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Treaty of Trade and Transit Between the Government of India and His Majesty's Government of Nepal

Katmandu, 13 August 1971

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 and IMPELLED by the urge to develop their economies for their several and mutual benefit, HAVE resolved to conclude a Treaty of Trade and Transit in order to expand trade between their respective territories encourage collaboration in economic development and facilitate transit of trade with third countries, and

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

The Government of India

Shri LALIT NARAYAN MISHRA,
Minister of Foreign Trade

His Majesty's Government of Nepal
Shri NAVA RAJ SUBEDI,
Minister of Industry
And Commerce

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

Trade

Article I

The Contracting Parties shall promote the expansion and diversification of mutual trade in goods origination in the two countries and shall to this end endeavor to make available to each other commodities which one country needs from the other.

Article II

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Both the Contracting Parties shall accord unconditionally to each other treatment no less favorable 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 III

Notwithstanding the provisions of Article II and subject to such exceptions as may be made after consultation with His Majesty's Government of Nepal, the Government of India, with a view to providing the primary producers of Nepal access to the Indian market, agree to exempt from customs duty and quantitative restrictions such primary products as are reproduced in Nepal and imported into India.

Article IV

Notwithstanding the provisions of Article II 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 V

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

Article VI

Payments 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 VII

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

TRANSIT

Article VIII

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The Contracting Parties shall accord to “traffic in transit” freedom of transit across their respective territories through routes mutually agreed upon.

Each Contracting Party shall have the right to take all indispensable measures to ensure that such freedom, accorded by it on its territory, does not in any way infringe its legitimate interests of any kind.

Article IX

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 assemble, disassemble or re-assembly of machinery and bulky goods shall not render the passage of 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 either Contracting Party to establish or permit the establishment of permanent facilities on its territory for such assembly, disassembly or re-assembly.

Article X

Traffic in transit shall be exempted from customs duty 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 XI

For convenience of traffic in transit, the Government of India agree to provide at point or points of entry or exit, on such terms and may be mutually agreed upon and subject to relevant laws and regulations prevailing in India, ware-houses or sheds for the storage of transit cargo awaiting customs clearance before onwards transmission.

Article XII

The procedure to be followed for traffic in transit to or from third countries is laid down in the Protocol here be annexed. Except in case of failure to comply with the procedure prescribed such traffic in transit shall not be subject to avoidable delays or restrictions.

Article XIII

Passage of goods from one place to another in the territories of one Contracting Party through the territory of the other Party shall be subject to such arrangements as may be mutually agreed upon.

Article XIV

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The freedom of transit shall apply to goods required by each Contracting Party and to goods available for export from the other Party, but shall not extend to the products of the Contracting Party. Subject to such exceptions as may be mutually agreed upon, each Contracting Party shall prohibit and take effective measures, 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% 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% of the ex-factory value of such goods.

Article XV

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 regulation, treatment no less favourable than that accorded to ships of any other foreign country in respect of matters relating to navigation, entry into 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 coasting trade.

GENERAL PROVISIONS

Article XVI

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

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

Article XVII

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 relation to transit, export or import of particular kinds of articles such as opium or other dangerous drugs 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 XVIII

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The Contracting Parties shall take appropriate measures to ensure that the processions of this Treaty are effectively and harmoniously implemented and to consult with each other periodically so that such difficulties as may arise in its implementation are resolved satisfactorily and speedily.

Article XIX

This treaty shall come into force on the fifteenth day of August 1971 and shall remain in force for a period of five years. It may be renewed for a further period of five years by mutual consent. Subject to such modifications as may be agreed upon.

DONE in duplicate in Hindi, Nepal and English languages, all the texts being equally authentic, at Katmandu on the thirteenth day of August one thousand nine hundred and seventy one, corresponding to the twenty-eighth day of Sharvana, Bikram Samvat two thousand and twenty eight,. In case of doubt, the English text will prevail.

Sd/- Sd/-

L.N. MISHRA NAVA RAJ SUBEDI
For the Government for His Majesty's
of India Government of Nepal

PROTOCOL

Katmandu, 13 August, 1971

1. With reference to Article IV

1. The Government of India will provide access to the Indian market free of Basic customs duty and quantitative restrictions, generally, for all manufactured article which contain not less than ninety per cent of Nepalese materials or Nepalese and Indian materials.

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.

