

Meeting of Nepal-India Inter-Governmental Sub-Committee (IGSC) on Trade, Transit and Cooperation to Control Unauthorized Trade Held at Kathmandu on

24-25 April 2018

Major Points in Agreed Minutes:

1. Nepal-India Inter-Governmental Sub-Committee Meeting on Trade, Transit and Cooperation to Control Unauthorized Trade was held on 24-25 April, 2018 in Kathmandu. The Nepali Delegation was headed by Mr. Rabi Shanker Sainju, Joint Secretary, Ministry of Industry, Commerce and Supplies, Nepal. The Indian Delegation was headed by Mr. Bhupinder S. Bhalla, Joint Secretary, Department of Commerce, Ministry of Commerce and Industry, India.
2. Leader of the Nepali delegation, Mr. Sainju, extended a warm welcome to the Indian delegation to the IGSC meeting and expressed hope that the meeting will help both sides to review the status of implementation of earlier agreed minutes as well as to give a push for effective implementation of some of the decisions of previous meetings which are still pending. He viewed that the meeting provides opportunities to both sides to have a free and frank discussion on pertinent issues on promoting bilateral trade, smoothening transit facilities as well as resolving problems and challenges encountered on trade and trade related matters. While commending the increasing trade relations between Nepal and India, he outlined the need to enhance Nepal's export capacity to reduce ever growing trade deficit through removing tariff and non-tariff barriers as well as building infrastructures required for facilitating trade and transit. He said that reducing the trade gap is a must to have a sustainable and balanced trade between Nepal and India.
3. The leader of Indian delegation, Mr. Bhalla, in his opening remarks thanked the Nepali side for extending a very warm welcome and hospitality to the Indian delegation for the meeting. He suggested that the meeting of the IGSC could be held at regular intervals so that all trade and investment issues could be discussed expeditiously. He also said that India is willing to work with Nepal in enhancing its exports to India. He pointed out that India has endeavoured to consolidate all earlier Letters of Exchange in a single document, for ease of reference for both the sides, a draft of which has been shared with Nepal. He emphasized that India and Nepal are important neighbours and have a deep trading and cultural relationship, and hoped that the deliberations during the meeting would help in further deepening and strengthening of the trading relationship.

Upon adoption of the agenda, both sides discussed in following agenda items.

4. Trade Infrastructure Issues:

- i. Upgrading Customs, infrastructure, logistic and other cargo movement facilities at Panitanki Border Point on Indian Side:**

Nepali side highlighted that there are modern facilities including sufficient parking space in the ICD at Mechi Customs premises on Nepali side of the border. Since there is no such infrastructure and facilities and parking space developed at Panitanki Customs on Indian side of the border, there has always been long queues of loaded trucks and containers over the Mechi bridge – leading to a high risk of collapse of the bridge, and it has also caused immense trouble to other passenger vehicles and pedestrians. In view of this, Nepali side requested the Indian side to consider building a new modern customs office with adequate parking space and modern amenities at Panitanki.

The Indian side informed that land has been identified for the development of an Integrated Check Post (ICP) at Panitanki which will have facilities for Customs clearance, immigration, plant quarantine with other attendant facilities such as adequate parking, banking facilities etc.

ii. Development and operationalization of ICPs: Birgunj-Raxaul, Biratnagar-Jogbani, Bhairahawa-Sonauli, and Nepalgunj -Rupaidiha (Nepalgunj Road):

While appreciating India for its support to construct Integrated Check Posts (ICPs) in the four border points to facilitate bilateral trade and transit cargo, Nepal thanked Government of India for completing Birgunj-Raxaul ICP which came into operation from 7th April 2018. Biratnagar ICP is still under construction, and development of ICP at Bhairahawa-Sonauli and Nepalgunj-Rupaidia (Nepalgunj Road) is yet to start. The Nepali side requested the Indian side to expedite the construction of Biratnagar-Jogbani ICP at the earliest and to start the construction of ICPs in the remaining border points.

The Indian side mentioned that ICP Jogbani is already operational. It was also intimated that the link road from ICP Jogbani to Biratnagar ICD will be ready by June 2018. The cargo trucks should be allowed to utilise the road to move from ICP Jogbani to Biratnagar ICD, to avoid congestion at Jogbani and reduce the transaction cost. Considering the experience at ICP Raxaul and Jogbani, it was suggested by the Indian side that the development of ICPs at Bhairahawa-Sonauli and Nepalgunj-Rupaidia should be synchronized and the construction should start at the same time.

iii. Upgrading and maintenance of roads connecting borders on Indian side especially at Jogbani, Raxaul, Nautanwa, Nepalgunj Road:

The Nepali side expressed concerns that in majority of border crossing-points on the Indian side, roads within a range of 15-20 KM are in poor condition both in terms of size and status. It has made the transportation cost unnecessarily expensive for Nepal's

cargo. In view of growing trade transaction and movements of cargo vehicles, it is necessary to upgrade and maintain roads connecting the borders to reduce traffic congestion and delay in vehicle movements. Nepali side further stated that due to lack of flyover on the railway crossing in Raxaul and pathetic condition of the old bridge at Mirgunj (Jogbani), the routes often do face heavy traffics and delays in cargo movements. At the same time, the railway station and yard at Raxaul and Jogbani are also in poor condition which entail additional cost and time for Nepal's cargo. In view of these, the Nepali side requested the Indian side to improve road infrastructures at these borders points, construct flyover at Raxaul, build a new bridge at Mirgunj and develop rail yards in Raxaul and Jogbani.

The Nepali side highlighted problems being faced by Nepali importers due to heavy congestion and long queue in Birgunj customs point. In view of this, the Nepali side requested the Indian side to consider new modality that would help cargo clearance and facilitate vehicular movement. The Nepali side also mentioned that long queue and pendency of cargo trucks are common in Sonauli and other routes. In view of this, the Nepali side requested the Indian side to consider improving infrastructure facilities on the Indian side so that congestion issue is addressed permanently and effectively. On the issue of improving road and other trade and transit infrastructures such as road, parking yard, within 15 to 20 km range in Indian side, the Indian side responded that several improvement works are underway at present. Regarding the construction of flyover in Raxaul, the Indian side informed that cargo vehicles do not need to cross Raxaul town once ICP Raxaul-Birgunj comes into full operation. It was also informed that the congestion will also be reduced upon full operationalization of the ICP.

