

Taneja, Nisha; Bimal, Samridhi; Dayal, Isha

Working Paper

An analysis of Nepal's transit through India

Working Paper, No. 316

Provided in Cooperation with:

Indian Council for Research on International Economic Relations (ICRIER)

Suggested Citation: Taneja, Nisha; Bimal, Samridhi; Dayal, Isha (2016) : An analysis of Nepal's transit through India, Working Paper, No. 316, Indian Council for Research on International Economic Relations (ICRIER), New Delhi

This Version is available at:

<https://hdl.handle.net/10419/176343>

Standard-Nutzungsbedingungen:

Die Dokumente auf EconStor dürfen zu eigenen wissenschaftlichen Zwecken und zum Privatgebrauch gespeichert und kopiert werden.

Sie dürfen die Dokumente nicht für öffentliche oder kommerzielle Zwecke vervielfältigen, öffentlich ausstellen, öffentlich zugänglich machen, vertreiben oder anderweitig nutzen.

Sofern die Verfasser die Dokumente unter Open-Content-Lizenzen (insbesondere CC-Lizenzen) zur Verfügung gestellt haben sollten, gelten abweichend von diesen Nutzungsbedingungen die in der dort genannten Lizenz gewährten Nutzungsrechte.

Terms of use:

Documents in EconStor may be saved and copied for your personal and scholarly purposes.

You are not to copy documents for public or commercial purposes, to exhibit the documents publicly, to make them publicly available on the internet, or to distribute or otherwise use the documents in public.

If the documents have been made available under an Open Content Licence (especially Creative Commons Licences), you may exercise further usage rights as specified in the indicated licence.

Working Paper 316

An Analysis of Nepal's Transit through India

Nisha Taneja
Samridhi Bimal
Isha Dayal

March 2016



Table of Contents

Abstract	i
1. Introduction	1
2. Assessment of Nepal’s Transit Treaties	2
2.1 <i>Key Features of Transit Agreements with India</i>	3
2.1.1 <i>Treaty of Transit and Rail Services Agreement</i>	3
2.1.2 <i>Operational Modalities for Additional Transit Route between Nepal and Bangladesh</i>	5
2.2 <i>Key Features of India’s Regulatory Framework for Transit</i>	5
2.3 <i>Role of Different Agents in Transit Import and Export Procedures</i>	7
2.4 <i>Critical Assessment of the Treaties</i>	9
2.4.1 <i>Issue of Submission of Documents</i>	9
2.4.2 <i>Issue of Transshipment</i>	10
2.4.3 <i>Issue of Sensitive Goods and Insurance/Bank Guarantee</i>	12
2.4.4 <i>Issue of Infrastructure</i>	14
2.4.5 <i>Issues related to Containerized Cargo</i>	15
2.4.6 <i>Issues related to Railways</i>	15
2.4.7 <i>Barriers and Transaction Cost for Transit Cargo</i>	16
2.4.8 <i>Issues of Transit with and through Bangladesh</i>	18
3. Significance of International Transit Agreements and Conventions in Facilitating Nepal’s Transit	19
4. Concluding Remarks and Recommendations	20
References	23
Annexure	24

List of Tables

Table 2.1:	Comparison of Documents Required for Road and Rail Bound Cargo.....	3
Table 2.2:	Status of Designation of Nepalese Port Codes as of December 2014	11
Table 2.3:	List of Sensitive Items with Tariffs	13
Table 2.4:	Nepal Bound Container Transit through India.....	16
Table 2.5:	Transaction Cost for Road Transit Cargo	17
Table 2.6:	Transaction Cost for Rail Transit Cargo	17
Table 3.1:	Relevance of Trade Facilitation Agreement for India-Nepal Transit	19

Abstract

Nepal, a landlocked country, relies on transit access from neighbouring countries to participate in international trade. For Nepal, the nearest sea-port is that of Kolkata in India and the transit arrangements between the two countries are governed by two main legal instruments: India-Nepal Treaty of Trade and Transit and the India-Nepal Rail Services Agreement. However, there are a large number of inadequacies in the prevailing India-Nepal transit treaty encompassing issues with regard to documentation requirements, transshipment procedures, sensitive items, arbitrary bank guarantees, and poor infrastructure

The study undertakes a detailed review of the transit treaties and the existing procedures with a view to identifying documentation and procedural impediments, infrastructure constraints and other non-physical barriers. In particular the current transshipment modality has been examined and bottlenecks related to the procedure have been identified. The relevance of WTO Trade Facilitation Agreement (TFA) has also been discussed in the context of Nepal's transit. Recommendations for improving transit by road and rail have been made to streamline India-Nepal transit and revise the prevailing treaties as per international standards.

Keywords: *India-Nepal, transit, transshipment, trade facilitation*

JEL Classification: *F10, F13, F15.*

Author's email: *ntaneja@icrier.res.in*

Disclaimer: *Opinions and recommendations in the report are exclusively of the author(s) and not of any other individual or institution including ICRIER. This report has been prepared in good faith on the basis of information available at the date of publication. All interactions and transactions with industry sponsors and their representatives have been transparent and conducted in an open, honest and independent manner as enshrined in ICRIER Memorandum of Association. ICRIER does not accept any corporate funding that comes with a mandated research area which is not in line with ICRIER's research agenda. The corporate funding of an ICRIER activity does not, in any way, imply ICRIER's endorsement of the views of the sponsoring organization or its products or policies. ICRIER does not conduct research that is focused on any specific product or service provided by the corporate sponsor.*

An Analysis of Nepal's Transit through India

Nisha Taneja, Samridhi Bimal and Isha Dayal

1. Introduction

Nepal is a landlocked country bordering India on the southern, eastern and western sides, and China on the northern side. Hence, access to transit facilities through these contiguous nations is of utmost importance to Nepal for participating in international trade conducted via land or sea routes.

For Nepal, the nearest sea-port is that of Kolkata in India. India and Nepal signed a 'Treaty of Trade and Transit' in the year in 1960 for the purpose of providing transit facility to Nepal. This treaty has been renewed periodically and was last renewed on January 5, 2013 for a period of 7 years.

Nepal is a member of the World Trade Organization (WTO) since April 2004, and has been conducting trade with the world in compliance with WTO principles. Nepal's total trade with the world for five years from 2009 to 2013 has seen a rise from US\$ 5 billion to US\$ 7.7 billion during 2009 to 2013. Although Nepal's exports to the world have not seen much change over the period, imports have been rising on a yearly basis indicating towards an increasing trade imbalance. In 2013, Nepal's exports to the world stood at US\$ 883.6 million (at par with the exports recorded in 2009), and imports from the world at US\$ 6.8 billion.

Transit trade through India has played an integral role, allowing Nepal to access countries through India. Exports from Nepal worth US\$ 292.4 million, and imports to Nepal worth US\$ 2.3 billion transited through India in 2013; taking the total value of transit trade to about US\$ 2.6 billion¹. Although the value of total transit trade through India has been increasing, its share in Nepal's total trade with the world has seen a decline from 43.5 percent to 33.5 percent over 2009 – 2013.

The transit arrangements between India and Nepal are governed by three legal instruments:

- The Treaty of Transit outlines the rights, duties and obligations of India and Nepal in relation to transit movement of goods, and details the modus operandi of such movements. The transit treaty specifies mutually agreed 15 entry-exit points and specified routes from Kolkata and Haldia to Sukhia Pokhri, Naxalbari (Panitanki), Galgalia, Jogbani, Bhimnagar, Jayanagar, Bhitamore (Sitamarhi), Raxaul, Nautanwa (Sonauli), Barhni, Jarwa, Nepalgunj Road, Tikonia, Gauri-Phanta and Banbasa; describes the warehouses and open spaces to be provided; and gives detailed guidelines on the simplified administrative procedures. Traffic in transit is exempted from customs duties

¹ Value of transit trade has been calculated by the authors by subtracting Nepal's bilateral trade with India from Nepal's trade with the World, using data from Ministry of Commerce and Supplies, Government of Nepal.

and all transit duties or other charges except reasonable charges for transportation and such other charges commensurate with the costs of services rendered. It has also been agreed that Nepal can use the facilities at Jawaharlal Nehru Port (JNPT), Vishakhapatnam and Kandla Port for third-country trade. However, modalities for the operationalization of the decision are yet to be agreed upon.²

- India and Nepal entered into a Rail Services Agreement in 2004 (renewable every ten years) for operating and managing rail services for Nepal's transit trade as well as bilateral trade between the two countries. Specifically, it allows movement of third country traffic through the railway wagons and containers, specifies transit trade between Kolkata/Haldia ports in India and Birgunj in Nepal, via Raxaul in India; as well as between stations on Indian Railways and Birgunj, via Raxaul, for bilateral trade.
- Third, a trilateral transit understanding between Bangladesh, India, and Nepal is in place in order to facilitate the overland trade between Nepal and Bangladesh through India. The Treaty of Transit and the Operational Modalities for Additional Transit Route between Nepal and Bangladesh govern transit through the Phulbari-Banglabandh point and Radhikapur-Birol point. Due to gauge incompatibility between the Indian and Bangladeshi sides, the railway transit route through the Radhikapur-Birol is non-operational. The Joint Communiqué issued by the governments of Bangladesh and India at the end of Bangladesh's prime minister's visit to India on 10-13 January 2010 included an agreement to grant railway transit facility to Nepal through the Rohanpur-Singhabad point for its trade with and through Bangladesh. However, Letter of Exchange (LOE) for opening of Rohanpur-Singbad rail corridor is yet to be exchanged.