2. In the case of other manufactured articles in which the value of Nepalese material and labour added in Nepal is at least 50 per cent of the ex-factory price, the Government of India will decide in each case the nature and extent of access, including tariff preferences, having regard to all relevant factors which have a bearing on the trade in that article including the extent of third country materials used and the manner of obtaining them, the difference in the ex-factory or indirectly and the difference in the industrial and the difference in the industrial and trade policies of the Contracting Parties.

3. 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

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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.

4. Procedures to determine the eligibility of industrial products to these concessions and for the verification of the value of different components of Nepal's industrial products will be agreed upon mutually.

5. For the purpose of calculation of import duties, customs valuation procedures as prescribed under the Indian Customs Act, will be allowed.

6. It is the understanding that for a fixed period of five years from the date on which the Treaty comes into force the following transitional arrangements will be made 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:

- (a) such manufactured articles contain not less than ninety per cent of Nepalese and Indian materials; and
- (b) His Majesty's Government of Nepal have given assistance to the same extent to the (manufacturer) exporter.

7. It is also the understanding that, pending mutual agreement on procedures as envisaged in para 4 above, the following articles produced in Nepal and imported into India will be exempted from basic customs duty and quantitative restrictions ;

1. Matches
2. Straw board
3. Jute goods
4. Articles made of wood
5. Vegetable oils
6. Sugar
7. Confectionery, other than chocolate
8. Handicraft
9. Preserved fruits
10. Preserved vegetables
11. Oil cakes including deoiled cakes
12. Leather and leather goods
13. Plywood
14. Refined butter (Ghee)
15. Cattle feed
16. Katha

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II. With reference to Articles II and V:

The Government of India will reimburse to His Majesty's Government the excise and other duties collected by the Government of India on goods produced in India provided (I) such reimbursement shall not exceed the import duties and like charges levied by the Government of Nepal on similar goods imported from any other country, and (ii) the Government of Nepal shall not collect from the importer of such goods so much of the import duty and like charges as is equal to the amount reimbursed by the Government of India.

III. With reference to Article XI :

1. The following warehouses and open space, or such other warehouses and open space as the Commissioner for 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 ACCOMMODATION

Calcutta Jetties First floor of 7 Calcutta Jetty Shed covering an area of
Approximately 62, 775 sq.ft.

Kidderpore Docks First floor of 25 Berth Kidderpore Dock shed covering an Area of
approximately 48,000 sq. ft.

King George's Dock Half of first floor of 2 Garden Reach Jetty Shed covering An area of
approximately 47,000 sq. ft.

(ii) OPEN SPACE West of New Traffic Building in King George's Dock area abutting Circular
Garden reach Road covering an area of approximately 10,000 sq. ft.

2. The above storage facilities shall be given on lease by the Commissioners for the Port of Calcutta (hereinafter referred to as the Commissioners) to an Undertaking incorporated in accordance with the relevant Indian laws and designated by His Majesty's Government of Nepal for this purpose. Such an Undertaking is hereinafter referred to as the Lessee.

3. The terms of the leases to be entered into between the Commission and the "Lessee" shall conform to "Long-term Lease Godown" and "Commercial Lease- Land-long term" of the Commissioners. The leases will be for twenty-five years.

4. The lease rent shall be determined in accordance with the Schedules of Sent Charges as determined by the Commissioner in missing from time to time.

5. The transit cargo shall be subject to the levy of all charges by the Commissioners in accordance with their Schedule of Charges in force from time to time. The transit cargo shall also enjoy the same facilities as non transit cargo in regard to free period as is provided in the Commissioners schedule of Charges.

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6. Lessee would be permitted to own and/or operate at number of trucks and barges in the Port Area in connection will 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.

7. The owner of goods 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 manner as may be necessary to prevent loss or deterioration or damage to the goods.

8. The warehouses shall function during the normal working hours under the supervision of officers to be provided by the Calcutta Customs House. Where, however, such functioning is necessary outside the office hours, officers for supervision would be provided by the said Custom House on payment of the prescribed fees.