The Indian side informed that 4-laning of Forbesganj-Jogbani Section of NH-57A (9 km) is being implemented, which also includes construction of a new bridge on river Parman. The retrofitting of the old Mirgunj bridge has been done as an interim measure.

The Indian side again informed that ICP is being planned to be developed at Sonauli, which will resolve the deficiency in infrastructure.

iv. Establishment of ICD/ICP at Dodhara-Chandani (alignment of customs and road facilities):

The Nepali side informed that it has initiated building an Inland Container Depot (ICD) in Dodhara-Chandani in view of its growing trade importance and to link the farwestern part of Nepal with the western ports of India.

The Nepali side recalled that in pursuance of the decision of the IGC meeting held in 2016, a joint inspection has been carried out to identify an appropriate location for the

ICD in Dodhara-Chandani. Following the inspection, both sides agreed that feasibility of developing infrastructure at alternative sites 1 and 3, and any other feasible location, would be expeditiously examined by the Indian side, in consultation with concerned stakeholders for development of ICP/ICD at Dodhara-Chandani. It was stated that the Indian side agreed to expedite the process of identifying the appropriate location considering the alternatives proposed by the Nepali side.

Following the inspection, both sides agreed to align necessary infrastructure such as new bridges, railway and road networks wherever needed for trade facilitation between the two countries and to open new transit access to Western ports of India for Nepal. The Nepali side further stated that as per the site inspection, Kanchabhoj seems to be the most feasible location to construct the ICD as it is near to Khatima railway station and where land acquisition is relatively easier.

The Indian side informed that a follow up inspection of the locations for setting up of ICP at Banbasa was carried out by Land Ports Authority of India on 16th-17th April 2018. It was found that in addition to the location suggested during the joint inspection, an alternative location was identified, for which the details would be shared soon with Nepali side.

v. Infrastructure development at border trade points

The Indian side stated that on request of Nepal, Central Board of Indirect Taxes and Customs (CBIC) had notified Sikta-Bhiswa Bazaar as an agreed trade route under the Treaty of Trade. However, Bhiswa Bazaar chotibansar on Nepali side lacks requisite infrastructure and needs up-gradation. It was further informed that CBIC has also notified Kakrawah and Valmikinagar as Land Customs Stations, along India-Nepal Border. India had earlier requested for up-gradation of infrastructure on Nepali side at Karida and Triveni Bazaar, which correspond to Kakrawah and Valmiki Nagar. The requests for up-gradation were also raised during the 18th Customs DG level meeting, held in October 2017.

The Indian side informed that the up-gradation is yet to take place and requested Nepal to expeditiously upgrade chotibansars at Bhiswa bazaar, Karida and Triveni Bazaar, to resolve the infrastructural deficiencies existing at these locations.

The Nepali side took note of the proposal.

vi. Joint Survey of proposed new trade routes

The Indian side had requested Nepal to examine the possibility of establishment of Land Customs Station (LCS) at Kwadi (India) - Mayaganj (Nepal) ,Dighal Bank (India)-Jhapa (Nepal) and Jharokhar (India)-Bankul (Nepal), in view of the non-

availability of LCSs at nearby places. In the 18th DG level meeting, both sides agreed to conduct a joint survey for exploring the possibility of such establishment. In the DG level meeting Nepal was also requested to identify suitable dates for the survey. The Indian side mentioned that the survey is yet to take place and requested Nepal to indicate the dates for the joint Inspection, so that the joint survey may be conducted at all the three locations.

The Nepali side took the proposal positively and agreed to form a joint survey team.

vii. Extension of Railway line up to Belahiya and Biratnagar, the proposed ICP construction sites in Nepal:

The Nepali side stated that Sonauli–Belahiya and Jogbani-Biratnagar are two important trading points for cross border trade between Nepal and India in western and eastern part of Nepal respectively. Considering the importance of the points and increasing trade flows from these points, Government of India is supporting to construct ICPs in these points. In view of this, Nepali side requested the Indian side to include construction of railway lines up to both ICP locations.

The Indian side informed that at present, broad gauge rail connection between India and Nepal exist between Raxaul (India) and ICD, Birgunj(Nepal) only. In addition to this link, in order to give additional connectivity between India and Nepal, following survey works have been taken up and completed: -

- (i) Jogbani to Biratnagar (18.60 Km)
- (ii) Nepalganj Road to Nepalganj (12.11Km)
- (iii) Nautanwa to Bhairahwa (15.30 km)
- (iv) New Jalpaiguri to Kakrabitta via Panitanki (70 Km)
- (v) Gauge conversion of Jainagar to Bijalpura (52 Km) into BG and extension of the same to Bardidas (17Km)

The Indian side requested Nepali side to take early actions on the pending issues to expedite the construction of rail link between Jogbani Biratnagar and Jainagar Bijulpura Bardibas.

Trade Issues:

- i. Development and up-gradation of Customs entry points**
 - a. Establishment of full-fledged Customs offices with all border facilities at Panitanki, Rupaidiha, and Banbasa:**

To facilitate the growing trade volumes, the Nepali side reiterated its past request for setting up of full-fledged customs offices (with deputation of the Assistant Commissioner) equipped with modern technology and banking facilities at Panitanki, Rupaidiha and Banbasa customs points. Nepal also requested to address some of the procedural constraints at Panitanki, Rupaidiha and Banabasa border

customs points. The Nepali side mentioned that due to lack of modern technology and full automation of the system in Rupaidiha and Banbasa, clearance of cargo is done manually, therefore, it requested the Indian side to improve the system further and bring them into full automation.