Given the declining transit trade share and other concerns arising out of the current transit arrangements, it is important to critically analyse Nepal's transit agreements. This is to highlight issues and suggest measures to streamline India-Nepal transit and revise the prevailing treaties as per international standards, particularly the WTO Trade Facilitation Agreement (TFA) which holds phenomenal relevance in revising the existing transit procedure between India and Nepal.

2. Assessment of Nepal's Transit Treaties

In order to identify specific issues in transit and to revise the process, it is necessary to conduct a thorough assessment of the legal framework underlying India-Nepal transit.

This section analyses key features of India-Nepal treaty of transit and rail services agreement and operational modalities for additional transit route between Nepal and Bangladesh, along with a description of the roles performed by different agents in transit import and export procedures. In order to make the current transshipment procedure followed between India and Nepal in accordance with the transshipment procedure followed for imported containerized cargo from gateway port to another port in India, the policy governing the latter is explained.

² Although this issue figured in the agenda of the recent IGC 2011, it was left to the Joint Secretary level meeting held on 16 January 2012 in Kolkata. It appears that the meeting too did not take any decision on this issue.

A critical assessment of the treaties identifies important issues with regard to the submission of documents; transshipment procedure; movement of sensitive goods, containerized cargo, and railways; insurance/bank guarantee; Indian regulatory environment; transaction costs; and the transit process with and through Bangladesh.

2.1 Key Features of Transit Agreements with India

2.1.1 Treaty of Transit and Rail Services Agreement

A) Documentation

In respect of import cargoes, the importer or his agent needs to present a Customs Transit Declaration (CTD) along with bill of lading (B/L), invoice, packing list and a copy of the letter of credit (L/C) at the Indian port of entry. These documents are required by Customs at Kolkata to clear import cargoes for onward transit movements to Nepal. In case of transit through rail, the transit declaration is referred to as Import Containerized Cargo Declaration (ICCD) and in addition to the documents mentioned for road bound cargo; in this case, shipping agents also submit an application for issue of a Transshipment Permit.

In respect of export cargoes, the exporter or his agent needs to present a Customs Transit Declaration (CTD) along with invoice, packing list and a copy of the letter of credit (L/C) at the Indian port of entry. In case of transit through rail, the transit declaration is referred to as Export Containerized Cargo Declaration (ECCD) and like in case of imports, in addition to the documents mentioned for road bound cargo; in this case also shipping agents submit an application for issue of a Transshipment Permit.

The comparison of documents in case of road and rail bound cargo is given below in Table 2.1.

Table 2.1: Comparison of Documents Required for Road and Rail Bound Cargo

Road	Rail
1. Letter of Authority from Importer	Letter of Authority from Importer
2. Copy of L/C	Copy of L/C
3. Original B/L (in case of import)	Original B/L(in case of import)
4. Original Packing List	Original Packing List
5. Original Certificate of Origin	Original Certificate of Origin
6. Copy of Insurance Policy	Copy of Insurance Policy
7. 6 copies of CTD	4 copies of ICCD/ECCD
8. Undertaking by government a. Government Challan: NTWCL's undertaking letter b. Private Challan: Rs. 50/- Stamp Bond (Non Sensitive) c. Private Challan: Insurance Policy of duty insurance from authorized Insurance Company for sensitive goods.	No undertaking required as container is moving by CONCOR (public sector carrier)
9.	Transshipment Permit

B) Transportation

Transportation of transit goods is allowed by railway wagons or marine containers or pilfer-proof container trucks. Transport of bulk cargo such as boulders, fertilizer, cement, vegetables and fruits is permitted in open trucks also. However, there is a restriction in the mode of transport for transportation of arms, ammunition and goods deemed sensitive by the Government of India. The treaty provides for maintaining a sensitive list which comprises products in which Nepalese import duties are lower than Indian import duties.

C) Examination Procedure

The Indian customs at the seaport check the one-time lock of the container put on by the shipping agent and allow transportation of the containerized cargo without examination. However, since August 2011, the Indian side has started affixing an additional One Time Lock (OTL) on import of Nepal bound cargo.

In respect of non-containerized/break-bulk cargo, the customs make a selective percentage examination of the goods. On arrival of the cargo at the border, the Indian customs adopts the same process of examination and verification as done at the sea port.

D) Legal Undertaking/Insurance Policy

For non-sensitive goods, the importer has to furnish a legally binding undertaking covering the difference between the market value (MV) and the cost, insurance, and freight (CIF) value to the Commissioner of Customs, Kolkata. No duty insurance or bank guarantee is required in such cases.

For sensitive goods, an insurance policy or a bank guarantee is required to ensure that Indian customs is able to realize the duties in case of goods not reaching Nepal. The insurance policy has to be obtained by the importer from an insurance company authorized to do business in India on terms and conditions to the satisfaction of the Commissioner of Customs, Kolkata.

The transit treaty has made the provision of three types of duty insurance policy for sensitive items covering Indian Customs Duty and other charges to protect from trade deflection in Indian markets while in transit to India.

- If the mode of transport is Indian railways only customs duty is insured.
- If it is Nepal Transit and Warehousing Company Ltd. or Nepal Transport Corporation owned truck the insured value is equivalent to customs duty plus bond to pay difference of MV to CIF.
- If the mode of transports is other than above the insured amount will be MV of the goods minus CIF value of the same.

2.1.2 Operational Modalities for Additional Transit Route between Nepal and Bangladesh

Under this arrangement, India has provided Panitanki-Phulbari corridor for the movement of goods by road between Bangladesh and Nepal through Kakarvitta (Nepal) and Banglabandha (Bangladesh) via Phulbari (India). India has also provided Radhikapur-Birol transit point for cargoes movement by railway between Bangladesh and Nepal, but this is not operational since 2005. The operating modality of the road transit arrangement requires Nepal government to appoint authorized agents who would carry out the transit procedure on behalf of Nepalese importer/exporter.

Cargo-in-transit moves in "pilfer-proof" containers/trucks that can be sealed. Trucks carrying cargo-in-transit are allowed to move in convoys of a maximum of 20-25 trucks. The modalities mention certain conditions as to how the transit can take place. For example- a) transit takes place over week days at specified times during daylight hours; b) Gross vehicle weight of trucks cannot exceed 16.2 tonnes for convention vehicles and 19 tonnes for three or multi-axle vehicles; c) Convoy has to be escorted from entry to exit point; d) Only trucks with Nepali registration are allowed to be used for transit purposes.

There is a small negative list of goods that are not allowed for transit. The insurance requirements for Nepalese cargo-in-transit on this route are waived provided the Nepal Transit and Warehousing Company Ltd. gives an undertaking to compensate the possible revenue losses. The goods are not subject to usual customs examination and other checks if the seal is found to be intact.

2.2 Key Features of India's Regulatory Framework for Transit

Indian Customs Act, 1962 is the main Act which provides for levy and collection of duty, import/export/transit procedures, prohibitions on importation and exportation of goods, penalties, offences etc. Under section 157 of Customs Act, 1962 Central Board of Excise and Custom (CBEC) has been empowered to make regulations consistent with provisions of the Act and to carry out the purposes of the Act. CBEC is the nodal national agency responsible for administering customs, central excise, service tax & narcotics in India. A Customs Manual is released every year by CBEC which gives an overview of Customs Law and Procedures.

As per the Customs Act, 1962 duty is usually payable immediately after the imported goods are landed at a port or airport. To avoid payment of duty at the port of landing in cases where goods are to be carried to another port/airport or ICD/CFS or to a port/ airport abroad, the Customs Act, 1962 provides a facility of transshipment of cargo without payment of duty. The goods can be transhipped from one port/airport to another port/airport/ICD/CFS either by vessel, air, rail or road or by combination of more than one such mode of transport.

The transshipment procedure of imported cargo is governed by Section 54 of the Customs Act, 1962 read with Goods Imported (Conditions of Transshipment) Regulations, 1995 as

well as relevant Board's circulars and instructions. The imported cargo unloaded at a port is allowed to be transhipped to another port/ICD/CFS or a port abroad, if the cargo is mentioned in the import manifest for such transshipment (Chapter 10, Paragraph 1.3, Indian Customs Manual). The goods can be transhipped from one port/airport to another port/airport/ICD/CFS either by vessel, air, rail or road or by combination of more than one such mode of transport. In regard to export cargo cleared from a port/ACC or ICD/CFS and exported through some gateway port/airport, a similar procedure is being followed to allow carriage of Customs cleared export cargo from port/airport/ICD/CFSs to another port/airport.

The shipping agent submits an application along-with transshipment forms (5 copies), sub-manifest and a copy of IGM to the Customs. After verification, the customs grants permission for transshipment (transshipment permit) to shipping agents for onward movement. To ensure that imported cargo is not pilfered en-route to another port/airport/ICD/CFS, a bond with bank guarantee is executed by the carrier engaged for the transshipment of the goods. The quantum of bank guarantee that needs to be furnished by different categories of carriers is as below:

- The carriers in public sector (Central/State Government Undertakings) are exempt.
- All carriers (shipping lines/ICD/CFSs/other carriers) of containerized cargo handling more than 1000 TEUs as import containers in a financial year, are exempt, irrespective of the fact whether movement is by road or coastal shipping or rail. Further, request of carriers having annual transshipment volume below the limit of 1000 TEUs, but having good track record may be considered for exemption from BG on merit by the jurisdictional Commissioners of Customs.
- The custodians of ICDs/CFSs operating as carriers of transshipment cargo between gateway ports and their ICDs/CFSs shall in their terms and conditions of their bank guarantees executed with Customs for custodianship of ICDs/CFSs cover safety and security of cargo being transhipped by them. The details of such bank guarantee shall be informed to the Commissioner of Customs having jurisdiction over the gateway port. The Custodians of ICDs/CFSs shall be allowed to transship the cargo against the said bank guarantee and they will not be required to execute a separate bank guarantee for transshipment.
- The remaining carriers are required to furnish bank guarantee@15 percent of the bond amount.