IV. With reference to Article XII :

All traffic in transit shall -

(i) pass only through one of the following routes:

- (a) Calcutta Galgalia
- (b) Calcutta Jogbani
- (c) Calcutta Bhimnagar
- (d) Calcutta Jayanagar
- (e) Calcutta Raxaul
- (f) Calcutta Nautanwa
- (g) Calcutta Barhni
- (h) Calcutta Nepalganj Road
- (i) Calcutta Gauri-Phanta
- (j) Calcutta Banbasa

Provided that fertilizers imported by Nepal shall be allowed to pass through any other agreed route after prior intimation to the Indian Customs Officers. Provided further that these routes may be discontinued or new ones added by mutual agreement.

- (ii) comply with the procedure as set out in memorandum annexed hereto;
- (iii) Comply with any other detailed regulations which may be prescribed in mutual consultation by the Contraction Parties.

2. Wherever enroute it becomes necessary to break bulk in respect of consignments in transit such breaking shall be done only under the supervision of the appropriate Officer of the Indian Customs.

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3. All goods intended for removal in transit to Nepal while in the process of removal to or from the warehouses or other store places that may be leased out in Calcutta port for the storage of such goods and also which 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.

3. Except in the case of :-

(i) goods financed by authorized investment from abroad;

4. Except in the case of :-

(i) goods financed by authorised investment from abroad;

(ii) goods imported under official foreign aid;

(iii) bonafide gift and personal baggage;

(iv) goods authorised to be financed from foreign exchange held abroad by the nationals of the respective Contracting Parties.

Imports from third countries will not be permitted by His Majesty's Government of Nepal and facilities for movement of traffic in transit to Nepal shall not be available in respect of any goods unless foreign exchange has been specifically authorised by His Majesty's Government of Nepal for their import. His Majesty's Government of Nepal will not issue any import license on the basis that the foreign exchange required for it will be arranged by the importer himself.

5. The Procedure in the foregoing paragraphs including the Memorandum forming part of 1(ii) above shall apply mutatis mutandis to road transport with the following modifications:

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

(b) The trucks shall have a pilfer-proof container riveted to its body which is capable of being locked and sealed, The trucks shall be locked by locks of Indian Customs.

(c) The individual packages shall be sealed by Indian Customs.

(d) Laws and regulations of State Governments through which trucks move shall be fully applicable.

(e) If the trucks breaks down the nearest Customs Officer shall be approached with least possible delay.

(f) Any other modification that may be considered necessary after the procedure for road transport has been in operation for a period of 3 months.

V. with reference to Article XIII:

It is 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 travelling from one part of Nepal to another through Indian territory, the Government of India shall describe a simplified procedure in respect of such articles of baggage and the Government of India may specify as being likely to be retained in India having regard to the difference in prices in Nepal and

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India and other relevant factor For other articles of baggage accompanying a passenger, movement shall be freely allowed.

VI. The objective of Article XIV is to prevent deflection of the mutual trade of the Contracting Parties to third countries and to deal effectively with attempts to abuse the freedom of transit across the territory of either Contracting Party and with attempt to circumvent their respective foreign exchange and trade control laws, rules and regulations.

In pursuance of the aforementioned objective, the Contracting Parties will effectively co-operate in the following ways:

1. The Contracting Parties will take steps to ensure that the products of either Contracting Party do not get re-exported to third countries from the territory of the other. With that aim in view, that will inter alia :

(a) adopt appropriate measures so as to limit the exports to third countries to goods produced in their respective countries;

(b) prohibit and take appropriate measures to prevents import from the territory of the other Contracting Party of goods the exports of which from the other Contracting Party to its territory is prohibited.

2. With a view to prevent abuse of the freedom of transit by interested elements, the Contracting Parties shall inter alia-

(a) regulate import of baggage (accompanied and unaccompanied) and gifts, allowed for bonafide personal requirements to ensure that consumer articles are imported in such reasonable quantities and values as will not be an inducement to diversion of such goods to the market of the other Contracting Party;

(b) Take steps to ensure that all Imports, except the following are covered by appropriate foreign exchange authorization from its Central Bank;

(i) Bonafide personal baggage and gifts;

(ii) Goods imported under official foreign;

(iii) Goods financed by authorised investment from abroad; and

(iv) Goods authorised to be financed from foreign exchange held abroad by the nationals of the respective Contracting Parties.