The Indian side informed that at Panitanki, the Customs office is headed by an Assistant Commissioner. As regards, Rupaidia and Banbasa LCS, the office is headed by a Superintendent of Customs. There is however no delay in the clearance of consignments and the Assistant Commissioner who is stationed at Barielly visits at regular intervals. It was also informed that EDI facilities at Rupaidia and Banabasa LCS is being planned.

b. Up-gradation and full operationalization of Dhangadhi-Gauriphanta, Guleria-Murthia/Rajawanwa, Jatahi-Pipraun and Pashupatinagar-Sukhiapokahri agreed trade routes/entry points:

The Nepali side stated that in view of increasing local economic activities in the areas, up-gradation and better utilization of these trade routes have become essential. There is growth in import as well as export in these areas in the recent years. The trade routes along National Parks/Sanctuary may be alternatively re-routed. For example, Guleria-Murthia may be altered with Guleria-Rajawanwa. In absence of sufficient capacity of Customs Offices, those offices are not fully functional.

Recalling the agreement between the Prime Ministers of Nepal and India in New Delhi in August 2017 to take steps for early up-gradation and operationalization of these agreed trade points, Nepali side reiterated its request for up-gradation and full operationalization of these trade routes at the earliest.

The Indian side informed that the proposed site of Guleria-Murthia trade point is situated within the reserved forest of Katarniaghat Wild Life Sanctuary and it is not possible to establish a LCS at this location. The Indian side agreed to examine the alternative Guleria-Rajanwa location, upon receipt of specific information such as trade route, maps etc. from Nepal.

It was mentioned that similarly, the proposed site of Dhangadi-Gauripantha lies within Dudhwa national park and accordingly it may not be possible to upgrade the existing LCS.

The Indian side mentioned that Jatahi-Pipraun route was only operationalized for a period of one year and it is not a permanent route. The feasibility of establishing a permanent LCS at this location after completion of gauge conversion of Jainagar to Bijalpura Bardibas project would be examined by the both sides.

The Indian side informed that Sukhiapokahri is already a notified LCS and import from Nepal can utilize this location, if required. Any specific infrastructural deficiency may be brought to notice.

ii. Consultation and communication of competent authorities for the simplification and harmonization on SPS and TBT measures, and support to strengthen Nepali laboratories

The Nepali side proposed to engage competent authorities on SPS, Food Safety & Quarantine and TBT in respective countries for regular consultation and communication at the central or regional levels. Additionally, Nepali side requested the Indian side to support developing standards, quarantine and testing facilities of Nepali laboratories such as DFTQC, NBSM, Department of Drug Administration, Customs labs, Plant and Animal Quarantine related laboratories. Also, Nepali side requested for developing its human resources with inputs of trainings; and information sharing in view of procedural simplification, harmonization, mutual recognition and certification so as to facilitate import and export of agricultural and food products.

On the SPS issues, while recalling that Nepal has sent a draft MoU to FSSAI for recognizing certificate issued by the Government of Nepal's accredited lab, the Nepali side stated that it has yet to receive communication from the competent authorities of India. Nepali side requested the Indian side for its earlier response on this matter. In addition, Nepali side requested the Indian side for necessary directive to FSSAI for notification to recognize the test reports of Central Food Lab, DFTQC on twenty-one food commodities which are within the scope of accreditation by NABL, India on ISO 17025: 2005. The Nepali side also handed over the list of the products. The Indian side took note of the request.

Further, Nepali side made a request to form a Joint Technical Team to identify SPS measures, Food Safety and Quarantine, TBT and other NTM requirements of India and technical gaps in Nepal with a view of identifying the possible areas of extending GoI's technical cooperation to Nepal and thereby harmonizing standards, quarantine, accreditation, inspection and testing facilities and MRA with Nepali laboratories.

In response, the Indian side mentioned that while considering establishing a dedicated Joint Technical Team, it is to be clarified first as to what would be the legal foundation of such team and what kind of products could come under the purview of the technical team. Indian side suggested that both sides should identify priority products to the technical team for further consideration. The Indian side viewed that such technical team could be established on a short term basis, with specific mandate focused on limited number of products.

Following discussion, both sides agreed to establish a Joint Technical Team to examine the SPS/TBT issues faced by the identified priority products and recommend appropriate measures for their resolution.

iii. Issues in export of perishable agricultural and forest products:

a. Agricultural and Horticultural:

The Nepali side raised problems it has been facing while getting clearance of customs of seasonal and perishable products, such as agriculture, horticulture, floriculture and forest produce in exporting to India. Nepali exporters of such products are frequently facing procedural obstacles at Indian Border Customs. In view of this, Nepali side requested to activate the joint mechanism as mentioned in the Protocol to the Treaty of Trade between two countries to facilitate speedy clearance of perishable goods bound to be exported to India.

The Indian side informed that for Customs clearance, perishable goods are given priority. However, certain goods may have an additional regulatory compliance requirement such as clearance from FSSAI, Plant Quarantine, Animal Quarantine etc., which may add to the time taken for clearance.

b. Fresh Ginger:

The Nepali side raised the issue of restriction imposed by India on the import of fresh ginger from Nepal. Due to this imposition, Nepali exporters have been facing problem at Indian LCSs adjoining to Nepal to export fresh ginger. Further, Nepali side informed that ginger export from Nepal is allowed only through Panitanki (Naxalbari) point which has increased the cost of transportation and discouraged Nepal's ginger export. Nepal further stated that as many poor farmers are relying on ginger products for their livelihoods, imposition of restriction on export of fresh ginger could have direct bearings on them. As this provision is not in the spirit of Articles II and IV of the Treaty of Trade which provide for assurance of free and unhampered flow of goods across the border; Nepali side requested India to reconsider issuing a new notification removing the restriction.

The Indian side mentioned the earlier circular was not in consonance with the general restrictions on import of fresh ginger. It was, however, mentioned that the issue is being examined for possible resolution. At Nepal's request, both sides agreed to refer this agenda to the IGC meeting.

c. Transit fees/permission (transit Pass) on medicinal herbs

The Nepali side raised issue concerning requirement of registration by their exporters and to get transit permit by paying fees to the State Government of U.P. for third country export of their medicinal herbs via Uttar Pradesh. Recalling minutes of the IGC 2016, Nepali side requested the Indian side to take necessary initiative for removing all these requirements. The Nepali side further requested to grant the facilities that was extended to its herbal products in the past. In response to Nepal's request, the Indian side informed that "Rosin and turpentine" are considered as forest product in the Forests Produce (Regulation of Trade) Act, 1976 of the UP.