The bond-guarantee works in a way that if the carrier produces a certificate from customs of the destination port/airport/ICD/CFS for safe arrival of goods there, the bond stands discharged. In case such certificate is not produced within a month or within such extended period as the proper officer of customs may allow an amount equal to the value, or as the case may be, the market price of the imported goods is forfeited. The bond value should be equal to the value of the goods. The custodians of ICD are allowed to transship the cargo against the mentioned bank guarantee and then there is no

requirement to execute a separate bank guarantee for transshipment (refer Circular No. 78/2001-Cus dated 7/12/2001).

To avoid multiplicity of bonds there is a provision for “mother bond” (refer Circular No. 34/2000-Cus. dated 03/05/2000). The carriers are allowed to execute a running mother bond instead of individual bonds. Such bonds are to be accepted and maintained by the Commissioner of Customs at the gateway port and these will be running bonds. The bond or mother bond and bank guarantee are debited at the time of transshipment of import/export containers at the port of origin, and credited on receipt of proof of safe landing of containers at the port/ICD/CFS of destination. The value of mother bond is arrived on the basis of the average number of containers carried per trip, the average time taken for submission of proof of safe landing of containers at the destination ICDs/CFSs, frequency of such transshipment as well as notional value of cargo per container.

After issuance of transshipment permit and execution of bonds, containers are sealed with 'one time bottle seal' by the customs. In case, containers are already sealed with 'one time bottle seal' by the shipping agents, there is no requirement of sealing again by the Customs. In such cases, shipping agents are required to inform the serial number of seals to Customs, which is just verified by the Customs. After sealing and/or checking of seals by Customs, containers are moved from the gateway port and carried by the shipping agents to destination port/ICD/CFS by vessels, rail or road. Transshipment formalities in all these modes are similar.

At the destination, carrier is required to present the sealed cover containing a copy of transshipment permit to Customs. The customs checks the particular of containers, seals etc. with reference to transshipment permit. The carrier is required to obtain a certificate regarding landing of container from the customs at the destination port/ICD/CFS and submit the same to the Customs at the originating port. After safe landing of containers at the destination port/ICD/CFS, the importers or their authorised agents are required to follow all Customs formalities such as filing of bill of entry, assessment, examination of goods etc., for clearance of the goods.

[Refer provisions for transshipment of imported containerized cargo from gateway port to another port/ICD/CFS in India, movement of export cargo from port/ICD/CFS to gateway port in Chapter 10, Customs Manual 2015 and Circulars No.83/1998-Cus., dated 5-11-1998 and No.31/2005-Cus., dated 25-7-2007]

2.3 Role of Different Agents in Transit Import and Export Procedures

A) Consulate General of Nepal

In case of Nepalese imports for which there is no requirement of import license or letter of credit, the Nepal Consulate at Kolkata has to provide the necessary certification.

B) Importer

The Importer in Nepal enters into an agreement or a contract with the exporter and opens a letter of credit with his bank. The importer arranges for bill of lading, invoice, packing list from his exporter and collects documents (L/C) from bank. He appoints a customs house agent (CHA) in Kolkata and sends all the original documents along with copies.

C) Customs House Agent

The Indian CHA, who acts on behalf of the Nepalese importer, assumes the role of carrying out multiple functions which include locating container at port, complying with port, customs and consulate formalities, arranging transport, repositioning of containers and arranging for payment of demurrages. Most importantly, the Indian CHA becomes the custodian of the goods on behalf of the importer since the role of the shipping line as the custodian of the goods is not transferred to another carrier. In fact the custom agent has to submit a cash deposit or bank guarantee or a bond equivalent to the value of the container (the container valuation also differs with shipping lines) to the shipping line so that he is permitted to take the container cargo to Nepal and bring it back.

The CHA agent receives all the documents from the Nepali importer and submits it to customs at Kolkata. Simultaneously, he also prepares CTD/ICCD, avails necessary letters from Government of Nepal, and arranges for legal undertaking and/or insurance policy.

D) Shipping Line

The shipping line arranges the container for packing and loads it onto the vessel. It then issues a Bill of Lading (B/L) and hands it over to the exporter. It is the responsibility of the shipping line to file an Import General Manifest (IGM) with Kolkata custom authorities in advance of arrival of goods and give these details to the CHA. At the same time, shipping line also issues delivery order (D/O) after collecting payment of relevant charges on submission of original B/L.

E) Port Authorities

The role entails collecting port charges (landing, rent, etc), arranging for loading into the required mode of transportation, and issuing gate delivery pass allowing physical delivery of goods from port of entry to land customs station.

F) Customs

The customs accept all documents from the CHA at the gateway port at Kolkata, verify them and issue a release order if all documents are in place. Indian customs at the seaport check the one-time lock of the container or make a selective percentage examination in case of non-containerized cargo.

At the border, the Indian customs has to adopt the same process of examination and verification as done at the sea port. The Indian land customs at the border also compares the original CTD submitted by the importer with other copies of CTD it has received from Kolkata customs. Once the due verification is done, the customs endorses the copies of CTD and ensures that goods cross to Nepal.

In the Nepal territory, Nepali customs officers verify that the consignment details correspond to the particulars mentioned in the CTD, endorses the CTD and sends the original back to the Indian border customs.

Detailed process of import and export clearance for road and rail bound cargo is attached in Annex 1 and Annex 2.

2.4 Critical Assessment of the Treaties

There are a number of issues related to movement of transit cargoes to/from Kolkata port arising out of constraints in the existing treaty, procedural obstacles, and poor infrastructure amongst others. We describe eight issues that need urgent attention to make the transit process smoother.

2.4.1 Issue of Submission of Documents

The Memorandum to the Protocol of the Treaty of Transit requires originals of CTD, bill of lading, invoice, packing list, import license (whenever issued) and letter of credit (certified by Consulate General). However, the Rail Services Agreement clearly mentions all copies of ICCD along with copies of bill of lading, invoice, packing list, import licence (wherever issued), and letter of credit (certified by Consulate General) are required for transit of cargo by rail. In practise, the importer/exporter has to submit original copies of these documents in Kolkata in case of transit by rail. Since the CTD already contains entries of these documents (L/C, bill of lading, packing list and invoice) and the exporter upon his signature declares that the entries made in the CTD are correct, the requirement to submit these documents is an added burden on the import/exporter.

As per practise, processing of documents starts only after the filing of IGM by the shipping line, which is submitted before the arrival of vessel. It is often the case that receiving these original documents takes a long time and arrival of the vessel precedes the submission of original documents. These then result in heavy demurrage charges at the port which then have to be borne by the importer.

In this regard, Article 11 Para 6 of the Trade Facilitation Agreement must be made note of which requires formalities and documentation requirements in connection with traffic in transit to not be burdensome and limited to those that are necessary to identify the goods and ensure fulfilment of transit requirements.

2.4.2 Issue of Transshipment

Transshipment is an important part of transit movement from the perspective of Nepal. Transshipment in commercial terms is known as the “transfer of shipment from one carrier to another or more commonly, from one vessel to another while in transit”. Although there is a reference to this term in the transit agreement, there is no clear transshipment modality mentioned.

The key issue related to transshipment is that the transshipment modality followed for Indian cargo movement from a gateway port to another Indian ICD/Port/CFS in India is not being followed for Nepal transit cargo. Section 54 of the Indian Customs Act, 1962 lays down provision for transshipment of goods without payment of duty for cargo imported into a customs station in India for transshipment to any foreign port provided the destination port is mentioned in the import manifest (Annex 1).

In case of the Rail Services Agreement shipping agents have to apply for a transshipment permit as per the guidelines laid down under the Indian Customs Manual for the transshipment of import goods destined to ICDs in India. But the modality of the transshipment is not in line with the Customs Manual.

As per the provisions of the Rail Services Agreement, there is requirement for ICCD and copies of bill of lading, invoice, packing list, import license, and letter of credit to be submitted at the Kolkata customs. However, under the transshipment procedure of the Indian Customs Manual when cargo is manifest till the destination port under a through B/L the importers or their authorised agents are required to follow all customs formalities such as filing of bill of entry, assessment, examination of goods etc. for clearance of the good after safe landing of containers at the destination port/ICD/CFS. Since shipping lines don't issue bill of lading till Birgunj, the documents have to be submitted at the gateway port.

Currently, export/import transactions are quoted on CIF/CFR Kolkata. If shipping lines file a through bill of lading till destination port then traders can quote transactions on CIF/CFR Birgunj.

Consultations with three shipping lines-MAERSK, APL, and Transworld revealed that they were willing to issue a through bill of lading upto Birgunj for rail cargo. However, they felt that the best scenario would be to issue a through bill of lading if there was complete automation at Birgunj and there was a message exchange facility between Birgunj and Kolkata. They expressed that automation would reduce the risk associated with movement of transit cargo.

