as their plenipotentiaries the following persons namely.

**Shri P. Chidambaram
Minister of State for Commerce
For Government of India**

**Shri Gopal Man Shrestha
Minister of Commerce
for His Majesty's**

Government of Nepal

Who, having exchanged their full powers, and found them good and in due form, have agreed as follows :

ARTICLE I

The Contracting Parties shall accord to "traffic in transit" freedom of transit across their respective territories through routes mutually agreed upon. No distinction shall be made which is based on flag of vessels, the places of origin, departure, entry, exit, destination, ownership of goods or vessels.

ARTICLE II

(a) Each Contracting Parties shall accord to "traffic in transit" freedom of transit across their respective territories through routes mutually agreed upon. No distinction shall be made which is based on flag of vessels, the places of origin, departure, entry, exit, destination, ownership of goods or vessels.

(b) Nothing in this Treaty shall prevent either Contracting Party from taking any measures which may be necessary for the protection of its essential security interests.

ARTICLE III

The term "traffic in transit" means the passage of goods including unaccompanied baggage across the territory of a Contracting Party when the passage is a portion of a complete journey which begins or terminates within the territory of the other Contracting Party. The transshipment, warehousing, breaking bulk and change in the mode of transport of such goods as well as the assembly, dis-assembly or re-assembly of machinery and bulky goods outside the definition of "traffic in transit" provided any such operation is undertaken solely for the convenience of transportation. Nothing in this Article shall be construed as imposing an obligation on either Contracting Party to establish or permit the establishment of permanent facilities on its territory for such assembly, dis-assembly or re-assembly.

ARTICLE IV

Traffic in transit shall be exempt from customs duties and from all transit duties or other charges except reasonable charges for transportation and such other charges as are commensurate with the costs of services rendered in respect of such transit.

ARTICLE V

For convenience of traffic in transit the Contracting Parties agree to provide at point or points of entry or exit, on such terms as may be mutually agreed upon and subject to their relevant laws and regulations prevailing in either country, warehouses or sheds, for the storage of traffic in transit awaiting customs clearance before onward transmission.

ARTICLE VI

Traffic in transit shall be subject to the procedure laid down in the Protocol hereto annexed and as modified by mutual agreement. Except in cases of failure to comply with the procedure prescribed, such traffic in transit shall not be subject to avoidable delays or restrictions.

ARTICLE VII

In order to enjoy the freedom of the high seas, merchant ships sailing under the flag of Nepal shall be accorded, subject to Indian laws and regulations, treatment no less favourable than that accorded to ships of any other foreign country in respect of matters relating to navigation, entry in to and departure from the ports, use of ports and harbour facilities, as well as loading and unloading dues, taxes and other levies, except that the provisions of this Article shall not extend to coastal trade.

ARTICLE VIII

Notwithstanding the foregoing provisions, either Contracting Party may maintain or introduce such measures or restrictions as are necessary for the purpose of :

- (i) Protecting public morals;**
- (ii) Protecting human, animal and plant life;**
- (iii) Safeguarding the implementation of laws relating to the import and export of gold and other silver bullion; and**
- (iv) Safeguarding such other interests as may be mutually agreed upon.**

ARTICLE IX

Nothing in this Treaty shall prevent either Contracting party from taking any measures which may be necessary in pursuance of general international conventions, whether already in existence or concluded hereafter, to which it is a party relating to transit, export or import of particular kinds of article such as narcotics and psychotropic substances or in pursuance of general conventions intended to prevent infringement of industrial, literary or artistic property or

relating to false marks, false indications of foreign or other methods of unfair competition.

ARTICLE X

In order to facilitate effective and harmonious implementation of this Treaty the Contracting Parties shall consult each other regularly.

ARTICLE XI

This Treaty shall enter into force on the 6th December 1991 and shall remain in force for a period of seven years. It may be renewed for further periods of seven years by mutual consent, subject to such modifications as may be agreed upon.

Done in duplicate in Hindi, Nepali and English languages, all the texts being equally authentic, at New Delhi on the 6th December 1991. In case of doubt, the English text will prevail.

(P. Chidambaram)
Minister of State for Commerce
For Government of India

(Gopal Man Shrestha)
Minister of Commerce
for His Majesty's
Government of Nepal

PROTOCOL
TO THE TREATY OF TRANSIT
BETWEEN
INDIA AND NEPAL

With Reference to Article V

1. The following warehouses, sheds and open space, or such other warehouses, sheds and open space as the Trustees of the Port of Calcutta may offer in lieu thereof, shall be made available for the storage of transit cargo (other than hazardous goods) meant for transit to and from Nepal through India in accordance with the procedure contained in the Memorandum to the Protocol :

(i) COVERED ACCODOMATION

'A' Shed Kidderpore Docks - Covering approximately 3135 sq. metres
(including 'A' Annex)

Shed No. 25, Kidderpore - Covering approximately 4425 sq. metres.

