

INDIA – NEPAL

RAIL

SERVICES

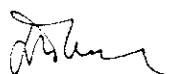
AGREEMENT

(21<sup>ST</sup> MAY, 2004)

RAIL SERVICES AGREEMENT  
BETWEEN  
MINISTRY OF RAILWAYS, GOVERNMENT OF INDIA  
AND  
MINISTRY OF INDUSTRY, COMMERCE AND SUPPLIES,  
HIS MAJESTY'S GOVERNMENT OF NEPAL

1. General

- 1.1 Ministry of Railways, Government of India and Ministry of Industry, Commerce and Supplies, His Majesty's Government of Nepal have entered into this Agreement for operating and managing the rail services between Kolkata/Haldia Ports in India and Birgunj in Nepal via Raxaul in India for transit traffic and between stations on Indian Railways and Birgunj via Raxaul for bilateral traffic.
- 1.2 This Agreement will be called 'India-Nepal Rail Services Agreement'.
- 1.3 Aspects related to operation of rail services will be governed by the applicable laws of the two countries, until other provisions are mutually agreed upon.
- 1.4 This Agreement shall remain in force for a period of 10 years from the date of signing and shall, thereafter, be automatically extended for a further period of five years at a time unless either of the parties gives to the other a written notice, six months in advance, of its intention to terminate the Agreement. The provisions of the Agreement shall be reviewed every five years and may be modified by the Contracting Parties by mutual consent.
- 1.5 In case of divergence, provisions of this Agreement will prevail over the provisions of Treaty of Transit in respect of movement of transit traffic to and from Birgunj ICD.



1.6 Definitions:

BCN/BCX	Types of eight wheeler covered wagons used by Indian Railways to carry cargo.
Bilateral Traffic	Cargo originating or terminating in India and moving between India and Nepal.
Block Rake	A full load train starting from a single originating station carrying traffic for a single destination station without any setoff stations en route.
Four wheeler equivalent	Indian Railways enumerate wagon population in terms of four wheeler equivalents by using a standard conversion formula for all types of wagons.
GOI	Government of India.
HMGN	His Majesty's Government of Nepal.
ICD	Inland container Depot is a common user facility with public authority status equipped with fixed installations and offering services for handling and temporary storage of import/export laden and empty containers carried under customs control and with customs and other agencies competent to clear goods for home use, warehousing, temporary admissions, re-export, temporary storage for onward transit and outright export.
ICD Birgunj	Facility located at Birgunj (Sirsiya) for handling containers and break-bulk cargo for imports into and exports from Nepal.
Indian Railways	Railway administration under MOR or its successors duly designated by GOI.
ISO Containers	Containers built in accordance with the specifications of International Standards Organization.
Kolkata Port	Seaport in India nominated to handle transit cargo to and from Nepal. Includes the seaport at Haldia.



Marshalling Order	Sequence of individual wagons on a freight train.
MOICS	Ministry of Industry, Commerce and Supplies, His Majesty's Government of Nepal.
MOR	Ministry of Railways, Government of India.
NITDB	Nepal Inter-modal Transport Development Board.
TMC	Terminal Management Company, the entity appointed by MOICS to operate and manage the ICD at Birgunj.
Transit Traffic	Cargo originating in countries other than India and moving over Indian Territory to and from Nepal.

## 2. Rail links between India and Nepal

2.1 Only one broad gauge rail link between Raxaul (India) and Birgunj (Nepal) is operational between India and Nepal.

## 3. Interchange Station

3.1 Raxaul will be the nominated Interchange Station for running of trains between Raxaul and Birgunj.

3.2 Trains running between Raxaul and Birgunj would be deemed to have been interchanged between the two countries on departure from (for trains from India to Nepal) and arrival at (for trains from Nepal to India) Raxaul.

## 4. Terminal Management Company

4.1 The ICD at Birgunj will be operated and managed by a Terminal Management Company (TMC) appointed by His Majesty's Government of Nepal. The TMC will work in accordance with the provisions of this Agreement.

4.2 The Terminal Management Company (TMC) would either be Nepalese company or an Indian company or an Indo-Nepal Joint Venture company to be selected through competitive bidding. In case an Indian company is selected, it will be required to select a




Nepalese Joint Venture partner and register in accordance with the Nepalese laws before signing of the lease Agreement.