The shipping lines also pointed out that to execute a through bill of lading they would need to have an office at Birgunj. They pointed out that since there is a large trade imbalance in the incoming and outgoing transit cargo at Birgunj it would not be cost effective for them to establish an office at Birgunj. Fifteen years ago when transit exports and imports were

balanced several shipping lines had their offices at Birgunj. With the falling volume of export transit cargo over the years these offices were shut down.

Some industry representatives in Kathmandu and Birgunj were under the impression that shipping lines were reluctant to issue a through bill of lading upto Birgunj as Birgunj was not on the shipping map. However, our interactions with shipping lines revealed that two major operators i.e APL and MAERSK had Birgunj on their internal map and therefore issuing a through bill of lading would not be a problem.

To examine this issue further, the procedure lay down by the UN for including locations of departure, arrival, transit and transshipment of goods worldwide was studied. UNECE designates various international transit and transport locations including airports, ICDs, inland freight terminals, maritime ports, frontier crossing points, and other customs clearance points / facilities in order to help conduct information interchange in international trade and transport.

Any port regularly used for conducting international movement of goods qualifies for inclusion in the United Nations Trade and Transport Location Codes (UN/LOCODE) database.

In Nepal, as of December 2014; 44 airports, seven road terminals, one ICD, and one postal exchange office have been recognized by the UN/LOCODE. At the same time, five road terminals at Sunauli, Birgunj, Kailali, Kakarbitta and Kanchenjunga; and one multi-modal port at Nawalparasi are awaiting formal approval (Table 2.2). However, given that there is no road terminal at Kanchenjunga; Nepal must intimate UNECE to redefine and correct the ‘function’ of this transit location. The process of designating trade and transport location codes and a complete list of UN/LOCODEs for Nepal as of December 2014 is given in Annex 4.

Table 2.2: Status of Designation of Nepalese Port Codes as of December 2014

Function	Code Adopted by IATA/ECLAC	Approved by Competent National Govt. Agency	Recognised Location	Request under Consideration	Original Entry not Verified
Road terminal	2		5	2	3
Airport	43		1		
Rail terminal					
Multimodal Port/ICD		1		1	
Postal Exchange Office	1				
Unknown			1		

Source: UNECE; <http://www.unece.org/cefact/locode/service/location.html>; accessed on 21 May 2015

It may be noted that governments are encouraged to ensure that their list of national ports is continuously updated and communicated to the United Nations secretariat.

Therefore, it is imperative that Nepal updates its list of ports and their functions, considering that major transit locations along the India-Nepal border remain unrecognized in the UN/LOCODE database.

2.4.3 Issue of Sensitive Goods and Insurance/Bank Guarantee

There are two major problems in this case. The first relates to the sensitive list itself and the second relates to the problems related to the associated guarantees which have to be executed by the importer to ensure that duties will be paid to the Indian customs in case the goods do not reach Nepal.

In the first case, the basis of arriving at the sensitive list is not clear, and neither is the list made available in a timely manner. Moreover, the Indian customs duties have fallen considerably, reducing the difference between Indian and Nepali tariffs which is an aspect that must be taken into account. From table 2.3 we can see that items with S. No. 1-6 (6 in number) are the ones where tariffs in India are lower than the corresponding tariffs in Nepal, hence there is no rational to keep these in the sensitive list. Items with S. No. 7-10 (4 in number) are the ones where there is no tariff difference between India and Nepal, hence again there is no rational to keep these in the sensitive list. Finally, for items with S. No. 11-15 (5 in number), the tariff difference is too small to encourage deflection. This difference can be accounted for by freight cost which could vary between 5-10% and hence these items are also proposed to be removed.

To sum this, out of the current sensitive list of 23 items, we propose to remove 15 items. Thus, the sensitive list can be pruned to maintain just **8 items** with S. No. 16-23 as in table 2.3.

This is also in line with provisions of Article 11 Para (1) of the Trade Facilitation Agreement which states that any regulation in connection with traffic in transit imposed by a member should not be maintained if the circumstances giving rise to their adoption no longer exist.

Table 2.3: List of Sensitive Items with Tariffs

S. No.	List of Sensitive Items	Nepal Tariff (%) (1)	Indian Tariff Band (%) (2)	Indian Tariff (%) (3)	Differenc e (4)=(1)- (3)	Proposed for removal from sensitive list
1	Watches & Parts	15	10	10	5	√
2	Household electricals & electronic goods parts (including telephones, fax machines, calculators, audio & video cassettes, music system, VCP, VCR, video camera, T.V., torches)	15	0, 7.5, 10	10	5	√
3	Synthetic Yarn & Fabrics	15	10	10	5	√
4	Car Air conditioner	15	10	10	5	√
5	Car Accessories & spare parts	15	10	10	5	√
6	Ferrous & non ferrous scrap cathodes (99.9%)	15	10	10	5	√
7	Computers & Parts	0	0	0	0	√
8	Compressor	10	7.5, 10	10	0	√
9	Pharmaceutical bulk drugs formulations	10	10	10	0	√
10	Plastic(HDPE/LDPE/LLD PE/PP granules & films)	10	10	10	0	√
11	Bearings	5	7.5	7.5	-2.5	√
12	Yarn	5	10	10	-5	√
13	Photographic Goods(Photo films,papers & cameras)	5	10	10	-5	√
14	Oxyteracycline	5	10	10	-5	√
15	Fabrics, except cotton Fabrics	5	10,15	15	-10	√
16	Puppy seeds	10	30	30	-20	
17	Oil/fat of animal origin/Tallow	10	15, 30	30	-20	
18	Silk	5	10, 15, 30	30	-25	
19	Raw Silk(trusser & Others)	5	30	30	-25	
20	Spices	30	30, 70, 100	70	-40	
21	Coconut Oil	15	100	100	-85	
22	RBD Palmollin	5	100	100	-95	
23	Betal nuts	30	150	150	-120	

Source: Author's own calculations using tariffs provided by Indian and Nepal Customs

The second problem relates to the need for Nepali importers to furnish insurance or bank guarantee which is very burdensome. Also, sometimes the fixing of the market value of the goods at an excessively high level by India customs pushes up the insurance cost.

The requirement that only two insurance companies viz. Indian National Insurance Company Limited and the Oriental Insurance company have the authority to issue guarantees means a high premium rate than if there were competition with more insurance companies –both public and private.

The international standard on guarantees as per Trade Facilitation Agreement's Article 11 Para(s) 11, 12, 13 and 14, states that in case a guarantee is required for traffic in transit, it shall be limited to ensuring that requirements arising from such traffic in transit are fulfilled; that it will stand discharged without delay once transit requirements have been satisfied; that there could be an allowance of multiple guarantees for same operators or renewal of guarantees without discharge for subsequent consignments; and most importantly that the members must be transparent with regard to providing public information on how the guarantee has been set.

2.4.4 Issue of Infrastructure

Kolkata Port Trust, comprising of two of the major ports of India – Kolkata and Haldia– is an important transshipment point for goods exported via sea from Nepal or imported from the rest of the world for Nepal. Both Kolkata and Haldia ports are riverine in nature situated at a distance of 128 km and 232 km from the sea, respectively. Kolkata port has draft limitation of 7.2 metres depending upon the tide. A slightly more draft of up to 8.5 metres is available at Haldia port. But due to draft limitations at these ports, containers are being transhipped en route and transported by feeder vessels resulting in unduly long transit time and high transportation cost. The available warehouse sheds and open space for Nepal on long-term lease at Kolkata and Haldia are not adequate to cater to the needs of Nepali containerized cargoes as there is no separate container yard to store Nepali containers. The lack of separate container yard and necessary equipment is hampering quick dispatch of containers from the port. Since Haldia and Kolkata have a draft limitation, bulk cargo is also coming through Vishakhapatnam and Paradip on a case by case basis. This provision is not widely known to traders and therefore this facility is being availed only by a few.

As per data collected by Ministry of Shipping, Government of India, Kolkata port ranks seventh in cargo traffic handling and third in containerised traffic handling among all twelve major Indian ports during 2012-13. In the same period, Kandla and Jawaharlal Nehru ports ranked first for handling the maximum cargo traffic and container traffic respectively (Annex 5). Given their performance in cargo and container traffic handling, Jawaharlal Nehru, Vishakhapatnam, Kandla, and Paradip ports could be used in addition to the Kolkata Port as transit points for Nepal's exports and imports through India.

The transit corridor Kolkata-Raxaul-Birgunj-Kathmandu faces several infrastructural bottlenecks which need to be addressed. The quality of the road corridor is very bad. About 180 km road in Bihar (India) is in poor condition, which reduces vehicles speed to 20 km/hour and thus increases transport costs. The crossing point close to the check-post and the narrow 2-lane bridge over the River Sirsiya near the border are in poor condition and pose significant transit challenges. Moreover, there is significant congestion at the border point at

Raxaul as the customs yard there is very small resulting in trucks being parked along the main roads resulting in congestion. The section from Kathmandu – Birgunj is a long detour road (276 kms) which adds to the transportation costs. As of June 2015, the Nepal government has established ICDs at Biratnagar, Bhairahawa and Kakarvitta and is working on setting up ICPs at Biratnagar, Birgunj, Bhairahawa and Nepalgunj for which it is seeking assistance from the Indian side. The ICD at Birgunj is already operational.