Calcutta Jetty Shed No. 8 - Ground Floor

(ii) OPEN SPACE

**Open land at Circular Garden - Covering approximately 4332 sq. metres.
Reach Road**

**Residential cum office land - Covering approximately 2000.00 sq. metres.
Space at Haldia.**

**Open land space at Haldia - Covering approximately 6985.00 sq. metres
Dock interior zone.**

- 2. The above storage facilities shall be given on lease by the Trustees of the Port of Calcutta (hereinafter referred to as the Trustees) to an undertaking incorporated in accordance with the relevant Indian laws and designated by His Majesty's Government of Nepal for this purpose (hereinafter referred to as the Lessee).**
- 3. The terms of the leases to be entered into between the Trustees and 'Lessee' shall conform to the 'Long-term Lease-Godown' and 'Commercial Lease-land long-term' of the Trustees. The leases will be 'for twenty-five years.**
- 4. Kidderpore Docks berth No. 25 shall be assigned by Calcutta Port Trust as a preferential berth to the lessee on commercial terms as applicable from time to time to Shipping Lines of India, if such a lease is finalised within six months of the signing of the treaty. If, however, this option is not exercised within this period, charter vessels carrying traffic in transit of Nepal may be assigned to 25 K.P.D berth on a priority basis, to the extent possible.**
- 5. The lease rent shall be determined in accordance with the Schedules of Rent Charges as determined by the Trustees-in-meeting from time to time.**
- 6. The transit cargo shall be subject to the levy of all charges by the Trustees in accordance with their Schedule of Charges in force from time to time.**
- 7. The Lessee would be permitted to own/or operate a number of trucks and barges in the Port Area in connection with the storage of cargo in transit in the said areas, subject to compliance with the normal rules**

and regulations applicable to trucks and barges plying in the Port Area.

8. The Collector of Customs, Calcutta, in accordance with the relevant provisions of the laws and regulations, will provide the lessee for a customs house agent's licence for the clearance at the Port of Calcutta of traffic in transit from and to Nepal. If a licence is also required from the Port of Calcutta for this work, Calcutta Port Trust will provide such licence in accordance with the relevant provisions of their bye-laws/regulations.
9. The owner of goods or the lessee, if authorized by owner, may under the supervision of the proper officer of the Indian Customs :
 - (i) Inspect the goods,
 - (ii) Separate damaged or deteriorated goods from the rest.
 - (iii) Sort the goods or change their containers for the purpose of preservation for onward transmission.
 - (iv) Deal with the goods and their containers in such a manner as may be necessary to prevent loss or deterioration or damage to the goods.
10. The warehouses shall function during the normal working hours under the supervision of officers to be provided by the Calcutta Custom House. Where, however, such functioning is necessary outside the office hours, officers for supervision would be provided by the said Customs House on payment of the prescribed fees.

With Reference to Article VI

1. All traffic in transit shall –
 - (i) pass only through the following routes :

(a) Calcutta	Galgalia
(b) Calcutta	Jogbani
(c) Calcutta	Bhimnagar
(d) Calcutta	Jayanagar
(e) Calcutta	Raxual
(f) Calcutta	Nautanwa
(g) Calcutta	Barhni
(h) Calcutta	Nepalgunj Road
(i) Calcutta	Gauri-Phanta
(j) Calcutta	Banbasa
(k) Calcutta	Tikonja
(l) Calcutta	Jarwa

(m) Calcutta	Bhitamore (Sitamarhi)
(n) Calcutta	Naxalbari (Panitanki)
(o) Calcutta	Sukhia-Pokhari

Provided that :

(a) These routes may be discontinued or new ones added by mutual agreement

(b) Bulk traffic such as fertilizers, cement, etc. moving by rail shall pass through Calcutta Narayanpur Anant route or any other agreed route subject to prior intimation being given to Customs as and when such movements are anticipated.

- (ii) Comply with the procedure as set out in the memorandum annexed hereto,
- (iii) Comply with any other detailed regulations which may be prescribed through mutual consultation by the Contracting Parties in keeping with the nature of the commodity and the need for expeditious movement and the safety of transport.

2. Whenever en route it becomes necessary to break bulk in respect of consignments in transit, such breaking shall be done only under the supervision of the appropriate officials of the Indian Customs.

3. All goods intended for removal in transit to Nepal while in the process of removal to or from the warehouses or other storage places that may be leased out in Calcutta Port for the storage of such goods and also while in storage or under the process of packing, sorting and separation etc. in such warehouses or places, shall be subject to relevant Indian laws and regulations.

4. The procedure in the foregoing paragraphs shall apply mutates mutandis to road transport with the following modifications :

a) Arms, ammunition and hazardous cargo shall not be allowed to be transported by road.

NOTE : With reference to hazardous cargo, exception could be permitted as may be mutually agreed.

- b) The truck shall have a pilfer-proof container conforming to specifications to be mutually agreed upon which is capable of being locked and sealed. The Containers shall be locked by the locks of Indian Customs.
- c) The individual packages shall be sealed by Indian Customs.
- d) Conditions at (b) and (c) above shall not apply to non-sensitive bulk items as may be mutually agreed upon.