Accordingly, a registration and transit fee is applicable for any movement of such products, as per the law in force.

The Nepali side expressed that several international legal instruments such as GATT Article V, WTO Trade Facilitation Agreement and the Vienna Convention on the Law of Treaties, and even the Article IV of the Treaty of Transit between Nepal and India do not allow to impose such fees in transit. The Nepali side requested India to eliminate such undue fees and charges.

The Indian side took note of Nepal's concern and agreed to examine the issue.

d. Export of Medicinal Herbs to India

The Nepali side requested the Indian side to incorporate the names of some medicinal herbs in its Schedule VII of Plant Quarantine (Regulation of Import into India) Order, of GoI, which are exported from Nepal to India from various land routes. On account of non-inclusion of these exportable herbal/medicinal items in the Schedule VII, they are subjected to various impediments. In view of this, Nepali side requested India to include such Nepali medicinal herbs in the said Schedule.

The Indian side informed that medicinal herbs are placed in schedule VII of Plant Quarantine Order. Indian side further requested Nepali side to submit the requisite information related to the proposed medicinal herbs for consideration.

5. Transit and Rail Services:

i. Opening up of additional rail routes to and from the gateway ports also for bulk cargoes (Kolkata/Haldia and Vishakhapatnam) connecting Biratnagar via Jogbani, Sonauli via Nautanawa, Nepalgunj via Nepalgunj Road :

The Nepali side highlighted the importance of expediting industrialization process in Nepal by availing industrial raw materials in three major industrial corridors, apart from Birgunj-Simara Industrial Corridor, connecting Biratnagar via Jogbani, Sonauli via Nautanawa, Nepalgunj via Nepalgunj Road. In this regard, Government of Nepal has forwarded to Government of India on 19 April 2018, a final draft of the LoE related to Amendment to the Protocols to the Treaty of Transit (with reference to Article VI clause 1 Note (ii) (c)). The Nepali side requested the Indian side for the early adoption of the LoE to enable Nepal to bring bulk cargoes through additional three customs points.

The Indian side informed Nepal that the proposed LoE is being examined expeditiously.

Further, the Indian side mentioned that it has drafted a LoE consolidating all the earlier LoEs, amending the Treaty of Transit and shared it with the Nepali side. It stated that such consolidation will enable ease of reference and implementation at

the ground level. The Nepali side mentioned that it would provide its comments on the consolidated LoE at the earliest.

ii. Rail transportation services for all Nepali cargoes

a. Availability of rakes at all designated Ports for Nepal in India

The Nepali side raised the issue of increasing pendency of large number of containers in Kolkata/Haldia and Vishakhapatnam on account of not having sufficient number of rakes available for Nepal's transit cargo. The Nepali side informed that large number of containers and bulk cargos often have to wait their turn for transit which has incurred additional cost for Nepal bound cargo due to increasing detention and demurrage charges. In view of this, Nepali side requested Indian side to accord high priority to loading of Nepal bound cargo, and to consider early and sufficient allotment of rakes to move Nepali containers timely to and from Kolkata/Haldia and Vishakhapatnam port. In order to ensure smooth movement of Nepal bound traffic/cargo between India and Nepal, the Nepali side requested Indian side to earmark quota system in the allotment of rakes (125 rakes of different categories to start with) similar to that being followed for Bangladesh. The number of rakes will be revised periodically based on demand from the Nepali side.

The Indian side informed that movement of goods traffic directly by Rail to Nepal from Kolkata/Haldia and Vishakhapatnam gateway port via Jogbani-Biratnagar, Nautanwa-Belahiya/Bhaairahwa and Rupaidia-Nepalgunj would require additional rail connectivity in addition to the existing (Raxaul-Birganj) which are at various stages of implementation/development.

Once this rail connectivity is commissioned, the movement of cargo from the designated ports (Kolkata/Haldia/Vishakhapatnam) will be considered by Railways. However, both sides agreed to convene the next comprehensive review meeting at the earliest to address this issue too in a broader perspective as provisioned in the Rail Services Agreement.

b. Allow other Authorized Cargo Train Operators (ACTO) licensed by Indian Railway to take part in rail transportation services for all Nepali cargoes.

The Nepali side appreciated India's railway policy reform that was undertaken since 2014 budget as a core element of economic reforms. Nepal further mentioned that with respect to rendering better services in competitive prices to the people at large, the new policy reform aims to include private sector in high speed trains & high speed rail network, system modernization, improvement in quality and safety measures and infrastructure extension. As a result, many private authorized rail

operators have additionally come into operation in the area of cargo transport services in India, Nepal elucidated.

Pointing out to Article 14 of the Rail Services Agreement (RSA) between Nepal and India which allows only Indian Railways (IR) or Container Corporation of India (CONCOR) to run all trains between Nepal and India, Nepali side raised the issue that it has constrained opportunities for better services for Nepal to enjoy that could be available through private train operators. Due to not allowing private train operators to move container cargoes from Kolkata/Haldia port to Birgunj, Nepali importers have been still paying heavy demurrage and detention charges at and beyond Kolkata Port largely because of existing monopolistic presence of a single operator between Nepal and the ports. In this backdrop, Nepali side requested to Indian side to ensure a fair competition by allowing additional authorized cargo train operators of India to carry out movement of cargo.

The Indian side suggested that this issue may also be discussed in the review meeting under RSA.

iii. Renewal of lease term at Haldia Port allotted to NTWCL:

Recalling the minutes of the IGC meeting, 2016, Nepali side requested for a renewal of lease term of land at Haldia Port allotted to NTWCL for the next 30 years starting from the expiry date i.e. 1st November 2014 without increment of lease rent and the security deposit.