Soft infrastructure at borders is another issue. Both countries are in the process of automating the customs procedures. However, while India follows the ICEGATE system, Nepal is following ASYCUDA ++. The transit module at Kolkata is operated manually and the process of EDI is yet to be completed. At Raxaul, EDI is operational only for bilateral trade but not for transit cargo. Also, due to lack of complete automation there is no electronic message exchange system between various authorities. At Birgunj, the automation systems have to be set up and synchronized with the Indian ICEGATE. Also, the automation in Nepal should include assigning unique importer/exporter code numbers. Customs formalities in remaining LCSs are mostly handled manually. The existing EDI system also does not function efficiently which add to the transaction costs.

The road corridor for transit through India for trade between Nepal and Bangladesh (Chittagong/Mongla- Banglabandha- Phulbari – Kakarvita-Kathmandu of 1,362 kms length) also faces significant challenges. The 2.5 km road in India, close to Phulbari border point is in poor condition, and acts as a deterrent when traffic increases. The Bangladesh part of the transit corridor has an axle load limit of 8.2 tonnes which further acts as an impediment in this transit route.

Given the lack of facilities for transit goods, Article 11, Para 5 of the Trade Facilitation Agreement must be made note of that encourages members to make available physically separate infrastructure – lanes, berths etc. – for facilitating traffic in transit.

2.4.5 Issues related to Containerized Cargo

For moving containerized cargo, it has been reported that some additional procedures need to be complied. The customs agent has to submit a cash deposit or bank guarantee or a bond equivalent to the value of the container (the container valuation also differs with shipping lines) to the shipping line to obtain permission to take container to Nepal and bring it back. Some of the shipping lines also ask for insurance of the container against any damage or loss. Permission of the customs is also obtained by submitting the permission of the shipping line and a duty insurance of an insured value of INR 100,000 for a TEU.

2.4.6 Issues related to Railways

Rail appears to be the dominant mode for transit exports from Nepal, while transportation by road is the dominant mode for transit imports; accounting for 63 percent and 60 percent shares in total containerized transit exports and imports respectively (Table 2.4). Even though

the share of rail in total containerized transit imports has fallen over the years, the tonnage carried by rail has rather been rising.

Table 2.4: Nepal Bound Container Transit through India

Nepal's Transit Exports					
Year	Rail (TEU)	Share of Rail (%)	Road (TEU)	Share of Road (%)	Total (TEU)
2010-11	26	1.6	1569	98.4	1595
2011-12	588	40.6	862	59.4	1450
2012-13	674	39.0	1056	61.0	1730
2013-14	684	45.7	812	54.3	1496
2014-15	934	62.9	551	37.1	1485
Nepal's Transit Imports					
Year	Rail (TEU)	Share of Rail (%)	Road (TEU)	Share of Road (%)	Total (TEU)
2010-11	18387	43.0	24396	57.0	42783
2011-12	17941	42.0	24805	58.0	42746
2012-13	20200	44.2	25538	55.8	45738
2013-14	17346	40.0	26071	60.0	43417
2014-15	21764	39.7	33081	60.3	54845

Source: Kolkata Customs; author's calculations

TEU: Twenty Feet Equivalent Unit

Two different Indian agencies are involved in the movement of transit goods by rail between Kolkata and Birgunj. The Container Corporation of India Limited (CONCOR), a Government undertaking, is responsible for operating container trains between Kolkata and Birgunj, while the Indian Railways responsibility is to manage movement of trains, arrange for availability of locomotives, wagons, rakes and rolling stock, and deciding the freight rate. Even in Indian Railways, three zonal railways i.e Eastern Railway (ER), East Central Railway (ECR) and South Eastern Railway (SER) are involved when it comes to managing rail services with Nepal.

Consultations revealed that there are three major reasons for delay in movement of trains. First, there are unscheduled restrictions imposed by Indian railways to manage congestion on railway lines. Second, there is no fixed schedule for movement of trains. Third, sometimes there is a delay of 2 to 3 days in order to meet the requirement of completing a rake containing 92 wagons before it can be moved.

2.4.7 Barriers and Transaction Cost for Transit Cargo

For road transit cargo, customs and port formalities take up to 4 days. Shipping lines file the IGM 72 hours before the arrival of the vessel whereas the actual customs procedures begin only after the vessel arrives. At Kolkata port, there is requirement of submission of original customs transit declaration (CTD), bill of lading, invoice, packing list, import license (whenever issued) and letter of credit (certified by Consulate General). During transit

movement of trucks is often affected by numerous check-posts on the route as well as informal payments that have to be made at the check-posts. Number of days required for road-transit from Kolkata to Birgunj is usually around 5 days. Indian trucks are allowed to enter Nepal duty free for 72 hours to deliver cargo. Nepalese trucks are also allowed to operate in India to carry transit cargo to/from Kolkata.

At Birgunj, from the time the cargo arrives till the time it is dispatched takes on an average 2 days. Shipping lines usually give free time between 14-21 days for the use of containers from ship discharge to return to shipping company yard. At Birgunj, the importer has to submit all original documents. Sometimes there is a delay in getting original documents by courier from Kolkata and from the consignee in Kathmandu. If the cargo arrives in Indian trucks, the containers go up to Kathmandu, offload the cargo and then the empty containers move back to Kolkata which takes around 8 days. The total turnaround time in case of road transit is 19 days (Table 2.5).

Table 2.5: Transaction Cost for Road Transit Cargo

	Customs and Port Formalities	Transit Time Laden	At ICD Birgunj	Transit time empty direction and arrival at Kolkata	Turnaround (days)
Average	4	5	2	8	19
Ideal Time	0	2	2	3	7

Source: Information elicited from freight forwarders in Kolkata, Birgunj and Kathmandu

Even in case of rail transit cargo, reasons for average time of 5 days to complete customs and port formalities are more or less the same. Importer or his agent has to send a forwarding note to rake offer at Kolkata and the rake is dispatched only after a rake containing 92 wagons is completed. This usually adds up to 6 days. On the onward movement from Kolkata to Birgunj there is a lot of congestion and unscheduled restrictions on the movement of railways which adds 4 days to the delay. At Birgunj, all customs and documentation formalities need to be completed before the cargo can move out. This takes about 7 days. The empty containers have to move back to India, and on the way again face restrictions imposed by Indian railways due to congestion, as a result of which it takes on an average 4 days for empty containers to reach back to Kolkata. Total turnaround time in case of rail transit cargo goes up to 26 days (Table 2.6).

Table 2.6: Transaction Cost for Rail Transit Cargo

	Customs and Port Formalities	F/note to rake offer at Kolkata	Rake offer to dispatch	Transit Time Laden	At ICD Birgunj	Transit time empty direction and arrival at Kolkata	Turn-around (days)
Average	5	4	2	4	7	4	26
Ideal Time	0	2	0	3	1	5	11

Source: Information elicited from freight forwarders in Kolkata, Birgunj and Kathmandu

From our interactions with several freight forwarders, we have arrived at an estimate for “ideal time”³ for undertaking transit by road and rail. In case of complete automation, the ideal time is assumed to give the most efficient and best scenario that would govern India-Nepal transit in case of both road and rail. This indicator can be used to evaluate the inefficiency of the current transit procedures too. For instance, the transit by road takes 2.7 times longer than it should ideally take. While, transit by rail takes 2.4 times longer than it should ideally take.

2.4.8 Issues of Transit with and through Bangladesh

A host of transit problems stymies cargo movement for Nepal’s trade with and through Bangladesh:

- Cargo movement is allowed only at specified times in daylight hours in weekdays.
- Trucks carrying cargo-in-transit must move in convoys of a maximum of 20-25 trucks.
- There is a load limit restriction in trucks (16.2 mt for general trucks and 19 mt for Multi Axle trucks including truck loads) in Phulbari-Banglabandh transit route in Indian sector which covers only 54 Km.
- Security escort is mandatory and provided only when there is a convoy of 25 trucks.
- Poor implementation of a one-time lock system is combined with the poor state of infrastructure on the Indian side of the border.
- Indian insurance companies enjoy monopoly power, goods have to be trans-shipped at the Bangladesh-India border, and there is no provision of through bill of lading (TBLs) by shipping lines.
- The involvement of Indian customs is an additional burden.

The major problem with the agreement is that there is no provision for guarantees. All problems emanate from the lack of a system that would ensure the safety, and security of goods and payments of duties.

According to the provisions of Article 11, Para 15 of the Trade Facilitation Agreement, members may employ the use of convoys only in circumstances presenting high risks or when compliance with customs laws and regulations cannot be ensured through the use of guarantees.

³ Ideal time has been arrived based on perception of freight forwarders. The numbers should be treated with caution.

3. Significance of International Transit Agreements and Conventions in Facilitating Nepal's Transit

As a WTO member, Nepal's trade and transit procedures are governed by GATT principles; especially Article V on Freedom of Transit which has further been clarified and improved upon in the recent Trade Facilitation Agreement (TFA). Provisions for facilitating transit in Article 11 of the TFA have phenomenal relevance for revising the India-Nepal transit treaty and prevailing transit arrangements (Table 3.1).