- e) Sealing of individual packages may be dispensed with when they are imported packed in recognized containers, provided the entire contents of the container are consigned to the same consignee and container is sealed and the provision of (b) above is complied with.
 - f) If the truck breaks down, the nearest Customs Officer shall be approached with least possible delay.
 - g) Any other mutually agreed modifications that may be considered necessary from time to time in respect of the procedure for road transport operation.
5. Respecting each other's relevant laws, it is agreed that the Contracting Parties will take all steps to prevent detection of their mutual trade to third countries and to ensure compliance with the procedure for the transit of goods across their territories.
6. In order to facilitate the movement of traffic in transit, additional means of transport and facilities, mutually agreed upon, may be added.

MEMORANDUM

In pursuance of and subject to the provisions of the Protocol to the Treaty of Transit, His Majesty's Government of Nepal and the Government of India agree that the following detailed procedure shall apply to traffic in transit :

IMPORT PROCEDURE

When goods are imported from third countries for Nepal in transit through India, the following procedure shall be observed at the Indian port of entry (hereinafter called the Customs House):

1.(a) Transit of consumer goods and specialised materials for consumer goods imported for Nepal shall be allowed against import licences issued by HMG.

(b) In case of goods other than those referred to in (a) above, the royal Nepalese Consul General at Calcutta shall furnish the following certificate on the Customs Transit Declaration :

‘I have verified that the goods specified in this Declaration and of the quantity and value specified herein have been permitted to be imported by His Majesty's Government of Nepal under Licence No. dated.....

NOTE : I His Majesty's Government will arrange to supply through the Indian Embassy at Kathmandu to the Collectors of Customs concerned, the specimen signature of official/officials who sign His Majesty's Government's import licences.

It will also arrange to have one copy each of import licences issued by it for such goods, sent direct to the Collector of Customs concerned :

NOTE : II This requirement will not apply in case of goods for the import of which into Nepal no licence is required under the laws of HMG of Nepal.

2. At the Customs House, the importer or his agent (hereinafter referred to as the importer) shall present a Customs Transit Declaration containing the following particulars :

- (a) Ship's name, Rotation No. and Line No.,
- (b) Name and address of the importer,
- (c) No., Description, Marks and Serial Nos. of the packages,
- (d) Country of consignment, origin, if different,
- (e) Description of goods,
- (f) Quantity of goods,
- (g) Value of goods,
- (h) HMG's import licence No. and date,
- (i) Route of transit,
- (j) A declaration at the end in the following words :

‘I/We declare that the goods entered herein are for Nepal in transit through India and shall not be diverted enroute to India or retained in India.

‘I/We declared that all the entries made therein above are true and correct to the best of my/our knowledge and belief.’”

Signature

3. The Customs Transit Declaration shall be made in sextuplicate. All copies along with Nepal Import Licence wherever required, shall be presented to the Customs House. The copy of the Nepal Import Licence so presented shall be compared by the Customs House with the copy received directly from HMG of Nepal.

4. Consumer goods and specialised materials for consumer goods must be removed to Nepal sheds within free time, if not already put in wagons. An authorization with removal instructions of the owner for the purpose shall be necessary for removal. The Government of India will continue the arrangement with the Trustees of the Port of Calcutta for increasing the free time for Nepal's transit cargo including containerized cargo to 7 days.

5. The Customs House shall make a percentage examination of the goods to check whether the goods are in accordance with the Customs Transit Declaration and conform to the import licence wherever such licence is required. Goods for Nepal as covered by the said licence and also in accordance with the Customs Transit Declaration shall be approved for onward transmission. However, in making such examination, avoidable delays shall be curtailed to the utmost in order to expedite the traffic-in-transit.

NOTE : The percentage examination referred to here means that a percentage of the total packages in a consignment will be selected for examination and not that a percentage of the contents of everyone of the package comprised in the consignment will be examined.

6. The good shall be transported from the Customs Port of entry to the border post in closed railway wagons or in pilfer-proof containers (to be provided by the importer) which can be securely locked. The containers or wagons, as the case may be, shall be locked and dully sealed after the above examination. Individual packages in such wagons or containers shall not be sealed except where consumer goods or specialised materials for consumer goods are being transported or where the goods are to go to Nepal by a route where the railway line does not reach upto the last town of the border.

7. Where goods cannot be transported in closed wagons, and have to be transported in open wagons or flats, detailed identifying particulars shall be recorded in the Customs Transit Declaration.

8. "Small" consignments of traffic in transit will be accepted for booking by railway from one of the agreed warehouses leased to Nepal Transit and Warehousing Company Ltd. provided the minimum load condition as applicable in Indian Railways is satisfied.

9. The goods shall be covered by an insurance policy and/or such legally binding undertaking to the satisfaction of the Collector of Customs, Calcutta, in the manner indicated below :

(a) Goods moving by rail up to the border shall be covered by an insurance policy for an amount equal to the Indian Customs Duty on such goods. This policy shall be assigned to the Collector of Customs, Calcutta, and the amount shall become payable to the Collector in the event of the goods not reaching Nepal.

(b) Goods moving by road in trucks belonging to Nepal Transit & Warehousing Company Ltd., or Nepal Transport Corporation shall be covered by an insurance policy for an amount equal to the Indian Customs duty on such goods. This policy shall be assigned to the Collector of Customs, Calcutta, and the amount shall become payable to

the Collector in the event of the goods, not reaching Nepal. In addition, Nepal Transit and Warehousing Company Ltd., shall give an undertaking to the Collector of Customs, Calcutta to pay the difference between the Company Ltd., shall give an undertaking to the Collector of Customs, Calcutta, to pay the difference between the market value of goods in India and their c.i.f. value plus Indian Customs duty in the event of the goods not reaching Nepal.