The Indian side informed that renewal of lease may not be possible at less than market rate due to the current rules and procedures of the Government. However, the Indian side took note of Nepal's reiterated request to renew lease term without increasing the rate.

iv. Use of Nepali bank channel to pay railway freight charge

Referring to the Article 21.3 (b) of the RSA, Nepali side mentioned that all the freight charges for cargo originating at Kolkata/Haldia Ports are required to be prepaid at Kolkata. Given that banking system in Nepal has been fully developed and automated as well as it has a good network with Indian banking channel, permitting to Nepali Importer/Exporter to deposit the freight charge in any Nepali Bank in Nepal's territory would save transaction time and cost. Therefore, Nepali side proposed Indian side to add a provision of pre-payment of freight charges also through any Nepali Bank pursuant to the Article 21.3 (b) of the RSA.

The Indian side took note of the issue. It further suggested discussing it in the comprehensive review meeting under the Rail Services Agreement.

v. Liability of Authorized Cargo Train Operators (PCTO)

The Nepali side raised the issue concerning frequent complaints received from Nepali importers with respect to the designated rail operators who do not take responsibility for any mistake and fault on their part. At present, Nepali importers are forced to pay even for the rail operator's inefficiency. In view of this, Nepali side proposed to add a clause with the provision of liability shift to rail operator in the existing the RSA so as to make the operators responsible for their fault and mistake when the cargoes are at their custody.

The Indian side took note of the issue. It further suggested discussing it in the comprehensive review meeting under the Rail Services Agreement.

vi. Waiver of detention, demurrage and parking charges

The Nepali side raised the issues that due to the traffic congestion and heavy business volume at the Kolkata and Haldia Ports, Nepali importers are forced to pay additional cost in the name of detention, demurrage and parking charges. Nepali side further mentioned that it is not worthwhile to shift the burden of liability for delays caused by the ports to Nepali importers. In view of this, Nepali side requested to waive detention, demurrage and parking charges incurred for additional time wherein port is responsible.

The Indian side informed that detention of locomotives and demurrage charges of Railway wagons are levied by Indian Railways as per extant rules. Waiver of these charges is examined by Railways on case to case basis on receipt of proper request from consignor/consignee in this regard. However, no congestion charges are levied by Railways for Nepal bound traffic.

On the issue of waiver of detention/demurrage and parking charges levied by Shipping lines, the Indian side informed that Nepal is allowed a free storage time of 180 days. It was further informed that in terms of trade circular dated 09.03.2018, issued by Kolkata Port Trust, after March 2018 the time period of free storage is extendable even after 180 days, provided the cargo is not cleared on account of non-availability of railway rakes. In respect of container detention charge, it was informed that a free transit period of 21 days is already being allowed.

vii. Electronic exchange of the information between Customs, CTD automation:

While mentioning the utility of correct valuation, classification and quantification of the goods imported at the border for facilitating legitimate trade and for realizing fair duty, Nepali side requested Indian side to initiate electronic data exchange between Customs of two countries. The customs clearance systems of both countries are technically feasible for electronic exchange of information.

Nepali side further requested the Indian side to share the EXIM code for CTD automation in order to facilitate transit services in ports, simplify the process and reduce the time taken in manual CTD systems. Indian side recalled the previous bilateral discussions with system directorate and took the proposal positively. Both sides realized that technical preparation can be initiated but it needs to amend prevailing provision of the Treaty of Trade and Treaty of Transit.

Recalling meeting with Indian counterpart Customs Authorities held in New Delhi recently, Nepali side requested Indian side to consider the piloting of integrating information system at Birgunj ICP.

The Indian side informed that the proposal for electronic exchange of information will be examined after the concept note from the Nepal side is received, as was agreed during the 18th Customs DG level talks held in 2017. In the meanwhile, it was suggested that the document exchange under SASEC framework may be expanded to include other LCS of high bilateral importance as may be mutually agreed.

On CTD automation, the Indian side informed that the system is almost ready and the modalities for secure receipt of EXIM code from Nepal is being worked out. Once the same is successfully completed, LOE needs to be signed and exchanged for making it operational.

It was also informed that advanced filing and processing of CTD is allowed at present. The Indian side requested that Nepali importers be encouraged to declare the EXIM code while filing the CTD, till such time complete automation and integration of EXIM code from Nepal is completed.

viii. Provision of multimodal transshipment facility for Nepal transit cargo: eg. CIF Nepal border:

The Nepal side recalled the IGC 2016 where the issue was discussed. It was mentioned that while acknowledging the importance of the piloting of Electronic Cargo Tracking System (ECTS) which is now underway for Nepal bound containers from Kolkata Port to three major border points i.e. Jogbani-Biratnagar, Raxual-Birgunj and Nautanwa-Sonauli, both sides had agreed that the outcome of the ECTS piloting may help in formulating the transshipment modality in the days to come. The Nepali side also requested the Indian side to introduce ECTS along the Vishakhapatnam-Nepal route through concluding necessary MoU.

The Indian side stated that during the last meeting of IGC, Nepali side agreed to share a draft LoE for transshipment facility with CIF Birgunj, which is still awaited. On receipt of the same, it will be examined. In respect of extending the ECTS facility for movement of containers from Vishakhapatnam port, the Indian side agreed to consider the proposal expeditiously.

6. Banking, Payment and Miscellaneous:

i. Banking Payment and Remittance Related Issues:

a. Easing the Existing Nepal Electronic Fund Transfer System for Remitting Money from India:

The Nepali side requested the Indian side to increase the threshold of fifty thousand INRs to one lakh per person for transferring money from India to Nepal through NEFT in view of facilitating the Nepali workers to remit their savings to Nepal. Further, Nepali side requested the Indian side to allow the presence of Nepali remittance companies in India with a view to facilitating the remittance of savings to Nepal.

The Indian side took note of Nepal's request and informed that it will convey the same to the concerned authorities i.e. Reserve Bank of India and Department of Financial Services of the Government of India.

b. Strengthening of Electronic Card Payment System between India and Nepal:

The Nepali side requested the Indian side to consider strengthening of Electronic Card Payment System between India and Nepal through expediting the approval for co-branded electronic card.

The Indian side informed that the National payment council of India and a Nepali bank are in discussion and some information is to be submitted by the bank to NPCI.

c. Reduction in Capital Requirement for Opening Nepali Bank Branches in India:

The Nepali side requested the Indian side to reduce capital requirement for opening branches of Nepali banks in India.