Table 3.1: Relevance of Trade Facilitation Agreement for India-Nepal Transit

Issue	Revision of Treaty as per 'Article 11: Freedom of Transit' in TFA
Sensitive list of items Article 11 Para 1	According to the TFA, any regulation in connection with traffic in transit imposed by a member should not be maintained if the circumstances giving rise to their adoption no longer exist. In recent years, tariffs rates in India have declined substantially leaving little difference between Indian and Nepali tariffs. Under these changed circumstances the sensitive list of items for India-Nepal transit trade should be reviewed.
Infrastructure to facilitate traffic in transit Article 11 Para 5	Draft limitations at Kolkata and Haldia ports, lack of adequate warehouses and container yards for Nepal bound cargo/containers, poor quality of roads on transit route, and congestion at border points have adversely affected transit trade through India. As stated in the TFA, member countries should be encouraged to build and provide physically separate infrastructure to facilitate traffic in transit which would be an important step in cutting down transit time and costs.
Transit related documentation Article 11 Para 6	Currently, a large number of documents are required in original in support of transit cargo by road and rail. To meet the requirements of the TFA, India and Nepal must limit the documentation to just those that are necessary to identify the goods and ensure fulfilment of transit requirements.
Customs Charges, Delays and Restrictions Article 11 Para 7	According to the TFA, any good in transit must not be subject to any customs charges, nor unnecessary delays or restrictions from the point of origin in a member country until its destination within the member's territory. Collection of informal charges and payments for goods en-route to Nepal, while crossing different states in India, must therefore be eliminated.
Pre-arrival processing Article 11 Para 9	At present, processing of transit documents at ports takes place only after the arrival of original documents, resulting in delays in release and clearance of goods for onward movement. The TFA necessitates Members to allow and provide for advance filing and processing of transit documentation and data prior to arrival of goods. Use of electronic systems for this purpose will further help expedite India-Nepal transit trade.
Guarantees Article 11 Para 11 – 15	Furnishing an insurance or bank guarantee for goods transiting through India is burdensome for Nepali importers, especially when an inflated market value of goods is affixed, and a high premium is charged due to the monopoly enjoyed by the only two insurance companies having the authority to issue such guarantees. Abiding by the provisions of the TFA will help in the following ways: <ul style="list-style-type: none"> • Ensuring that the guarantee is limited to just the fulfillment of transit procedure • Discharging the guarantee without delay once transit requirements have been satisfied • Allowing for multiple guarantees or renewal of guarantees without discharge for subsequent consignments, i.e. a comprehensive guarantee system • Encouraging transparency with regard to providing public information on how the guarantee has been set • Allowing for the use customs convoys in circumstances of high risk or absence of guarantees
National Transit Coordinator Article 11 Para 17	According to the TFA, India and Nepal must endeavour to appoint a national transit coordinator to ensure efficient and streamlined functioning of transit operations. The coordinator can help redress all queries and inefficiencies arising in India-Nepal transit.

Source: Authors' compilation through critical assessment of India-Nepal transit treaty and WTO Trade Facilitation Agreement

Thus, when both India and Nepal are able to meet the requirements of the Trade Facilitation Agreement related to transit, it would make a tremendous difference to the cost of transporting goods from Nepal to rest of the world through India.

4. Concluding Remarks and Recommendations

There are a large number of inadequacies in the prevailing India-Nepal transit treaty encompassing issues with regard to documentation requirements, transshipment procedures, sensitive items, arbitrary bank guarantees, and poor infrastructure. All of these inadequacies have resulted in considerably high transaction costs for transit cargo when measured as the time taken to complete transit formalities. Transit by road takes 2.7 times longer and transit by rail 2.4 times longer than it must ideally take under most efficient conditions. Nepal must therefore aim to amend its transit treaties with India in line with internationally recognized practices as emphasised under the Trade Facilitation Agreement and Vienna Program of Action – both of which specify measures that Nepal and India must be prepared to undertake. The two programs also encourage member countries to ratify international transport and transit conventions, and international standards in trade and transit processes, which the two countries must explore to accede to in the long run.

We propose the following recommendations that can streamline India-Nepal transit through road and rail and revise the prevailing treaties as per international standards, particularly the Trade Facilitation Agreement:

- i.** Since 2011, Indian customs have been affixing an additional one time lock (OTL) on import of cargo for Nepal. It is suggested that the Indian side may re-consider removal of the additional OTL as cargo by containerized rail is quite secure and there are no reported cases of pilferage.
- ii.** CONCOR should have a scheduled train for transit cargo. A monitoring system and an evaluation system should be put in place so that the schedule is adhered to.
- iii.** There should be a dedicated railway line for transit cargo so that there are no unnecessary delays.
- iv.** Government of India should inform 15 days ahead of any increase in tariff of Indian rail services.
- v.** The bank guarantee for safety and security of cargo should be executed by the carrier.
- vi.** All Nepali registered commercial vehicles should be given unrestricted entry to India for the transportation of the transit cargoes.
- vii.** Border infrastructure including warehousing parking, etc needs to be upgraded.
- viii.** Access roads to ports need to be improved.
- ix.** Since customs duties are falling in India and Nepal there is a need to prune the sensitive list and make it available publicly.

- x.** Insurance companies recognized by Insurance Regulatory and Development Authority of India (IRDA) other than Indian National Insurance Company and the Oriental Insurance Company should also be allowed to provide duty insurance. This will encourage competition and will help to lower the premium rate thereby reducing trade costs.
- xi.** In case of sensitive goods, movement of LCL import/export cargo from gateway port to destination ICD/port in Nepal should be permitted by bonded trucks. Bonded trucks are duly licensed (by safety/guarantee) by Indian customs to carry duty-unpaid goods in transit.
- xii.** Physical infrastructure needs to be upgraded at Kolkata port, ICD Birgunj and other land custom stations present at India-Nepal border on both sides.
- xiii.** Transit should be allowed from other Indian ports as well. The IGC meeting in 2011 did agree that Nepal can use the facilities at Vishakhapatnam, JNPT and Kandla port for transit trade. However there has been no letter of exchange to operationalize this. Since cargo is also coming from Paradip port, this port may also be used for transit trade of Nepal.
- xiv.** At Haldia port there are two berths for containerized cargo which can be used by Nepal. So far containerized cargo is only coming through Kolkata port.
- xv.** There should be provision of automatic renewal of transit treaty with India.
- xvi.** The transit corridor for trade between Nepal and Bangladesh needs to be improved.
- xvii.** Nepal must urgently intimate the UNECE for updating the country's list of trading ports. Major transit locations along the India-Nepal border remain unrecognized in the UN Transport and Transit Location Code (UN/LOCODE) database including five road terminals at Sunauli, Birgunj, Kailali, Kakarbita, Kanchenjunga; and one multi-modal port at Nawalparasi. UNECE must also be intimated of the absence of road terminal at Kanchenjunga.
- xviii.** Along with the port names, their respective functions must also be correctly designated to identify them as internationally recognized road, rail, air or multimodal terminals. For example, the function of Bhairawa and Nepalgunj ports as road terminals is presently not specified.
- xix.** Automation should be introduced at all levels for all processes and procedures. The Nepal Customs automation system ASYCUDA ++ and India's ICEGATE need to be harmonized for seamless electronic exchange. This should be discussed bilaterally and a Working Group should be set up to monitor the progress. This has been emphasised in the UN's Vienna Program of Action and WTO's Trade Facilitation Agreement.
- xx.** As required under the WTO Trade Facilitation Agreement Article 11 Para 17, India and Nepal must set up national transit coordinators to ensure good functioning of transit operations and redressal of all transit related queries and grievances.

xxi. Indian transport departments are in the process of discussing adoption of international conventions for transit. Nepal must also discuss possibilities of adopting these conventions. One way to take this forward would be to examine how transit is being conducted under the Cross-Border Transport Facilitation Agreement (CBTA) of the Greater Mekong Sub-region (GMS); and the two ASEAN Agreements facilitating transit and transport, namely, ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT) and ASEAN Framework Agreement on the Facilitation of Inter-state Transport (AFAFIST); that have been designed using international best practices and are based on international conventions.

xxii. Recommendations for transit with and through Bangladesh

- Physical infrastructure at border and quality of roads needs to be improved.
- There is a need to automate customs procedures in Nepal, Bangladesh and India.
- An automated bond module should be introduced between Nepal, Bangladesh and India.
- A suitable guarantee system needs to be devised to take care of safety and security of cargo.
- A new modality may be put in place once the required up-gradation has been completed.