3. Appropriate agencies of the Controlling Parties shall;

(a) compile statistical and other information relating to the objective mentioned in Article XIV and make these statistics and information available to each other;

(b) exchange information regarding the measured taken by either Contracting Party in pursuance of the objective mentioned above;

(c) hold periodical consultation with a view to remedying inadequacies that may be found in

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statistical and other information which is exchanged and in the measured adopted for achieving the objectives and Article XIV

(d) Identify procedures, which will help in the prevention of the deflection of trade.

4. Appropriate investigation and enforcement agencies of the Contracting Parties shall develop mutual contact and cooperation, with a view to improving the efficiency of their respective investigations into allegations concerning offences against laws, rules and regulations relating to foreign exchange and foreign trade prevailing in their respective countries,. In particular, the Customs Authorities of the two countries will hold periodical consultations with a view to curbing effectively deflection of trade between the two countries. On the basis of these consultations and recommendations, the Contracting Parties will take appropriate measures, including establishment of Special Vigilance Units, in their respective countries.

5. The Joint Committee envisaged under Article XVII shall;

(a) Consider the results of mutual contact and co-operation referred to in paras 2, 3 and 4 above and resolve satisfactorily and speedily difficulties and problems as may arise in the implementation of the Treaty and suggest any further measures necessary to achieve the objective for the consideration of the Contracting Parties.

(b) review the steps taken and suggest such further action as might be necessary to secure the efficiency of mutual contact and consultations;

(c) Consider all such matters as might be deemed to be necessary for the effective implementation of Article XIV.

VII. With reference to Article XVIII:

It has been agreed to establish a Joint Review Committee, hereinafter referred to as the “Joint Committee”.

2. The Governments of India and His Majesty's Government of Nepal will nominate a senior officer each to serve on the Joint Committees. Such other officials, as may be required, from time to time will assist them.

3. The Joint Committee shall meet in the months of January, April, July and October every year alternately in New Delhi and in Katmandu, to secure harmonious and effective implementation of the provisions of the Treaty. If for some reasons, the Committee con not meet in a scheduled month, the leaders of the two Contracting Parties shall inform their Governments and take immediate steps to hold a quarters consecutively, the Contracting Parties shall meet and hold quarters consecutively, the Contracting Parties shall meet and hold discussions and may give such directions for timely holding of the meetings of the Joint Committee, as they may deem fit. The Joint Committee will inter alia ensure:

(i) that market possibilities and resource endowments are identified and steps taken to further the growth of mutual trade;

(ii) that difficulties, if any, in the supply of goods to each other are resolved to the mutual satisfaction of the Contractions Parties;

(iii) that items imported from the territory of one Contracting Party into the other are accorded the

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most-Favoured-Nation treatment as also such other preferences as have been given in terms of the Treaty;

- (iv) that the restrictions maintained or introduced in providing access to the market of either Contracting Party are consistent with the provisions of the Treaty;
- (v) that there is smooth flow of 'traffic in transit' through the agreed routes;
- (vi) that there is effective co-operation in the prevention of infringement and circumvention of foreign exchange and foreign trade regulations of either Contracting Party;
- (vii) that there is effective cooperation between the appropriate agencies of the Contracting Parties in terms of the provisions in the Protocol relating to Article XIV; and
- (viii) that difficulties which may be experienced are resolved expeditiously and satisfactorily to the mutual benefit of the Contracting Parties.

MEMORANDUM

Katmandu, 13 August, 1971

In pursuance of and subject to the provisions of the Protocol to the Treaty of Trade and 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 Custom House):

1. (a) Transit of consumer goods and specialized materials for consumer goods imported for Nepal shall be allowed against import licenses issued by H.M.G.

NOTE I. His Majesty's Government will arrange to supply through the Indian Embassy at Katmandu to the Collectors of Customs concerned, the specimens signature of the office/officers who sign Nepal Government Import licenses. It will also arrange to have one copy each of import licenses issued by it for such goods, sent direct to the Collector of Customs concerned.

This requirement will not apply in case of goods for the import of which into Nepal no license is required under the Laws of H.M.G. of Nepal.

- (b) In case of goods other than those referred to in (a) above, the Royal Nepalese Consul General or Consul 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 here in have been permitted to be imported by His Majesty's Government of Nepal under License No.....dated.....and that the requisite foreign exchange for the import of these goods has been authorised under Nepalese Raster Bank Authorisation No.....dated.....”