5. Timings for Interchange of Trains

5.1 Trains will be interchanged between India and Nepal any time during day and night on all days of the week.

6. Train Schedules and Transit Times

6.1 Trains will run to open timings without any advertised Train Schedules.

7. Maintenance of Railway Track

7.1 Railway tracks, bridges and associated structures in Nepalese territory will be maintained by the agency designated for this purpose by MOICS as per schedule and standard of maintenance advised by MOR.

8. Maintenance of wagons

8.1 There will not be any regular wagon maintenance activity at Birgunj terminal in Nepal.

8.2 TMC will ensure that marshalling integrity of the incoming block rakes is maintained while dispatching outward trains, which will run with the incoming Brake Power Certificate.

8.3 Personnel of Indian Railways will be sent to Birgunj for temporary repairs of such damaged wagons as cannot be moved without this attention upon a written request of TMC. The TMC will provide adequate facilities, including storage space for stocking spare parts of wagons at Birgunj, to facilitate such repairs.

9. Joint Mechanical Examination of Rolling Stock

9.1 Representatives of the respective agencies designated for this purpose by MOR and MOICS will jointly inspect at Raxaul each wagon/flat going in interchange from India to Nepal and returning in interchange from Nepal to India to ensure that wagons/flats are sent from India fit in all respects and received back from Nepal in the same condition.



9.2 Records for such Joint Inspection of wagons/flats will be maintained at the Interchange Station duly authenticated by the representatives of the agencies designated for this purpose by MOR & MOICS.

9.3 MOR or an agency designated by it for this purpose, will raise debits on a bi-monthly basis in respect of wagon deficiencies detected in wagons returning from Nepal and the agency designated for this purpose by MOICS will accept and settle such debits.

10. Rolling Stock permitted to be interchanged

10.1 Only containers of ISO specifications loaded on flat wagons/BOX wagons owned by Indian Railways or Container Corporation of India will be permitted for interchange between India and Nepal. However, Reefer containers will be permitted at a later date by mutual consent.

10.2 BCN, BCNA, BCX type of wagons owned by Indian Railways will be allowed in interchange between India and Nepal.

10.3 All trains between India and Nepal will be worked by locomotives of Indian Railways and will be provided with a Guard's Brake Van.

10.4 Accident Relief Trains, Breakdown Special Trains and Restoration Special Trains will be allowed to move from India to Nepal and back in connection with restoration of traffic after any accident/breakdown on the Nepalese portion of the track.

10.5 MOR and MOICS may permit any other type of rolling stock to be interchanged between the two countries with prior mutual consent.

11. Composition of Trains

11.1 Only standard block rakes of the permitted types of wagons for a single destination (with the same compositions of wagons as authorized for operations of trains on Indian Railways) will be interchanged between India and Nepal. Exceptions to this arrangement may be allowed with mutual consent.



12. Streams of Rail Traffic between India and Nepal

12.1 Rail traffic between India and Nepal includes the following:-

- (a) Transit traffic originating at countries other than India and passing through Kolkata/Haldia port in India and destined to Birgunj;
- (b) Transit traffic originating at Birgunj and destined to countries other than India passing through the route connecting Kolkata/Haldia and Raxaul;
- (c) Bilateral traffic originating at Stations on Indian Railways and destined to Birgunj;
- (d) Bilateral traffic originating at Birgunj and destined to stations on Indian Railways.

12.2 Rail traffic between the two countries will comprise both container traffic moving in flats/BOX wagons and break-bulk cargo loaded in covered wagons.

12.3 Initially, only transit traffic [12.1 (a) and 12.1 (b)] will be moved on Raxaul-Birgunj section. Bilateral traffic [as described in 12.1(c) and 12.1 (d)] will be moved on Raxaul-Birgunj section by mutual consent at a date mutually agreed to in the first review meeting to be held within six months after actual commencement of train operation on this section.

13. Movement of Dangerous and Offensive Articles

13.1 Carriage of dangerous and offensive goods including arms, ammunitions and explosives by Indian Railways on Indian Territory will be regulated by the extant provisions of the Red Tariff issued by MOR, the Railways Act, 1989 and Rules specified in the Goods Tariff of Indian Railways and other instructions issued from time to time.

13.2 The packing and transit conditions for movement of dangerous goods over Indian Territory will be as laid down in the Red Tariff subject to any amendments made from time to time.



13.3 Indian Railways will accept only goods permitted under the provisions of the Treaty of Transit between Government of India and His Majesty's Government of Nepal for carriage.