The Indian side informed that the request for capital relaxation is difficult to accept and any request for setting up a bank in India can only be considered as per extant rules and regulations.

d. Easing Opening Bank Account to Nepali Citizens in India:

The Nepali side flagged the problems being faced by Nepali citizens in particular students, workers, job holders etc. living in India while opening or maintaining their bank accounts. Further, the Nepali side raised the problems being faced by Nepali pensioners in opening bank accounts for not having Adhar Card and other documents.

The Indian side took note of Nepal's concern and informed that it will convey the same to the competent authorities in India i.e. RBI and Department of Financial Services for consideration.

ii. Permission to Nepali LP (Liquefied petroleum) Gas Bullets to transport of L.P. Gas from India.

The Nepali side stated that Nepal Oil Corporation (NOC) had permitted Nepali businessmen to procure their own LPG-carrying bullets and to engage them in transportation of LPG. With the permission of NOC, Nepali businessmen had placed order for a large number of bullets with different Indian fabricators in India. Following the permission granted, a significant number of such bullets have already been manufactured and they have been waiting in India to clear the customs since long. Nepali LPG industries have been seeking required permission for their bullets from Indian authorities to transport LPG from Indian Oil Corporation depots to Nepal. In view of this, Nepali side requested Indian side to provide the required permission considering the vital importance of the matter.

The Indian side agreed to convey Nepal's request to the concerned authority in India to consider the proposal.

iii. Market access of News Paper, Books and Nepali Movies

The Nepali side raised the problems being faced by Nepali exporters while exporting certain items particularly newspapers, literary books and text/ reference books written in Nepali languages to India. Furthermore, Nepali side stated that Nepali movies are required to get permission from of Censor Board in Kolkata, New Delhi or Mumbai while exporting to India. However, there is no such restriction on Indian print materials and films to be imported to Nepal.

As such items are pertinent to further consolidate the people-to-people relationship between India and Nepal and enhance cultural ties, Nepali side requested Indian side to ensure uninterrupted importation into India of newspapers, literary books and text/ reference books, and facilitate clearance of Nepali movies.

The Indian side took note of Nepal's request and agreed to convey it to the concerned Ministry for consideration.

iv. Permit to Nepali Vehicles to enter India

Nepali side stated that Nepali vehicles are required to obtain entry permission from the Indian Embassy in Kathmandu while going to India. However, Nepal issues permission to Indian vehicles at the border Customs points of Nepal. Due to concentration of permission facility related services in Kathmandu, it has been inconvenient for Nepali vehicle owners to obtain such permission while going to

India. In view of this, Nepali side requested Indian side to consider issuing vehicle permits from Indian border Customs points.

The Indian side took note of Nepal's request and agreed to examine the issue.

7. Trade-related Matters:

i. LoE pertaining to movement of Indian goods through Nepal

Under this Letter of Exchange (LoE), the Treaty of Transit is sought to be amended to facilitate movement of Indian cargo traffic through Nepal. Indian side informed that for this purpose, a draft LoE was proposed by Nepal in March 2010. On the counter draft proposed by India, Nepal submitted another draft in August 2014. The Indian side examined the draft LoE provided by Nepal and suggested certain changes in the draft text. The suggestions were forwarded to Nepal for response but it is still awaited. The Indian side requested the Nepali side to provide an expeditious response on the pending LoE.

The Nepali side responded that the existing road conditions and capacity of bridges and other infrastructure of Nepal are not suitable to cater to the needs of the Indian vehicles.

The Indian side mentioned that this transit facility for Indian goods is important and, hence, may be considered expeditiously as the request has been pending for more than 8 years.

ii. Market access for Ayurvedic / Pharmaceutical Products from India:

The Indian side mentioned that the issue was first raised in IGC meeting, held in June 2016 and was being followed up consistently. It was highlighted that under Nepali regulations foreign Ayurveda manufacturers are required to have WHO-GMP compliance to manufacturing units and Certificate of Pharmaceutical products(CoPP) for individual product, not only for a new product, but even for registration. It was also observed that the regulations do not prescribe such requirements for domestic market, which is in violation of national treatment.

It was further mentioned that the WHO-GMP guidelines are applicable only for herbal products and not for herbo-mineral or herbo-metallic products, due to which the concerned licensing authority in India will not be able to issue CoPP for herbo-mineral products, resulting in difficulty in regulatory compliance.

In view of the difficulty in regulatory compliance for herbo-mineral or herbo-metallic products, suitable changes may be made in the regulations or Free Sale Certificate and Certificate of Analysis may be considered as sufficient proof for the quality assurance of Ayurvedic medicines imported to Nepal.

Responding to the request of the Indian side, Nepali side stated that requirement of CoPP for imported ayurvedic products has been made mandatory to ensure the import of quality ayurvedic products into Nepal. The application of CoPP is in line with the guidelines and principles of the WHO. CoPP is not applicable while issuing licenses for domestic pharmaceutical products rather it is required for products for international commerce as recommended by WHO. Therefore, Nepal has been following this practice as in other WHO member states. Accordingly, CoPP is mandatory in case of imported pharmaceutical products including ayurvedic products.

The Indian side again requested that the submission of Free Sale Certificate and Certificate of analysis, authenticated by the Licensing Authority may be considered as sufficient proof of the quality of ayurvedic medicines exported to Nepal.

The Indian side also highlighted a number of market access and procedural issues being faced by the pharmaceutical products in Nepal and handed over a brief note on this issue to the Nepali side.

The Nepali side took note of the requests.

iii. SPS Notification by Nepal

The Indian side intimated that Nepal had notified a SPS notification to WTO, in March 2017, which proposed maximum limits of mycotoxins in food products. It was also informed that the Indian side had identified certain concerns on the limits of mycotoxins prescribed by Nepal. It was noted that the levels of mycotoxins prescribed for milk products need to be reduced since the milk products undergo a number of processes, which may increase the level of mycotoxins prescribed. Background information on the reasons for fixing the limits of specific toxins/contaminants in different products such as milk, oil, wheat and wheat products was also sought. The Indian side requested Nepal to provide an update on the issue.