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

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- (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 package.
- (d) Country of consignment/foreign, if different.
- (e) Description of goods.
- (f) Quantity of goods.
- (g) Value of goods.
- (h) HMG's imports licence No. And Date.
- (i) Route of transit.
- (j) A declaration at the end in following words ; "I/We declare that the goods entered herein are for Nepal in transit through India and shall not be diverted en-route to India or retained in India"
"I/we declare that all the entries made herein above are true and correct to the best of my/our knowledge and belief. (Denature)"

3. The importer shall book the goods at Railway Risk rate, and in cases where such booking is not accepted by the Railways, shall insure the goods. The amount for which the goods are booked or insured shall be equal to the market price of such goods in India with a stipulation that in the event of the goods specified in the customs Transit Declaration not reaching Nepal, the c.i.f. price of the goods shall be payable to the importer and the balance amount to the collector of Customs, Calcutta; proceeded that no such requirement will be necessary in respect of goods carried by air without transshipment. En-route or in such cases as may be mutually agreed.

4. The Customs Transit Declaration shall be made in quadruplicate, All copies along with Nepal Import Licence so presented shall be compared by the Custom House with the copy received directly from H.M.G. of Nepal.

5. Consumer goods and specialized materials for consumer goods must be removed to Nepal shed within three days of unloading thereof if not already put in wagons.

6. The Custom 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 license, wherever such licence is required. Goods for Nepal as are covered by the said licence and are also in accordance with the Custom transit Declaration shall be approved for onward transmission.

This right of examination shall bet be exercised in the case of goods imported by their Majesties and members of the Royal family for their personal use.

NOTE : The percentage examination referred to here means that a percentage of the total package in a consignment will be selected for examination and not that a percentage of the content of every one of the packages comprised in a consignment will be made.

7. Except during a transitional period of three months of such extended period as any be mutually agreed, traffic in transit shall be transported from the Customs port of entry to the border post in closed railway wagons or in pilferproof 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 duly sealed after the above examination. Individual packages in such wagons or containers shall not be sealed

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except where consumer goods or specialized 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 up to the last town on the border.

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

9. After the Custom 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 the importer. The duplicate and triplicate will be sent by post to the Indian Border Customs Officer and the quadruplicate shall be retained by the custom House.

10. In case of any suspicion of pilferage, traffic in transit shall be checks by the Indian Customs during the period that they are in transit as may be necessary, Particularly at the point of railway transshipment from broad-gauge to meter-gauge.

11. On arrival of the goods in transit at the border railway stations 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 office, who shall compare the original copy with the duplicate and triplicate received by him by post 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 will endorse all the copies of the Declaration. In cases where the seals the packages are not intact, or there is suspicions otherwise, he may examine the contents. The Indian Customs Officers shall hereafter the goods cross the border and reach. Nepal. He, or in cases where there is an Indian Customs Officer posted right at the border, such officer will certify on the copies of the Customs Transit Declarations that the goods have crossed into Nepal. The Indian Customs officer shall then hand over the original copy of the Customs Transit Declaration to the importer, send the duplicate to the Indian Customs House at the export 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.

12. 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.

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

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14. The Nepalese Customs Officer shall :

- (I) endorse a certificate over signature and authenticate it under customs stamp on the original copy of the Nepal import license 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 license and that the goods have been cleared from Nepal import license 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 license to the importer or his agent;
- (iii) return the triplicate copy duly endorsed to the authorized officer of Land Customs and Central Excise after the goods have crossed the Nepalese border customs post.

15. 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 Central Excise and the Nepalese Customs Officer to the effect that the goods have crossed in to 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 of importation, or such extended time as the Assistant Collector of Customs might allow. For every week or part there of delay in presenting the original Customs Transit Declaration duly certified as above the importer shall pay a sum of rupee one 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 border shall furnish the following certificate on the Customs Transit Declaration:

“I have verified that the goods pacified 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 license 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 Post 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) H.M.G's Export License 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:

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“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 en-route to India or retained in India.”

“I/We declare that all the entries made above are true and correct to the best of my/our knowledge and belief.

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 en-route having regard to the duty and restrictions, if any, to which they are liable on import into India;
- (iii) goods are such as are dutiable or prohibited or subject to import regulations including quantitative restrictions when imported into India from Nepal;
- (iv) 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 copies of the Customs Transit Declaration. He shall hand over the original copy to the exporter and will send the duplicate and triplicate by post to the Collector of Customs, Calcutta. The quadruplicate shall be retained by him.