14. Running of Trains

14.1 Indian Railways locomotives using wagons owned by Indian Railways or Container Corporation of India will run all trains between India and Nepal.

14.2 Indian Railways will provide train crews and Guards for all trains running between Kolkata/Haldia Ports and Birgunj via Raxaul.

14.3 Administration of the concerned Zonal Railway in India will issue Train Working Instructions for operation of rail services between Raxaul and Birgunj. Such Train Working Instructions will form an annexure of the Station Working Rules of Raxaul station.

14.4 The agency designated for this purpose by MOICS will formulate Train Working Instructions consistent with corresponding Instructions applicable at Raxaul.

14.5 The agency designated for this purpose by MOICS will deploy only such personnel for activities relating to reception and dispatch of trains who hold a mutually acceptable Competency Certificate for undertaking the jobs assigned to them.

15. Shunting Activities

15.1 Train locomotives of Indian Railways will perform all shunting for placement of wagons and flats for unloading and loading and for formation of trains at Birgunj in Nepal.

15.2 Drivers and Assistant Drivers of Indian Railways will operate the locomotives owned by Indian Railways for yard shunting at Birgunj in Nepal.

15.3 Activities relating to coupling and uncoupling of wagons, connecting of hose pipes, releasing of trains and other yard operations connected with placement and removal of wagons and formation of trains at Birgunj in Nepal will be handled by staff deployed by TMC for this purpose.

15.4 TMC will ensure that marshalling integrity of rakes is maintained while dispatching outward trains.





15.5 The agency designated for this purpose by the MOICS will deploy only such personnel for activities relating to yard shunting operation, who hold a mutually acceptable Competency Certificate for undertaking the jobs assigned to them.

16. Joint Commercial Wagon Examination at Raxaul

16.1 Representatives of the respective agencies designated for this purpose by MOR, will jointly examine each incoming and outgoing train at Raxaul and record details of each wagon and the condition of locks and seals on them as also the condition of One Time Lock of containers. Custody of the train will change from India to Nepal and vice versa after this examination.

17. Safety and Security of Trains and Personnel

17.1 MOICS will make arrangements for safety and security of Indian Railways locomotives, rolling stock and personnel while they are in the Nepalese territory.

17.2 MOICS will make necessary arrangements and provide adequate security for escorting all trains between the international border with India and Birgunj to prevent pilferage and theft of goods and any other damage to consignments in transit while they are in Nepalese territory.

18. Supply of Wagons, Loading Restrictions and Movement Rationalizations

18.1 Indian Railways will provide requisite wagons for moving traffic under the Preferential Traffic Schedule issued by the MOR, the Railways Act, and operating restrictions issued from time to time unless agreed otherwise by mutual consent.

18.2 Operating restrictions and regulations notified by Zonal Railways and in force on Indian Railways will also apply to loading to and from Birgunj terminal in Nepal.

19. Customs Examination

19.1 Procedures for customs examination and clearance of containerized transit cargo to and from Nepal shall be in


accordance with provisions laid down in Annexure A and B of this Agreement.

20. Transport Document for Carriage of Goods by Rail

- 20.1 Railway Receipt or its equivalent document issued by the representatives of the agency designated for this purpose by MOR will be the Transport Document for carriage of goods by rail.
- 20.2 Railway Receipt or its equivalent document will be issued for carriage of goods from Kolkata/Haldia to Birgunj and for carriage of goods from Birgunj to Kolkata/Haldia.
- 20.3 For transport of bilateral traffic, representatives of the agency designated for this purpose by MOR or its designated agency will issue the Railway Receipt for transportation from the originating station in India to Birgunj and from Birgunj to the destination station in India.

21. Charging of Freight

- 21.1 Respective agencies designated for this purpose by MOR and MOICS will quote rates of freight for carriage of goods for the distances traversed in their respective countries from/up to the international border.
- 21.2 Either Government or its designated agency may make a change in the freight rates as well as in the conditions of carriage of goods by giving a notice to the other Government or its designated agency of its intention to do so. Such changes shall come into force two weeks after the issue of such a notice unless an alternative date is mutually agreed upon.
- 21.3 Charging of freight for traffic across Raxaul – Birgunj will be as under:
- (a) For traffic originating at Kolkata/Haldia ports, freight from the point of origin to the international border between India and Nepal will be prepaid at Kolkata.
- (b) For traffic originating at Birgunj in Nepal, designated agency of Indian Railways will arrange to collect freight charges and issue the transport document at Birgunj. The charges will be



collected in Indian currency by way of a bank draft payable at a designated bank at Raxaul.