Responding to India's concern, the Nepali side mentioned that Nepal sets the food standards in compliance with standards and the guidelines of CODEX to the extent possible. The Nepali side mentioned that fixing maximum limit of mycotoxin on some food products is under consideration. Once the revised limit is set and endorsed by the technical committee, Nepal will issue SPS notification again on this matter.

iv. Issue related to Cement:

This issue was raised by the Indian side in the last IGC meeting, held in June 2016. The Indian side mentioned that an effective ban was imposed on the import of Portland Pozzolana Cement (PPC) grade cement manufactured by ACC Limited as

the content of fly ash in the cement is to the extent of 30.1%, which is more than the limit of 15-25%, fixed by Nepal Bureau of Standards and Metrology (NBSM). However, the content of fly ash in the cement is within the limits of 15%-35% as per BIS standards and the strength and quality parameters are excellent. In view of the excellent quality parameters and the fulfilment of standards as per BIS, the Indian side requested the Nepali side to allow the import of PPC cement in Nepal. Further it was also requested to consider harmonizing the NBSM specifications for PPC cement with Indian Standards as the Indian standards are continuously being revised and amended from time to time and there is no adverse impact on quality of cement on account of such Indian specifications. It was also requested to provide recognition and equivalence of Cement grades adhering to BIS Standards immediately, if the revision of standards was likely to take time. Since there was no forward movement on the issue, Indian side requested the Nepali side to take steps to ensure market access for PPC cement manufactured by ACC in the Nepali market.

The Nepali side mentioned that it maintains a standard of fly ash limit in the range of 10-25%. In case of BIS standard, it is limited to 15-35%. Due to this difference, Indian companies willing to export their products to Nepal need to comply with the Nepal Standard. There are about six Indian Cement companies at present with certified NS in OPC and PPC categories which do not face any technical barriers. As a member of the WTO, Nepal accords equal national treatment to all cement products irrespective of their origin as long as they meet the standards set by the NBSM.

The Indian side stated that compliance with the BIS standard assures the quality of the cement, and hence, this fact may be considered for review of the applicable Nepal Standard.

The Nepali side clarified that revision of standards is guided by existing law, and excellence of standards is determined and fixed by the technical committee of standard formulation as per the provision of existing law.

v. Export proceeds realization issues

The Indian side mentioned that after introduction of GST in India, realization of export proceeds in foreign currency is allowed by Nepal Rastra Bank (NRB) only if the export goods are cleared under Letter Of Undertaking (LUT) / bond. Under GST rules, the Indian exporter can also clear the goods by charging Integrated Goods and Service tax (IGST) however, in such a case NRB clears realisation of export proceeds in Indian currency and not in foreign currency. Indian exporters cannot avail export benefits if the export proceeds realization is in Indian currency. The Indian side requested Nepal to suitably amend its circular by including IGST based payment, for allowing realisation of proceeds in foreign currency.

The Indian side further informed that on account of such a restriction, number of cases are pending with NRB. A list of such cases was handed over to the Nepali side.

Responding to India's concern, Nepali side mentioned that Nepal had allowed importing certain industrial items directly from Indian manufacturers or its sole distributors making payments in USD to take advantage of excise duty before IGST regime. When India implemented IGST system replacing other duties along with excise duty, Nepal allows making such payments in USD only to those imports with zero IGST invoice or invoice issued under LUT/Bond considering that Nepal still may take price advantage if such items are imported from big exporters. Another reason behind it, is Nepal does not have advanced mechanism to check and verify whether the IGST paid invoices are genuine or not.

The Indian side informed that both the LUT and the export on payment of IGST with subsequent refund availment are equally valid. The very payment of IGST payment means that the exporter is registered and his credentials verified. It was requested that such summary denial of benefits only on the grounds of procedure followed during export has unduly hurt the Indian exporters. The Indian side requested that the request for amendment of the circular may be examined and suitable changes made to enable the Indian exporters to avail the export benefits on export to Nepal. In any case, for specific cases where a doubt arises, investigative assistance can always be initiated under the SAARC CMAA.

Nepal side informed that it does not matter only of IGST. It does matter of price advantage too. So, it must be assured that level of price advantage to be received in both cases is same to review the existing provision.

vi. High tariffs faced by Indian products

The Indian side mentioned that the request for reduction of tariffs on non-Alcoholic beverages, leather goods and products of gems and jewellery was made during the last IGC meeting. It was further mentioned that the reduction in the tariffs is yet to be carried out by Nepal. The Indian side stated that even if the Indian imports have preferential access by a margin of reference of 3% or 5%, the duties on these products are on the higher side and reduction in duties will facilitate availability of these goods at competitive price in the Nepali market. The Indian side again requested the Nepali side to reduce the tariffs on these products for facilitating their access in the Nepali market.

Responding India's concern, Nepali side mentioned that reducing tariff on luxury and similar type of products are governed by the revenue policy of Nepal.

vii. IPR infringement:

The Indian side raised concerns on cases of infringement of Intellectual Property Rights of Indian companies in Nepal. It was mentioned that under the Patent, Design and Trade Mark Act, 1965 foreign companies can apply for registration of their Trade Marks in Nepal only after obtaining the same in their home country or any other country. This allows local Nepali companies to apply for the same marks, as soon as these are introduced in India. It was also highlighted that under Patent, Design and Trade Mark Act, 1965, foreign trade mark does not get protection in Nepal unless it is registered in Nepal, which is in contravention to the Paris Convention for the Protection of Industrial Property. It was further highlighted that legal remedy provided under the Copyright Act cannot be pursued by the Indian companies without first filing a police complaint, followed by submission of report by the police to the District Court, which is time consuming and prevent the sale of goods, infringing on the copyright of Indian Brands during the intervening period. The issue was raised during the last meeting of the IGC, along-with the IPR infringement for Havell's trade mark.