References

- Andres, L.; Biller, D.; and Dappe, M. H. (2013)**, ‘Reducing Poverty by Closing South Asia's Infrastructure Gap’, Washington, DC, World Bank Group.
- Customs Manual (2014)**. Central Board of Excise & Customs Department of Revenue Ministry of Finance Government of India. Available at http://www.cbec.gov.in/resources//htdocs-cbec/deptt_offcr/cs-manual2014.pdf
- Central Board of Excise and Customs**. Circular No.83/1998-Cus., dated 5-11-1998. Available at <http://www.cbec.gov.in/htdocs-cbec/customs/cs-circulars/cs-circulars-1998/83-98-cus>
- Central Board of Excise and Customs**. Circular No.31/2005-Cus., dated 25-7-2007. Available at <http://www.cbec.gov.in/htdocs-cbec/customs/cs-circulars/cs-circulars-2005/31-2005-cus>
- Central Board of Excise and Customs**. Circular No. 78/2001-Cus dated 7/12/2001. Available at <http://www.cbec.gov.in/htdocs-cbec/customs/cs-circulars/cs-circulars-2001/78-2001-cus>
- Central Board of Excise and Customs**. Circular No. 34/2000-Cus. dated 03/05/2000. Available at <http://www.cbec.gov.in/htdocs-cbec/customs/cs-circulars/cs-circulars-2000/34-2000-cus>
- National Transport Development Policy Committee (2013)**, ‘Promoting International Transport Connectivity between India and the South and South East Asia regions’;
- Nepal, V (2006)**, ‘Policy Reorientation on Transit Trade of Nepal’, Economic Policy Paper, Paper No. 20
- Pohit, S. (2009)**, ‘Overview of India-Nepal Trade: Trends, Trade Logistics and Impediments’, MPRA Paper No. 45874
- Government of India**, The Customs Act (1962), ‘Goods in Transit’, Chapter VIII;
- United Nations (2014)**, ‘Vienna Program of Action’;
- WTO (2014)**, ‘Trade Facilitation Agreement’, WT/L/931;

Annexure

Annex 1

Step wise procedure for road-bound cargo

S. No.	Steps	Agency
1.	Obtain documents from Nepal	Customs House Agent (CHA)
2.	Vessels information taken by CHA from Shipping Company	Customs House Agent (CHA)
3.	CTD Preparation	Customs House Agent (CHA)
4.	IGM File to customs 48 hours before vessels arrival	Vessels/Shipping lines
5.	Submit the Dept. of commerce's letter to Consulate for TT/DAP with doc	Customs House Agent (CHA)
6.	Issue letter to Customs on consignment basis for TT, DAP/or LC list	Kolkata Consulate Office
7.	CTD submission with Documents to Customs	Customs House
8.	LC Document Verification by 2 Officers	Customs House
9.	CTD Noted by one Officer	Customs House
10.	Assessment by superintendent	Customs House
11.	CTD Number generation	Customs House
12.	CTD Data Entry	Customs House
13.	Container number Registration	Customs House
14.	Superintendent/DC Release signature	Customs House
15.	Payment of DO Charges/Port Charges and container bond submission	Vessels Shipping lines
16.	Delivery Order issue by Shipping lines against B/L in case of Master B/L	Vessels/Shipping lines
17.	Port Land charge debited from shipping company account at Traffic Manager office after produce of Yellow Jetty Challan, CTD and DO.	Port Authority
18.	Road Cargo Document Submission at Head Shed Clerk/Foreman verifying the payment of port charges	Port Authority
19.	Road Cargo Computer Entry as per jetty Challan and submit to Shed Writer.	Port Authority
20.	IDO issued by port authority	Port Authority
21.	Submit IDO to Central Industrial Security force by CHA along with lorry permit.	Port Authority
22.	Lorry entered and CIS stamped on back side of lorry permit certifying that the lorry entered	Port Authority
23.	Entry Gate Pass issued by Port authority to enter the Vehicle	Port Authority
24.	Loading of container	Port Authority
25.	Seal Check and additional seal, Pass order, Additional Seal affix	Port Customs House
26.	Endorsement of Vehicle Number in CTD back side after completing loading	Port Customs House
27.	Verification of IGM and Jetty Challan by concerned-Shed Writer deputed according to vessels for final delivery from port	Port Authority
28.	Prepare Rent bill by Shed writer (if Rent is applicable)	Port Authority
29.	Debited in Shipping company's account of importers at Traffic Manager Office	Port Authority
30.	EGP and Quin copy Submission at gate	Conveyance

31.	Out Gate pass of the gate Keeper	Conveyance
32.	Movement of Cargo to destination	Conveyance
33.	Return of Container	Conveyance
34.	CTD Seal Cover to LCS	Customs House
35.	Border Formalities	Customs House
36.	Slot Validity Check	Vessels/Shipping lines
37.	Slot Notice to Transporter	Customs House Agent (CHA)
38.	Container Parking at Slot	Conveyance
39.	Final bill submission	Vessels/Shipping lines

Annex 2

Step-wise Procedure for Rail-bound Cargo

S. No.	Steps	Agency
1.	Obtain documents from Nepal	Customs House Agent (CHA)
2.	Notify Steamer Agent by CHA or Importer	Customs House Agent (CHA)
3.	CTD Preparation	Customs House Agent (CHA)
4.	Filing of IGM	Vessels/Shipping lines
5.	Payment of DO Charges/TH Charges	Vessels/Shipping lines
6.	Delivery Order issue by Shipping lines against B/L in case of Master B/L	Vessels/Shipping lines
7.	CTD submission with Documents to Customs	Customs House
7.	Bond for preparation	Vessels /Shipping lines
8.	Submit the Dept. of Commerce's letter to Consulate for TT/DAP with doc.	Customs House Agent (CHA)
9.	Issue the Letter to Customs on consignment basis of TT, DAP/or LC list to Customs	Kolkata Consulate Office
10.	LC Document Verification by 2 Officers	Customs House
11.	ICCD Noted by one Officer	Customs House
12.	Assessment by superintendent	Customs House
13.	ICCD Number generation	Customs House
14.	ICCD Data Entry	Customs House
15.	Container number Registration	Customs House
16.	Superintendent/DC Release Signature	Customs House
17.	Port Land Charge paid at Traffic Manager office (Documents submission including Jetty Challan)	Port Authority
18.	Road Cargo Document Submission at Head Clerk	Port Authority
19.	Road Cargo Computer Entry as per Jetty Challan and submit to Shed Writer	Port Authority
20.	Verification of IGM and Jetty Challan by concerned Shed Writer deputed according to vessels	Port Authority
21.	Prepare rent bill by shed writer	Port Authority
22.	Payment of rent bill at Traffic Manager office	Port Authority
23.	Port Customs Notification	Port Customs House
24.	Seal check and additional seal, pass order	Port Customs House
25.	Release order issued	Port Customs House
26.	Documents submission in shed checking	Port Authority
27.	Cargo Location Identification	Customs House Agent (CHA)
28.	Punch import delivery order	Port Authority
29.	Electronic Gatepass issued	Port authority
30.	Calling of the vehicle	Conveyance
31.	Central industrial security force checks the IDO permits the vehicle to enter into the port by road.	Port authority
32.	Loading container after submitted IDO	Conveyance
33.	EGP submission at gate	Conveyance
34.	CTD Seal Cover to LCS	Customs House
35.	Movement of Cargo to destination	Conveyance
36.	Border Formalities	Customs house
37.	Return of container	Conveyance
38.	Slot validity check	Vessels/Shipping lines
39.	Final bill submission	Vessels/Shipping lines

Annex 3

Section 54 of the Indian Customs Act 1962

SECTION 54: Transhipment of certain goods without payment of duty. –

- (1) Where any goods imported into a customs station are intended for transhipment, a bill of transhipment shall be presented to the proper officer in the prescribed form.

Provided that where the goods are being transhipped under an international treaty or bilateral agreement between the Government of India and Government of a foreign country, a declaration for transhipment instead of a bill of transhipment shall be presented to the proper officer in the prescribed form.

- (2) Subject to the provisions of section 11, where any goods imported into a customs station are mentioned in the import manifest or the import report, as the case may be, as for transhipment to any place outside India, such goods may be allowed to be so transhipped without payment of duty.
- (3) Where any goods imported into a customs station are mentioned in the import manifest or the import report, as the case may be, as for transhipment –
- (a) to any major port as defined in the Indian Ports Act, 1908 (15 of 1908), or the customs airport at Mumbai, Calcutta, Delhi or Chennai or any other customs port or customs airport which the Board may, by notification in the Official Gazette, specify in this behalf, or
- (b) to any other customs station and the proper officer is satisfied that the goods are bona fide intended for transhipment to such customs station, the proper officer may allow the goods to be transhipped, without payment of duty, subject to such conditions as may be prescribed for the due arrival of such goods at the customs station to which transhipment is allowed.

Annex 4

Trade and Transport Location Codes for Nepal as of December 2014

S. No.	LOCODE	Name	Function	Status
1	NP SUN	Sunauli	Road terminal	Original entry not verified since 8/1/03
2	NP BRG	Birgunj	Road terminal	Original entry not verified since 8/1/03
3	NP KAI	Kailali	Road terminal	Original entry not verified since 8/1/03
4	NP DDG	Dhading	Road terminal	Recognised location
5	NP HET	Hetauda	Road terminal	Recognised location
6	NP ILM	Ilam	Road terminal	Recognised location
7	NP ANP	Annapurna	Road terminal	Recognised location
8	NP DHU	Dadeldhura	Road terminal	Recognised location
9	NP KAK	Kakarbitta	Road terminal	Request under consideration
10	NP KGJ	Kanchenjunga	Road terminal	Request under consideration
11	NP BIR	Biratnagar	Road terminal; Airport	Code adopted by international org. (IATA or ECLAC)
12	NP KTM	Kathmandu	Road terminal; Airport; Postal exchange office	Code adopted by international org. (IATA or ECLAC)
13	NP BSI	Birgunj ICD (+)	Multimodal functions, ICD etc	Approved by competent national government agency
14	NP LLU	Nawalparasi	Port; multimodal functions, ICD, etc	Request under consideration
15	NP BGL	Baglung	Airport	Code adopted by international org. (IATA or ECLAC)
16	NP BIT	Baitadi	Airport	Code adopted by international org. (IATA or ECLAC)
17	NP BJH	Bajhang	Airport	Code adopted by international org. (IATA or ECLAC)
18	NP BJU	Bajura	Airport	Code adopted by international org. (IATA or ECLAC)
19	NP BDP	Bhadrapur	Airport	Code adopted by international org. (IATA or ECLAC)
20	NP BWA	Bhairawa	Airport	Code adopted by international org. (IATA or ECLAC)
21	NP BHR	Bharatpur	Airport	Code adopted by international org. (IATA or ECLAC)
22	NP BHP	Bhojpur	Airport	Code adopted by international org. (IATA or ECLAC)
23	NP HRJ	Chaurjhari	Airport	Code adopted by international org. (IATA or ECLAC)
24	NP DNP	Dang	Airport	Code adopted by international org. (IATA or ECLAC)
25	NP DAP	Darchula	Airport	Code adopted by international org. (IATA or ECLAC)
26	NP DHI	Dhangarhi	Airport	Code adopted by international org. (IATA or ECLAC)
27	NP DOP	Dolpa	Airport	Code adopted by international org. (IATA or ECLAC)