- 21.4 There will be no adjustment of freight between India and Nepal. Respective agencies designated for this purpose by Ministry of Railways, Government of India and Ministry of Industry, Commerce & Supplies, His Majesty's Government of Nepal will be responsible for collection of freight and any other charges for movement of traffic over their respective territories.

22. Detention Charges

- 22.1 The agency designated for this purpose by MOICS will pay Detention/Locomotive Hire charges in respect of locomotives of Indian Railways to the agency designated for this purpose by MOR for the duration of time spent at ICD Birgunj after the lapse of the notified free time at scales of charge notified by MOR from time to time.

- 22.2 The agency designated for this purpose by MOICS will also pay Detention/Wagon Hire Charges in respect of wagons/flats of Indian Railways and Container Corporation of India to the agency designated for this purpose by MOR for the duration of time spent at ICD Birgunj after the lapse of the notified free time at scales of charge notified by MOR from time to time.

- 22.3 If Birgunj in Nepal is unable to accept a train offered to it by the Indian Railways, such trains will be stabled at Raxaul Station on Indian Railways. The agency designated for this purpose by MOICS will pay detention charges for such trains for the duration of time for which such trains are detained for acceptance by the terminal in Birgunj at Scales of charge notified by MOR from time to time.

23. Liability

- 23.1 Liability of MOR will be in accordance with the provisions of Railways Act, 1989 and the Rules for Claims attached as Annexure - C of this Agreement.

- 23.2 Liability of MOICS, His Majesty's Government of Nepal will include obligations in respect of Articles 17 and 25 of this Agreement. MOICS will make all possible efforts to ensure that



the concerned agencies pay all dues to Government of India in respect of Articles 9 and 22 of this Agreement.

24. Maintenance Of Interchange Records

24.1 Indian Railways staff at the Interchange Station and representatives of His Majesty's Government of Nepal will jointly prepare the following daily returns:

24.1.1 Interchange Return including the following details in respect of each train interchanged between India and Nepal:

- Owing Zonal Railway and number of each locomotive
- Owing Zonal Railway and individual number and type of each wagon
- Owing Agency and number for each container
- Time of Interchange
- Loaded/Empty status of each wagon and container
- Commodity loaded in each wagon.


24.1.2 Wagon Interchange Summary including information about total number of wagons interchanged in 4 wheeler terms and their break up in loaded and empties.

24.1.3 Container Interchange Summary including information about total number of containers interchanged and their break up in loaded and empties.

24.2 These returns will be prepared in five copies. One copy each will be sent to MOR and MOICS or their designated agencies.

24.3 MOR or its designated agency will send a monthly summary to MOICS or its designated agency showing the total number of wagons interchanged between India and Nepal. MOICS or its designated agency will send a similar statement to MOR.

24.4 There will be tri-monthly meeting of the representatives of the agency designated by MOR and the agency nominated by MOICS to reconcile the interchange records, to work out the Detention Charges, and raise bills for detention and other changes on both sides.



25. Accidents and Restoration

- 25.1 MOR will provide all assistance for restoration of traffic in cases of train accidents in the Nepalese Territory by deploying its own staff and break down trains whenever required.
- 25.2 MOR will make available all material and equipment as may be required for restoration of through communication after such an accident.
- 25.3 Agency designated by MOICS, His Majesty's Government of Nepal will bear the cost of restoration of accidents in Nepalese Territory, including costs of deploying Accident Relief Trains etc. and materials/equipment used for restoration of through communication, staff costs and any other costs, whenever incurred, by MOR for such restorations. However, this would be subject to adjustment, if required, after completion of the enquiry and assessment of compensation as laid down under Article 26.5 and 26.6.

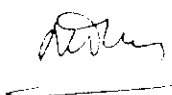
26. Accident Enquiries

- 26.1 Any incident taking place in the course of train working, which causes or had the potential to cause damage or loss to railways' rolling stock, locomotives, permanent way, personnel or cargo or which causes disruption of rail movement or which created an unsafe condition for train movement will be treated as an accident.
- 26.2 A Joint enquiry will be held by an Accident Enquiry Committee to establish the cause of each accident in the Nepalese Territory.
- 26.3 Accident Enquiry Committee for holding Joint enquiries will include one representative each of MOR and MOICS. If considered necessary, the Committee may co-opt not more than two additional technical members each from MOR and MOICS.
- 26.4 Representative of MOR and representative of MOICS will alternately be the Coordinator of the Accident Enquiry Committee.