- (c) Goods moving by road in trucks other than those mentioned at (b) above shall be insured for an amount equal to the difference between the market value of the goods in India and their c.i.f. value. This policy shall be assigned to the Collector of Customs, Calcutta, and the amount shall become payable to the Collector in the event of the goods not reaching Nepal.

NOTES : 1. In respect of goods belonging and consigned to His Majesty's Government of Nepal under (a) and (b) above no insurance shall be required provided an

undertaking or a further undertaking, as the case may be, is given by Nepal Transit and Warehousing Company Ltd., in lieu of such insurance.

2. No such requirement will be necessary in respect of goods carried by air without transshipment enroute or in such cases as may be mutually agreed upon.

3. In the event of goods carried by rail not reaching the booked destination, Indian Railways shall, where liable as carriers under the Indian Railways Act, pay the c.i.f price to the importer.

10. After the Customs House is satisfied as regards the checks contemplated in the preceding paragraphs, it shall endorse all the copies of the Customs Transit Declaration. The original copy shall be handed over to the importer. The duplicate and triplicate will be sent by post to the Indian Border Customs Officer and the remaining copies shall be retained by the Customs House. In order to avoid delay in postal transmission, duplicate and triplicate copies of the C.T.D. along with copy of the original railway receipt shall be handed over to the importer or his authorized representative in a sealed cover, if he so desires. This facility shall however be denied to the importer who defaults in the production of these documents within a reasonable time to the Indian Border Customs Officer.

11. In case of any suspicion of pilferages, traffic-in-transit shall be subject to checks by the Indian Customs during the period that they are in transit, as many be necessary, particularly at the point of railway transshipment from broad-gauge to metre-gauge.

12. On arrival of goods in transit at the border railway station, the sealed wagons or the sealed containers, as the case may be, shall be presented to the Indian Customs Officer at the station, who shall examine the seals and locks and, if satisfied, shall permit the unloading or breaking of bulk, as the case may be, under his supervision. The importer shall present the original copy of the Customs Transit Declaration duly endorsed by the Indian Custom House of entry, to the Indian Customs Border Officer, who shall compare the original copy with the duplicate and triplicate received by him and will, in cases where the seals and the locks on the wagons or containers and on the packages where required under para 6 are intact, identify the packages with the corresponding Customs Declaration, In cases where the seals and locks on the wagons or on the containers or on the packages are not intact, or there is suspicion otherwise, he may examine the contents. The goods shall be delivered by the railway only after clearance as above by the Indian Customs Officer at the border station. The Indian Customs Officer shall thereafter through such escorts. The Indian Customs Officer shall thereafter through such escorts or supervision as may be necessary ensure that the goods cross the border and reach Nepal. He, or in cases where there is an Indian Officer posted right at the border, such officer will certify on the copies of the Customs Transit Declaration that the goods have crossed in the Nepal. The Indian Customs Officers shall then hand over the original copy of the Customs Transit Declaration to the importer, send the duplicate to the Indian Custom House at the port of entry, send the triplicate to the Nepalese Customs Officer at the corresponding Nepalese post and after it is received back duly endorsed by the Nepalese Customs Officer, retain it for his records.

13. If a consignment in transit is received at destination in more than one lot, the separate lots of the consignment covered by one Customs Transit Declaration may be presented in separate lots and the Indian Customs Officer at the border shall release the goods so presented after necessary examination and check of relevant documents and goods and after making the necessary endorsement. In such a case, the Indian Customs Officer, at the border shall send the triplicate copy of Customs Transit Declaration to the Nepalese Customs Officer at the corresponding Nepalese post only after release of the entire consignment as covered by the Customs Transit Declaration.

14. In cases where the duplicate and triplicate copies of the Customs Transit Declaration are not received at the Customs Office of exit, the Indian Customs Office will, by telephonic or other quick means of communication with the Customs Office of entry seek confirmation to ensure against delay and them on the basis of aforesaid confirmation allow dispatch of goods.

15. The Nepalese Customs Officer shall :

(i) endorse a certificate over his signature and authenticate it under customs stamp on the original copy of the Nepal import licence, if any, and the Customs Transit declaration that the packages correspond in all respects with the particulars shown in the declaration and in all material respects with the Nepal import licence and that the goods have been cleared from Nepalese Customs custody for entry into Nepal;

(ii) return the original copy of the Declaration and the original copy of the Nepal import licence, if any, to the importer or his agent;

(iii) return the triplicate copy duly endorsed to the authorized official of Land Customs and Central Excise after the goods have crossed the Nepalese border customs post.

16. The importer will present to the Assistant Collector of Customs the original Customs Transit Declaration duly certified by the authorized officer of Land Customs and Excise and the Nepalese Customs Officer to the effect that the goods have crossed into Nepal. The original Declaration should reach the Assistant Collector of Customs concerned within one month of the date on which transit was allowed at the Indian Port importation, or such extended time as the Assistant Collector of Customs might allow. For every week or part thereof delay in presenting the original Customs Transit Declaration duly certified as above, the importer shall pay a sum of Re. 1/- for every Rs. 1000/- of the Indian market price of the goods.