5. In respect of goods specified in sub para(ii) of paragraph 3 above, the exporter shall book the goods at Railway Risk rate, and in case where such booking is not accepted by the Railway, will insure the goods. The amount for which the goods are booked or insured shall be equal to the market price of such goods in India with a stipulation that in the event of the goods specified in the Customs Declaration not being exported from India, the c.i.f. price of the goods at the Indian border station shall be payable to the exporter and the balance amount to the Indian Customs Officer in charge of the Indian Border Station; provided that no such requirement will be necessary in respect of goods carried by air without transshipments en-route or in such cases as may be mutually agreed.

6. Except during a transitional period of three months or such extended period as may be mutually agreed, 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 pilferproof containers (to be provided by the exporters) 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 Officers.

7. Where the goods can not be sent in closed wagons and have to be transported in open wagons or boats detailed description, particulars and specifications there of shall be recorded in the Customs Transit Declaration.

8. After the Indian Customs Officer at the border is satisfied as regards the checks contemplated in the preceding paragraphs, he shall endorse all the copies of the Declaration and where sealing has been done, give the necessary indication there of on the relevant Customs Transit Declaration,. And allow the movement of goods to Calcutta port. He shall hand over the original copy of the

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Declaration to the exporter, send the duplicate and triplicate by post to the Collector of Customs, Calcutta and retain the quadruplicate copy with him.

9. In the case of any suspicion of pilferage, the goods pacified 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 pint of Railway transshipment from meter-gauge to the 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 customhouse. This copy shall be compared by the customhouse with the duplicate and triplicate received by it from the border. In case of goods, which have moved under seals and locks, the Custom 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 Custom House is satisfied about the identity of the goods, 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 Customhouse 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 Officer and retain the duplicate.

NOTE: This procedure or the facilities contemplated under this will not apply to goods originating in India.

EXCHANGE OF LETTERS

His Majesty's Government of Nepal

August 13, 1971

EXCELLENCY,

In the course of the discussions, which resulted in the conclusion of the Treaty of Trade and Transit between the Government of India and His Majesty's Government of Nepal, which was signed today, the following understanding was reached.

(1) Among the commodities to be made available to each other, in terms of Article I, the following have been identified as of importance.

- (a) Petrol, kerosene, diesel oil, coal and corrugated iron sheets to Nepal; and
- (b) Sleepers used by Railways, Semul and other softwood used by the match industry, magnetite and rice to India.

(2) With reference to Article III, the movement, as hithertofore, of Nepal's rice within India will be free throughout the country, subject total normal procedural measured of obtaining permits where necessary under the Movement Control Orders in force from time to time in India and for determining that the rice sought to be moved is rice of Nepalese origin. If, at a future date, the Government of India decide to canalize all imports of rice in India through an agency or agencies specified for the purpose, it is the understanding that rice from Nepal will be accorded the most-favoured consideration in the matter of purchase and import restrictions and the arrangements set out above may be modified to the extent necessary after consultation with His Majesty's

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Government of Nepal

(3) For Nepal to develop and diversify her trade within the region, overland routes will be provided to Nepal through regional or sub-regional cooperation agreements when mutually satisfactory trade and transit arrangements between Indian and other regional member countries concerned take place.

(4) The Government of India will arrange with the Commissioners for the Port of Calcutta to make land in Halide available, for the construction of facilities for the storage of transit cargo, on terms similar to those in Calcutta and for the maximum period of least possible. The operational arrangements for the facilities will be mutually agreed, in due course, between the Contracting Parties

2. I shall be grateful if you would kindly confirm that the above correctly set out the understanding reached between us.

Accept, Mr. Minister, the assurances of my highest consideration.

Yours sincerely,

SD /-

NAVA RAJ SUBEDI

Minister of Industry & Commerce

Shri L.N.MISHRA

Minister of Foreign Trade,

Government of India.

Government of India

August 13, 1971

EXCELLENCY,

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

[Not Reproduced}

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

Accepts, Excellency, the assurances of my highest consideration.

Yours sincerely,

SD /-

L.N. MISHRA

Minister of Foreign Trade

Shri NAVA RAJ SUBEDI,

Minister of Industry and Commerce,

His Majesty's Government of Nepal.

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Source: [India Bilateral Treaties & Agreements \(Volume 1\)](#)