The Indian side requested Nepal to consider suitable amendments in the Patent, Design and Trade Mark Act of Nepal, 1965 for permitting Indian companies to file for trade mark applications, without the condition of prior home country registration and to suitably incorporate the provisions of the Paris Convention so that well known Trademarks are protected in Nepal. It was also requested to consider amending the Copyright Act 2002 to enable Indian companies to initiate action for copyright infringement before Nepali courts directly, without the condition of first filing a police complaint. The Indian side also sought an update on the new IPR policy which was being formulated by Nepal as well as requisite reforms in IPR, being considered by Nepal and informed during the last IGC meeting.

Responding to India's concern, Nepali side mentioned that it has introduced a comprehensive IP policy and initiatives to revise country's existing IP related Acts/Regulation are underway in line with the new policy. Once amendments are completed, it is expected to address most of the issues including infringement of IP.

The Indian side added that the current IPR policy formulation still does not address the concerns of the Indian industry as the requisite precondition of prior registration of patents in home country and the necessity of filing a police complaint before seeking judicial remedies on copyright infringement still exist.

The Indian side, however, offered to extend cooperation in the field of IP including exchange of best practices and experience sharing between the two IP offices.

viii. Classification issue

The Indian side informed that on account of change in HS code classification (HS 2017) coming into effect from 01.01.2017, a number of existing HS codes under HS 2012 classification were either removed, new ones added, the earlier ones clubbed together or split. As a result of the same, certain products such as agricultural and

industrial tyres (HS codes 401170, 401180 and 401190 as per HS 2017 classification) and LED lamps (HS codes 853950 as per HS 2017 classification), which were earlier enjoying tariff preferences under SAFTA, for export from India to Nepal have been denied such preferences. This preference is denied as the new HS codes appear under the Sensitive List, maintained by Nepal under SAFTA. The Indian side requested Nepal to carry out necessary amendments so that the products which earlier enjoyed exemptions under SAFTA should not be denied such exemption, merely on account of reclassification.

Responding to India's request, Nepali side mentioned that new classification code has been decided based on HS 2017 version. However, Nepal will further verify in respect to the explanation of WCO HS 2017 of the products referred by India.

ix. Trade Liberalization under SAFTA

The issue was raised in the last IGC meeting. The Indian side had requested the Nepali side to confirm whether the tariff reduction to a peak of 5% required to be completed by 31.12.2015 by LDCs as per the Trade Liberalization Programme under SAFTA had been carried out and notified by Nepal. The Indian side also requested Nepal to consider the proposal made by Bhutan, India, Maldives, and Pakistan that peak tariff on all products may be reduced to 0-5 % by the year 2020, excluding a small number of about 100 tariff lines which may still remain in the Sensitive Lists. The Indian side requested Nepal to provide an update on the issue.

Responding to India's concern, Nepali side mentioned that Nepal has been continuously complying with the provisions and has done gradual reduction in the tariff from 2006 to 2014. It could not further reduce the tariff due to the huge resource requirement after devastating earthquake of 2015. Nepal is still in difficult position due to the revenue shortfall for reconstruction, implementation of federal system, among others. However, Nepal is committed to fulfil the obligations of SAFTA after necessary preparation.

x. Grievances

The Indian side mentioned that grievances raised by the Indian entities against the Nepali entities have been communicated to the Nepali side from time to time. The Indian side handed over the list and requested that these grievances may be examined for expeditious resolution by the Nepali side.

Nepali side took note on that and expressed that such grievances could be handled through a regular mechanism.

8. Investment Related Matters

i. Repatriation of funds

The Indian side informed that Indian investors are facing frequent problems relating to repatriation of funds and dividends, service fees etc to India. Clearances are

required to be sought from various departments at each instance of dividend payout. It has been requested by the industry that once the relevant documents have been submitted to the relevant authorities at the time of investment, the concerned authorities should not seek the same documents again at the time of remittance of dividends. The Indian side requested Nepal to consider the documents already submitted at the time of investment as sufficient compliance at the time of repatriation.

The Nepali side mentioned that Investee Company requires producing some prescribed documents, (Such as AGM Minute, Audited Balance Sheet, Tax Clearance Certificate, FDI recording letter issued by NRB etc.) to the Nepal Rastra Bank (NRB) to get the approval for dividend and investment repatriation to their concerned foreign investors. When Investee Company recorded FDI in NRB once, it does not need to submit those documents which have been already produced in connection to get approval for bringing FDI again, except related documents while seeking approval for dividend or investment repatriation.

ii. Labour Registration

The Indian companies in Nepal have informed that the process of labour registration with the Department of Labour, Nepal takes a long time. Further, there are certain conditions relating to the educational qualification for higher management, which have caused difficulties e.g. as per the directive of the Insurance Board, CEOs of insurance companies in Nepal are required to hold a Master's Degree in some specific subjects, which narrows the selection base and effectively bars insurance companies from bringing expatriate staff to Nepal, having relevant experience and expertise gained by working across the world. The Indian side requested Nepal to relax such cumbersome restrictions for facilitating investment.

The Nepali side took note of the issue.

iii. Taxation related issues

The Indian side identified a number of issues in the Nepali taxation system which limit Nepal's potential to drive business activities of foreign investors. A detailed brief on those issues was handed over to the Nepali side.

The Nepali side took note of the issue.

iv. Forex Regulation / Capital account convertibility

The Indian side identified a number of issues related to FDI and investment facilitation, resolution of which will facilitate further Indian investment in Nepal. A detailed brief on those issues was handed over to the Nepali side.

The Nepali side took note of the issue.

v. Approval from NRB for Indian Currency Remittance for service related payment

The Indian side identified a number of issues relating to approvals required for service related payments to India. These issues are affecting the investment facilitation in Nepal. A detailed brief on those issues was handed over to the Nepali side.

The Nepali side mentioned that banks are allowed to make service related payment up to INR 30 lakhs whereas in case of US Dollar payment, banks are allowed to make such payment only up to US \$ 10,000.00 only. The limits provided for INR is almost five times greater than the limit given for the US Dollars.

9. The meeting was conducted and concluded in a warm and friendly atmosphere. It was also agreed that the next meeting of the IGSC would be held in India at a mutually agreed date to be decided through diplomatic channels.