EXPORT PROCEDURE

When goods from Nepal are cleared from Nepalese Customs custody for export to third countries in transit through India, the exporter or his agent (hereinafter referred to as the exporter) shall be required to observe the following procedure at the corresponding Indian Border Customs Post :

1. The Senior – most officer incharge of the Nepalese Customs Office at the border shall furnish the following certificate on the Customs Transit Declaration :

‘I have verified that the goods specified in this Declaration and of the quantity and value specified herein have been permitted to be exported by His Majesty’s Government of Nepal under licence No. dated.....

2. The exporter shall prepare the Customs Transit Declaration in quadruplicate and shall present it to the Indian Customs Officer at the Customs Port through which the goods are to enter India. The Customs Transit Declaration shall contain the following particulars :

- (a) Name and address of the Exporter
- (b) No., description, marks and serial nos. of the packages.
- (c) Country to which consigned

- (d) Description of Goods
- (e) Quantity of goods
- (f) Value of goods
- (g) HMG's Export Licence No. and date
- (h) Country of origin of the goods
- (i) Indian Customs Office of entry from Nepal
- (j) A declaration at the end in the following words :

‘I/We declare that the goods entered herein are not of Indian origin, are for export from Nepal to countries other than India and shall not be diverted enroute to India or retained in India’.

‘I/We declared that all the entries made above true and correct to the best of my/our knowledge and belief’.

Signature

3. The Indian Customs Officer at the point of entry into India shall make such examination of packages and the contents as may be necessary to check whether :

- (i) the goods are in accordance with the Customs Transit Declaration :
- (ii) the goods are such as have been specified by the Government of India as being liable to pilferage enroute having regard to the duty and restrictions, if any, to which they are liable on import into India;
- (iii) they are of origin as declared in the Customs Declaration Form.

4. After the necessary checks, the Indian Customs Officer at the border shall endorse all the CTDs. They shall hand over original to the exporter and send the duplicate and triplicate by post to the Collector of Customs, Calcutta. In order to avoid delay in postal transmission, duplicate and triplicate copies of CTDs shall be handed over to the exporter or his authorized representative in a sealed cover, if he so desired. This facility shall, however, be denied to the exporter who defaults in the production of these documents within reasonable period to the Indian Customs House at the port of exit. The quadruplicate shall be retained by the Indian Customs Officer at the border.

5. The goods specified in sub-paragraph (ii) of paragraph 3 above shall be transported from the Indian Customs border post to Calcutta port in closed railway wagons or in pilfer-proof containers (to be provided by the exporter) which can be securely locked. The containers or wagons, as the case may be, shall be locked and duly sealed after the examination by the border Customs Officer.

6. Where the goods cannot be sent in closed wagons and have to be transported in open wagons or flats, detailed description, particulars and specifications thereof shall be recorded in the Customs Transit Declaration.

7. After the verification as contemplated in preceding paragraphs has been completed by the Indian Customs official at the border, he shall endorse all the copies of the declaration and where sealing has been done, given necessary indication thereof on the relevant Customs Transit Declaration and allow the movement of goods to Calcutta Port. He shall hand over the original copy of the Declaration to the exporter and send the duplicate and triplicate by post to the Collector of Customs, Calcutta and retain the quadruplicate copy with him.

8. The goods specified in sub para (ii) of para 3 above shall be covered by an insurance policy and/or such legally binding undertaking to the satisfaction of the concerned Collector of Customs in the manner indicate below:

- (a) Goods moving by rail from the border shall be covered by an insurance policy for an amount equal to the Indian Customs duty on such goods. This policy shall be assigned to the concerned Collector of Customs and the amount shall become payable to the Collector in the event of the goods not reaching Calcutta Customs.
- (b) Goods moving by road in trucks belonging to Nepal Transit and Warehousing Co. Ltd or Nepal Transport Corporation shall be covered by an insurance policy for an amount equal to the Indian Customs duty on such goods. This policy shall be assigned to the concerned Collector of Customs, and the amount shall become payable to the Collector in the event of the goods not reaching Calcutta Customs. In addition, Nepal Transit and Warehousing Co Ltd. shall give an undertaking to the concerned Collector of Customs to pay the difference between the market value of goods in India and their c.i.f. value plus Indian Customs duty in the event of the goods not reaching Calcutta Customs.
- (c) Goods moving by road in trucks other than those mentioned at (b) above shall be insured for an amount equal to the difference between the market value of the goods in India and their c.i.f. value. This policy shall be assigned t the concerned Collector of Customs and the amount shall become payable to the Collector in the event of the goods not reaching Calcutta Customs.

Note: 1. In respect of goods belonging to and consigned by His Majesty's Government of

Nepal under (a) and (b) above no insurance shall be required provided an

undertaking or a further undertaking, as the case may be, is given by Nepal Transit and Warehousing Co. Ltd. in lieu of such insurance.

2. No such requirement will be necessary in respect of goods carried by air without transshipment enroute or in such cases as may be mutually agreed upon.