S. No.	LOCODE	Name	Function	Status
28	NP GKH	Gorkha	Airport	Code adopted by international org. (IATA or ECLAC)
29	NP JKR	Janakpur	Airport	Code adopted by international org. (IATA or ECLAC)
30	NP JIR	Jiri	Airport	Code adopted by international org. (IATA or ECLAC)
31	NP JMO	Jomsom	Airport	Code adopted by international org. (IATA or ECLAC)
32	NP JUM	Jumla	Airport	Code adopted by international org. (IATA or ECLAC)
33	NP LDN	Lamidanda	Airport	Code adopted by international org. (IATA or ECLAC)
34	NP LTG	Langtang	Airport	Code adopted by international org. (IATA or ECLAC)
35	NP LUA	Lukla	Airport	Code adopted by international org. (IATA or ECLAC)
36	NP NGX	Manang	Airport	Code adopted by international org. (IATA or ECLAC)
37	NP MEY	Meghauli	Airport	Code adopted by international org. (IATA or ECLAC)
38	NP MWP	Mountain	Airport	Code adopted by international org. (IATA or ECLAC)
39	NP KEP	Nepalganj	Airport	Code adopted by international org. (IATA or ECLAC)
40	NP PPL	Phaplu	Airport	Code adopted by international org. (IATA or ECLAC)
41	NP PKR	Pokhara	Airport	Code adopted by international org. (IATA or ECLAC)
42	NP RJB	Rajbiraj	Airport	Code adopted by international org. (IATA or ECLAC)
43	NP RHP	Ramechhap	Airport	Code adopted by international org. (IATA or ECLAC)
44	NP RPA	Rolpa	Airport	Code adopted by international org. (IATA or ECLAC)
45	NP RUK	Rukumkot	Airport	Code adopted by international org. (IATA or ECLAC)
46	NP RUM	Rumjatar	Airport	Code adopted by international org. (IATA or ECLAC)
47	NP FEB	Sanfebagar	Airport	Code adopted by international org. (IATA or ECLAC)
48	NP SIH	Silgarhi-Doti	Airport	Code adopted by international org. (IATA or ECLAC)
49	NP SIF	Simara	Airport	Code adopted by international org. (IATA or ECLAC)
50	NP IMK	Simikot	Airport	Code adopted by international org. (IATA or ECLAC)
51	NP SKH	Surkhet	Airport	Code adopted by international org. (IATA or ECLAC)
52	NP SYH	Syangboche	Airport	Code adopted by international org. (IATA or ECLAC)
53	NP TPJ	Taplejung	Airport	Code adopted by international org. (IATA or ECLAC)
54	NP TPU	Tikapur	Airport	Code adopted by international org. (IATA

S. No.	LOCODE	Name	Function	Status
				or ECLAC)
55	NP TMI	Tumlingtar	Airport	Code adopted by international org. (IATA or ECLAC)
56	NP XMG	Mahendranagar	Airport	Recognised location
57	NP DHG	Dhaulagiri	Functional use of a location is not known and is to be specified.	Recognised location

Source: UNECE; <http://www.unece.org/cefact/locode/service/location.html> accessed on 21 May 2015

Notes: (+) = added entry; IATA = International Air Transport Association; ECLAC = Economic Commission for Latin America and the Caribbean.

Annex 5

Cargo and Container Traffic Handled at Major Ports in India (2012-13)

Major Indian Port	Cargo Traffic (MT) *	Share (%)	Rank	Container traffic (MT)	Share (%)	Rank
Kolkata Port Trust [#]	39.9	7.3	7	9.8	8.2	3
Paradip	56.6	10.4	5	0.2	0.1	11
Vishakhapatnam	59.0	10.8	3	4.55	3.8	6
Chennai	53.4	9.8	6	29.7	24.8	2
Ennore	17.9	3.3	11	--	--	--
Tuticorin	28.3	5.2	9	9.4	7.8	4
Cochin	19.9	3.6	10	4.61	3.8	5
New Mangalore	37.0	6.8	8	0.7	0.6	9
Mormugao	17.7	3.2	12	0.3	0.2	10
J.L. Nehru	64.5	11.8	2	57.9	48.3	1
Mumbai	58.0	10.6	4	0.8	0.7	8
Kandla	93.6	17.2	1	1.9	1.6	7
Total	545.8	100.0	--	119.9	100.0	--

Source: Basic Port Statistics 2012-13, Ministry of Shipping, Govt. of India

* Inclusive of overseas and coastal cargo; MT= million tonnes

Kolkata Port Trust includes the cargo and container traffic handled at Kolkata and Haldia Ports.

LATEST ICRIER'S WORKING PAPERS

NO.	TITLE	AUTHOR	YEAR
315	EFFECTS OF GOVERNMENT INVESTMENT SHOCKS ON PRIVATE INVESTMENT AND INCOME IN INDIA	JAGANNATH MALLICK	FEBRUARY 2016
314	IMPOSITION OF MAT ON SEZS: CONCERNS AND THE WAY FORWARD	ARPITA MUKHERJEE BHAVOOK BHARDWAJ	FEBRUARY 2016
313	TECHNOLOGY, JOBS AND INEQUALITY EVIDENCE FROM INDIA'S MANUFACTURING SECTOR	RADHICKA KAPOOR	FEBRUARY 2016
312	DIVERSIFYING INDIA'S SERVICES EXPORTS THROUGH SEZS: STATUS, ISSUES AND THE WAY FORWARD	ARPITA MUKHERJEE SAUBHIK DEB SHREYA DEORA TANU M. GOYAL BHAVOOK BHARDWAJ	DECEMBER 2015
311	TRENDS AND ECONOMIC DYNAMICS OF GUAR IN INDIA	DURGESH K. RAI	OCTOBER 2015
310	DRUG QUALITY AND SAFETY ISSUES IN INDIA	MAULIK CHOKSHI RAHUL MONGIA VASUDHA WATTAL	SEPTEMBER 2015
309	ADMINISTRATIVE STRUCTURE AND FUNCTIONS OF DRUG REGULATORY AUTHORITIES IN INDIA	NUPUR CHOWDHURY PALLAVI JOSHI ARPITA PATNAIK BEENA SARASWATHY	SEPTEMBER 2015
308	HUMAN CAPITAL POTENTIAL OF INDIA'S FUTURE WORKFORCE	ALI MEHDI DIVYA CHAUDHRY	SEPTEMBER 2015
307	RATIONALISING FERTILISER SUBSIDY IN INDIA: KEY ISSUES AND POLICY OPTIONS	ASHOK GULATI PRITHA BANERJEE	AUGUST 2015
306	REIMAGINING INDIA'S URBAN FUTURE A FRAMEWORK FOR SECURING HIGH-GROWTH, LOW-CARBON, CLIMATE-RESILIENT URBAN DEVELOPMENT IN INDIA	MEENU TEWARI ZEB AAZIZ MITCHELL COOK AMRITA GOLDAR INDRO RAY SAON RAY SAHANA ROYCHOWDHURY VIDHYA UNNIKISHNAN	AUGUST 2015
305	LOW CARBON PATHWAYS	HIMANSHU GUPTA	JUNE 2015
304	IS THE RUPEE OVER-VALUED?	JAIMINI BHAGWATI ABHEEK BARUA M. SHUHEB KHAN	JUNE 2015

About ICRIER

Established in August 1981, ICRIER is an autonomous, policy-oriented, not-for-profit, economic policy think tank. ICRIER's main focus is to enhance the knowledge content of policy making by undertaking analytical research that is targeted at informing India's policy makers and also at improving the interface with the global economy. ICRIER's office is located in the institutional complex of India Habitat Centre, New Delhi.

ICRIER's Board of Governors includes leading academicians, policymakers, and representatives from the private sector. Dr. Isher Ahluwalia is ICRIER's chairperson. Dr. Rajat Kathuria is Director and Chief Executive.

ICRIER conducts thematic research in the following eight thrust areas:

- Macro Management Financial Liberalisation and Regulation
- Global Competitiveness of Agriculture, Manufacturing and Services
- Multilateral Trade Negotiations and FTAs
- Urban Transition and Challenges
- Climate Change and Sustainable Development
- Physical Infrastructure including Telecom, Transport and Energy
- Asian Economic Integration with Focus on South Asia
- Entrepreneurship and Skill Development

To effectively disseminate research findings, ICRIER organises workshops, seminars and conferences to bring together academicians, policymakers, representatives from industry and media to create a more informed understanding on issues of major policy interest. ICRIER routinely invites distinguished scholars and policymakers from around the world to deliver public lectures and give seminars on economic themes of interest to contemporary India.

