

**TREATY¹ OF TRADE BETWEEN THE
GOVERNMENT OF INDIA AND HIS
MAJESTY'S GOVERNMENT
OF NEPAL
New Delhi, 17 March 1978**

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

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

For the Government of India
Shri MOHAN DHARIA,
Minister of Commerce,
Civil Supplies and Cooperation

For His Majesty's Government
of Nepal
Shri PITAMBER DHOJ KHATI,
Minister of Commerce and Industry

1. Came into force on 25 March 1978.

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 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 duty and quantitative restrictions to the maximum extent compatible with their development needs and protection of their industries.

Article VII

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 VIII

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 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 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 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 25th March 1978 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 Nepali, Hindi and English languages, all the texts being equally authentic, at New Delhi on the 17th day of March 1978. In case of doubt, the English text will prevail.

Sd/-

For the Government of India

Sd/-

For the Government
for His Majesty's Nepal

PROTOCOL

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 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 shakhar),
 5. Animal, 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 oil-cakes,
 10. Ayurvedic and herbal medicines,
 11. Articles produced by village artisans as are mainly used in villages,
 12. 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 measure which it may deem necessary on the exportation of primary products to the other.

V. With reference to Article V :

1. The Government of India will provide access to the Indian market free of "basic" customs duty and quantitative restrictions, generally, for all manufactured articles which contain not less than 80 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 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 eighty 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.
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 will be agreed upon mutually.
5. It is also the understanding that pending mutual agreement on procedures as envisaged in para (4) above, a list of articles produced in Nepal appended as Annexure "B" would be exempt from "basic" customs duty and quantitative restrictions for import into India. The list will be subject to periodic joint review as and when required.
6. In the case of other manufactured articles in which the value of Nepalese and Indian materials and labour added in Nepal is at least 50 per cent of the ex-factory price, the Government of India will determine the articles on case by case basis

eligible for following preferential treatment in the Indian market :

- (a) barring exceptional circumstances, exemption from quantitative restrictions, and/or
 - (b) tariff concessions at least to the extent of 50 per cent of the MFN rate of import duty where the value added in such articles is less than 80 per cent but more than 50 per cent 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 50 per cent 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. Exports of articles eligible for preferential treatment in accordance with above mentioned paragraphs 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.
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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/Nirmali
7. Siraha, Janakpur/Jayanagar
8. Jaleswar/Bhitamore (Sursand)
9. Malangwa/Sonabarsa
10. Gau/Bairgania
11. Birgunj/Raxaul
12. Bhairahawa/Nautanwa
13. Taulibhawa/Shorethgarh
14. Krishnanagar/Barhni
15. Koilabas/Jaruwa
16. Nepalgunj/Nepalgunj Road
17. Rajapur/Katerniyaghat
18. Sati (Kailali)/Tikonja
19. Dhangadhi/Gauriphanta
20. Mahendranagar/Banbasa
21. Mahakali/Jhulaghat (Pithoraghar)

ANNEXURE "B"*NEPALESE INDUSTRIAL PRODUCTS ELIGIBLE FOR
PREFERENTIAL TREATMENT IN INDIA.***B-1 Cereal and Flour Preparations**

- B-1-1 Biscuits, loaves, cakes, pastry and other bakery products
- B-1-2 Noodles and spaghetti
- B-1-3 Cornflakes
- B-1-4 Malt

B-2 Oil and Oil Extracts

- B-2-1 Solvent extracted oil
- B-2-2 Essential oil and perfumes
- B-2-3 Vegetable ghee

B-3 Vegetable Products

- B-3-1 Canned vegetables
- B-3-2 Canned soup
- B-3-3 Chutney and pickles (canned and bottled)
- B-3-4 Starch and glucose

B-4 Fruit Products

- B-4-1 Fruit juices, syrups and squashes
- B-4-2 Jam, marmalade and fruit jellies
- B-4-3 Bottled or canned fruits
- B-4-4 Other tinned or packeted fruit preparations.

B-5 Dairy Products

- B-5-1 Ghee canned
- B-5-2 Butter (package)
- B-5-3 Cheese

B-6 Meat Preparations

- B-6-1 Tinned and packed meat and meat preparations
- B-6-2 Meat essence

B-7 Sugar and Sugar Preparations

- B-7-1 Sugar
- B-7-2 Sugar-candy
- B-7-3 Syrup
- B-7-4 Sugar confectionery and other sugar preparations

B-8 Beverages

- B-8-1 Ice and ice-cream
- B-8-2 All other non-alcoholic beverages

B-9 Confectionery

- B-9-1 Confectionery, excluding chocolate

B-10 Tobacco Products

- B-10-1 Cigar
- B-10-2 Bidi
- B-10-3 Tambakhu
- B-10-4 Zarda
- B-10-5 Other manufactured tobacco

B-11 Forestry Products

- B-11-1 Wooden Furniture
- B-11-2 Plywood
- B-11-3 Rosin and turpentine
- B-11-4 Catechu and tannin
- B-11-5 Bamboo products
- B-11-6 Wooden parkets
- B-11-7 Chip-board and particle board
- B-11-8 Card-board and other board
- B-11-9 Paper

B-12 Glass and Straw Products

- B-12-1 Straw board
- B-12-2 Other grass and straw products

B-13 Leather and Leather Products

- B-13-1 Tanned skin and hides
- B-13-2 Shoes
- B-13-3 Purses
- B-13-4 Bags
- B-13-5 Other leather products.

B-14 Mining

- B-14-1 Lime
- B-14-2 Bricks, tiles, pipes and other building materials made of clay, stones and cement.
- B-14-3 Pottery
- B-14-4 Chalks and Chalks powder
- B-14-5 Slate
- B-14-6 Magnesite
- B-14-7 Marbles

B-15 Handicrafts and Artistic Good

- B-16 Cattle Feed and Fodders

B-17 Glass and Glass Goods

- B-17-1 Glass bottles and tumblers

B-18 Soap

- B-18-1 Laundry and toilet soap

B-19 Jute Products

- B-19-1 Hessian
- B-19-2 Sacking
- B-19-3 Twine
- B-19-4 Other jute products

B-20 Match B-21 Metal Products (furnitures, cabinet etc.)**B-22 Textiles**

- B-22-1 Readymade garments (cotton)

B-23 Miscellaneous

- B-23-1 Precipitated calcium carbonate
 - B-23-2 Tooth paste.
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