3. In the event of goods carried by rail not reaching the booked destination, Indian Railways shall, where liable as carriers under the Indian Railways Act pay the c.i.f price to the exporter.

9. In the case of any suspicion of pilferage, the goods specified in sub-para (ii) of para 3 above shall, while in transit through India, be subject to such checks by the Indian Customs as may be necessary particularly at the point of railway transshipment from metre-gauge to broad-gauge.

10. On arrival of goods at Calcutta Port, the exporter shall present the original copy of the Customs Transit Declaration duly endorsed by the Customs Border Office to the Customs House. This copy shall be compared by the Customs House with the duplicate and triplicate received by it from the border. In case of goods which have moved under seals and locks, the Customs House shall check the seals and locks and where there is suspicion that they have been tampered with will examine the goods to identify them with the corresponding Customs Transit Declaration. After the verification as contemplated in this paragraph is completed by the Customs Houses, it shall permit the export of the goods and will in case of goods specified in sub-para (ii) of para 3 ensure that these are duly shipped. After the goods have been shipped, the Customs House shall endorse all the copies of the Customs Transit Declaration, hand over the original to the exporter and send the triplicate copy to the Indian Customs Border and Office and retain the duplicate.

11. Where export cargo is shut out, it will be removed to the warehouse leased out to Nepal Transit and Warehousing Co. Ltd., on filing of such removal instructions by the exporter or his authorized agents.

**AGREEMENT OF COOPERATION BETWEEN
GOVERNMENT OF INDIA AND HIS MAJESTY'S
GOVERNMENT OF NEPAL TO CONTROL
UNAUTHORISED TRADE**

The Government of India and His Majesty's Government of Nepal (hereinafter also referred to as the Contracting Parties).

KEEN to sustain the good neighbourlines through mutually beneficial measures at their common border which is free fro movement of persons and goods.

Have agreed as follows :

Article I

The Contracting Parties, while recognizing that there is a long and open border between the two countries and there is free movement of persons and goods across the border and noting that they have the right to pursue independent foreign trade policies, agree that either of them would take all such measures as are necessary to ensure that the economic interests of the other party are not adversely affected through unauthorised trade between the two countries.

Article II

The Contracting Parties agree to cooperate effectively with each other, to prevent infringement and circumvention of the laws, rules and regulations of either country in regard to matters relating to Customs, Narcotics and Psychotropic Substances, Foreign Exchange and Foreign Trade and shall for this purpose assist each other in such matters as consultation, enquiries and exchange of information with regard to matters concerning such infringement or circumvention.

Article III

Subject to such exceptions as may be mutually agreed upon each Contracting Party shall prohibit and cooperate with the other to prevent :

- (a) re-exports from its territory to third countries of goods imported from the other Contracting Party and products which contain materials imported from the other Contracting Party exceeding 50 per cent of the ex-factory value of such products;**
- (b) re-exports to the territory of the other Contracting Party of goods imported from third countries and of products which contain imports from third countries exceeding 50 per cent of the ex-factory value of such goods.**

Article IV

Each Contracting Party will :

- (a) prohibit and take appropriate measures to prevent import from the territory of the other Contracting Party of goods liable to be re-exported to third countries from its territory and the export of which from the territory of the other Contracting Party to its territory is prohibited ;**
- (b) In order to avoid inducement towards diversion of imported goods to the other Contracting party, take appropriate steps through necessary provisions relating steps through necessary provisions relating to Baggage Rules, gifts and foreign exchange authorisation for the import of goods from third countries.**

Article V

The Contracting parties shall compile and exchange with each other statistical and other information relating to unauthorized trade across the common border. They also agree to exchange with each other regularly the lists of goods the import and export of which are prohibited, or restricted or subject to control according to their respective laws and regulations.

Article VI

The respective heads of the Border Customs Offices of each country shall meet regularly with his counterpart of appropriate status at least once in two months alternately across the common border :

- (a) to cooperate with each other in the prevention of unauthorised trade :**
- (b) to maintain the smooth and uninterrupted movement of goods across their territories;**
- (b) to render assistance in resolving administrative difficulties as may be arise at the field level.**

Article VII

In order to facilitate effective and harmonious implementation of this Agreement, the Contracting Parties shall consult each other regularly.

Article VIII

This agreement shall come into force on the 6th December 1991, and shall remain in force for a period of five years. It may be renewed for further period of

five years, at a time, by mutual consent, subject to such modifications as may be agreed upon.

Done in duplicate in Hindi, Nepali, and English languages, all the texts being equally authentic, at New Delhi on the 6th December 1991. In case of doubt, the English text will prevail.

(P.Chdambaram)
Shrestha)
Minister of State for Commerce
Commerce
For Government of India
Nepal.

(Gopal Man
Minister of
for His Majesty's
Government of

Excellency,

I write to acknowledge the receipt of your letter of today's date which reads as follows :-

“Our two delegations have signed the Treaty of Trade, the Treaty of Transit and the Agreement on Cooperation between His Majesty's Government of Nepal and the Government of India to control unauthorized trade.

In the light of the provisions as envisaged in each of the Treaties and the Agreement, officials designated by the two Governments shall meet separately at the appropriate levels as and when necessary and determine procedures as may be appropriate to discuss and resolve any problem that may arise in the effective and harmonious implementation of the issues relating to trade, transit and unauthorised trade.

It is further agreed that there shall be an Inter-Governmental Committee consisting of the senior representatives of the two Governments to promote trade, facilitate transit and control unauthorized trade between the two countries as envisaged in the Treaties and the Agreement. The Committee shall meet at least once in six months alternately in Kathmandu and New Delhi. If any questions remain unresolved in the meetings of the official groups referred to in the

foregoing paragraph, they shall be referred to this Committee which will find solutions thereof. The Committee may also deal with any matters on its own in order to further the purposes envisaged in the said Treaties and the Agreement.

I shall be grateful if you would kindly confirm that the above sets out correctly the understanding reached between the two Governments.”

I confirm that the foregoing correctly sets out the understanding reached between us.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely

(P. Chidambaram)
Minister of State for
Government of India

Commerce

H.E. Gopal Man Shrestha
Minister of Commerce
His Majesty's Government of Nepal.

New Delhi
December 6, 1991

Excellency,

I write to acknowledge the receipt of your letter of today's date which reads as follows :

‘In the course of the discussion that led to the signing today of a Treaty of Transit between our two Governments, it was agreed that for the movement of goods from one part of Nepal to another through Indian territory, the procedure prescribed for export of goods from Nepal to third countries shall apply mutatis mutandis. Further, as regards the movement of baggage accompanying a person traveling from one part of Nepal to another through Indian territory, the

Government of India shall prescribe a simplified procedure in respect of such articles of baggage as the Government of India may specify as being likely to be retained in India having regard to the difference in prices in Nepal and India and other relevant factors. For other articles of baggage accompanying a passenger, movement shall be freely allowed.

I shall be grateful if you would kindly confirm that the foregoing correctly sets out the understanding reached between us”.

I confirm that the foregoing correctly sets out the understanding reached between us.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,

**(P. Chidambaram)
Minister of State for**

Government of India

Commerce

**H.E. Gopal Man Shrestha
Minister of Commerce
His Majesty’s Government of Nepal.**

**New Delhi
December 6, 1991**

Excellency,

In the course of discussion that led to the signing today of a Treaty of Transit between our two Governments, it was agreed that for the movement of goods from

one part of Nepal to another through Indian territory, the procedure prescribed for export of goods from Nepal to third countries shall apply mutatis mutandis. Further, as regards the movement of baggage accompanying a person traveling from one part of Nepal to another through Indian territory, the Government of India shall prescribe a simplified procedure in respect of such articles of baggage as the Government of India may specify as being likely to be retained in India having regard to the difference in prices in Nepal and India and other relevant factors. For other articles of baggage accompanying a passenger, movement shall be freely allowed.

I shall be grateful if you could kindly confirm that the foregoing correctly sets out the understanding reached between us.

Please accept, Excellency, the assurances of my highest consideration.

(Gopal Man Shrestha)
Minister of Commerce
His Majesty's Government of Nepal

H.E.P. Chidambaram
Minister of State for Commerce
Government of India

New Delhi
December 6, 1991

Excellency,

In the course of discussion that led to the signing of the Treaty of Transit between our two Governments today, the Government of India agreed to provide necessary overland transit facilities through Radhikapur and such other routes as may be further agreed upon for the conduct of Nepal's trade with and through Bangladesh in order to help Nepal develop and diversify her foreign trade.

The transit procedures prescribed in Nepal's Treaty of Transit with India would apply mutatis mutandis in respect of such traffic-in-transit.

I shall be grateful if you could kindly confirm that the above sets out correctly the understanding reached between our two Governments.

Please accept, Excellency, the assurances of my highest consideration.

**(GopalMan Shrestha)
Ministerof Commerce
His Majesty's Government of Nepal**

**H.E.P. Chidambaram,
Minister of State for Commerce,
Government of India.**

With Reference to Article V

1, The Government of India will provide preferential access to the Indian market free of Customs duties normally applicable and quantitative restrictions, except as mentioned elsewhere, for all articles manufactured in Nepal, provided they fulfill the qualifying criteria given below :

- (a) the articles are manufactured in Nepal wholly from Nepalese materials or Nepalese and Indian materials; or**
- (b) (i) the articles involve a manufacturing process in Nepal that brings about a change in classification, at four digit level, of the Harmonized Commodities Description and Coding System, different from those, in which all the third country origin materials used in its manufacture are classified; and the manufacturing process is no limited to insufficient working or processing as indicated in Annexure “8”, and**
- (c) (ii) From 8th March 2002 to 5th March 2003, the total value of materials, parts or produce originating from non-Contracting Parties or of undetermined origin used does not exceed 75% (seventy five percent) of the ex-factory price of the articles produced, and the final process of manufacturing is performed within the territory of Nepal. From 6th March 2003 onwards, the total value of materials, parts or produce originating from non-Contracting Parties or of undetermined origin used does not exceed 70% (seventy percent) of the ex-factory price of the articles produced, and the final process of manufacturing is performed within the territory of Nepal.**

Note :

The value of materials, parts or produce originating from non-Contracting Parties shall be the CIF value at the time of importation of materials, parts or produce, at the point of entry in Nepal, where this can be proven, or the earliest ascertainable price paid for the materials, parts or produce of undetermined origin in the territory of the Contracting Party where the working or processing takes place.

(c) For Nepalese articles not fulfilling the conditions given in sub-para-1 (b) (i) above but fulfilling the condition at sub-para –1 (b) (ii) above, preferential access may be given by the Government of India, on a case by case basis, after satisfying itself that such articles has undergone a sufficient manufacturing process within Nepal.

(d) However, the import of Nepalese manufactured articles described in Annexure ‘C’ which fulfil the criteria in sub-para-1 (a) or (b) (i) & (ii) above will be governed by the terms specified in this Annexure.

(e) In the case of other articles manufactured in Nepal which do not fulfil the qualifying criteria specified in sub-para-1 (a) or (b) (i) & (ii) above, the Government of India will provide normal access to the Indian market consistent with its MFN treatment,

2. Import of articles in accordance with the para-1 above shall be allowed by the Indian Customs authorities on the basis of a Certificate of Origin to be issued by the agency designated for this purpose by His Majesty’s Government of Nepal in the format prescribed at Annexure ‘D’ for each consignment of articles exported from Nepal to India. Information regarding the basis of calculation for grant of such Certificate of Origin to the manufacturing facilities in Nepal will be provided to the Government of India on an annual basis. The modalities for this will be worked out within three months from the signing of the Protocol. Preferential facility shall not be available for the articles listed at Annexure – ‘E’.

3. On the basis of a Certificate issued, for each consignment of articles manufactured in the small scale units in Nepal, by His Majesty’s Government of Nepal, that the relevant conditions applicable to the articles manufactured in similar Small Scale Industrial units in India for relief in the levy of applicable Excise Duty rates are fulfilled for such a parity, Government of India will extend parity in the levy of Additional Duty on such Nepalese articles equal to the treatment provided in the levy of effective Excise duty on similar Indian articles under the Indian Customs and Central excise Tariff. However, this facility will be applicable only to articles manufactured in Nepal in such small scale units which qualify as small scale units under the Nepalese Industrial Policy as on 5 December, 2001.

4. The ‘‘Additional Duty’’ rates equal to the effective Indian excise duty rates applicable to similar Indian products under the Indian Customs & Central Excise Tariff will continue to be levied on the imports into India of products manufactured in the medium and large scale units in Nepal.

5. In regard to additional duty collected by the Government of India in respect of manufactured articles other than those manufactured in ‘‘small’’ units; Wherever it is established that the cost of production of an article is higher in Nepal than the cost of production in a corresponding unit in India, a sum representing such difference in the cost of production, but not exceeding 25 per cent of the ‘‘additional duty’’ collected by the Government of India, will be paid to His Majesty’s Government of Nepal provided His Majesty’s Government of Nepal have given assistance to the same extent to the (manufacturers) exporters.

6. Export of consignments from Nepal accompanied by the Certificate of Original will normally not be subjected to any detention/delays at the Indian Customs border check posts and other places enroute. However, in case of reasonable doubt about the authenticity of Certificate of Origin, the Indian Customs Authority may seek a clarification from the certifying agency which will furnish the same within a period of thirty days. Meanwhile, the subject consignment will be allowed entry into India on provisional basis against a bond i.e. a legally binding undertaking as required. After examining the information so provided by the certifying agency, this Indian Customs Authority would take appropriate action to finalise the provisional assessment. Whenever considered necessary, request for a joint visit of the manufacturing facility may be made by the Indian Customs Authority which would be facilitated by the concerned Nepalese authority within a period of thirty days.

7. Where for social and economic reasons, the import of an item into India is permitted only through public sector agencies or where the import of an item is prohibited under the Indian Trade control regulations, the Government of India will consider any request of His Majesty's Government of Nepal for relaxation and may permit the import of such an item from Nepal in such a manner as may be found to be suitable.

8. For the purpose of calculation of import duties customs valuation procedures, as prescribed under the prevailing customs law, will be followed.

With reference to Article IX

In the event of imports under the Treaty, in such a manner or in such quantities as to cause or threaten to cause injury to the domestic industry or a significant segment of it relating to the article, the importing country may request for consultations in the Joint Committee set up by the two Governments for this purpose with a view to taking appropriate measures. If the consultations in the Joint Committee fail to resolve the issue within a period of sixty days from the date of such request, then the requesting Government shall be free to take appropriate remedial measures. The India-Nepal Inter-Governmental Committee (IGC) will review such measures.

“Injury” means significant damage to the domestic products, of like or similar products resulting from a substantial increase of imports under the Treaty in situations which cause substantial losses of earnings, production or employment unsustainable in short term. The examination of the impact on the domestic industry concerned shall also include an evaluation of other relevant economic factors and India having a bearing on the state of domestic industry of that product.

“Threat of injury” means a situation in which a substantial increase of imports under the Treaty is of a nature so as to cause injury to the domestic

producers and that such injury, although not yet existing is clearly imminent. A determination of threat of injury shall be based on facts and not on mere allegation, conjecture, or remote or hypothetical possibility.