- 26.5 Accident Enquiry Committee will also assess the costs of restoration and damage due to each accident.
- 26.6 Accident Enquiry Committee will decide the compensation in respect of the cost of damage payable by MOR and MOICS respectively taking into account the findings of the Accident Enquiry Committee.
27. Insurance Cover/Bank Guarantee
- 27.1 To cover the claims arising out of Articles 9 and 22 of this agreement, the agency designated by MOICS shall arrange to provide an insurance cover issued by an Insurance company mutually acceptable and/or a bank guarantee in favour of MOR or its designated agency to the satisfaction of Indian Railways. The amount of the insurance cover/bank guarantee shall be sufficient to cover the cost of operations for three months or as mutually agreed.
28. Competency Certificates
- 28.1 Staff deployed for the purpose of train working, activities related to yard shunting and track maintenance at Birgunj shall have a "Competency Certificate" acceptable to Indian Railways for ensuring safe operation of trains.
29. Arrangements at Birgunj Terminal in Nepal for Indian Railways Personnel
- 29.1 Terminal Management Company at Birgunj will arrange to provide adequate facilities including Running Rooms, Rest Rooms (as provided at crew changing stations on Indian Railways) and other requisite facilities for drivers, assistant drivers, guards and other supervisory staff of MOR at the ICD.
- 29.2 Terminal Management Company at Birgunj will provide similar facilities for other Indian Railways' personnel visiting ICD in connection with repairs of wagons, restoration of accidents etc.
30. Movement of Indian Railways' Personnel to Nepal
- 30.1 Indian Railways shall be allowed to bring in personnel considered necessary for the smooth and efficient operation of



the train services. Such personnel will carry valid identity cards/authorization letters issued by appropriate agency of Indian Railways.

31. Review and Modification

31.1 Technical and operational aspects including the import/export procedures may be reviewed and modified by mutual agreement in Co-ordination Meetings between representatives of two Governments, to be held at least once every six months. Agreements reached in these meetings will be set out as "Record of Discussions on Technical and Operational Matters between Government of India and His Majesty's Government of Nepal" which will form an integral part of this Agreement.

32. Legitimate Interests

32.1 Each contracting Party shall have the right to take all necessary measures in accordance with its laws and regulations to ensure that such freedom, accorded by it on its territory, does not in any way infringe its legitimate interests of any kind.

32.2 Nothing in this Agreement shall prevent either Contracting Party from taking any measures, which may be necessary for the protection of its essential security interests.

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

33. Settlement of Disputes

33.1 Any difference or dispute, if any, arising out of this Agreement shall be resolved through consultations and negotiations between the two Governments.



33.2 In the absence of any settlement through negotiations as per Article 33.1 both Governments may decide to refer the dispute, upon mutual agreement, to arbitration.

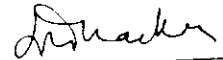
33.3 The Arbitral Tribunal shall have three members comprising one nominee each of the MOR and MOICS and the third member shall be appointed upon mutual acceptance of both the Governments.

33.4 The applicable law for arbitration shall be Indian law, if the cause of action arises in the Indian Territory and it shall be the Nepalese law if it arises in Nepalese Territory.

33.5 The Arbitral Tribunal shall determine its own procedures.

33.6 The time limit for referring a dispute to arbitration shall be 12 months from the date on which the cause of action arose.

Done at Kathmandu this Twenty First day of May Two Thousand and Four signed in two originals in Nepalese, Hindi and English languages. In case of divergence of interpretation, the English text shall prevail.

(  )

On behalf of  
the Government of India  
L. R. Thapar  
Additional Member (Traffic)  
Railway Board of  
Government of India

(  )

On behalf of His Majesty's  
Government of Nepal  
Dinesh C. Pyakural  
Secretary  
Ministry of Industry,  
Commerce and Supplies



IMPORT PROCEDURE

When goods are imported from third countries by Nepal in transit through India, the following procedure shall be observed:-

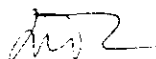
1. (a) Transit of Nepalese imports, shall be allowed against import licences issued by His Majesty's Government of Nepal wherever such licences are issued, and Letters of Credit opened through a commercial bank in Nepal.
- (b) In case of Nepalese imports for which there is no requirement of import licence or Letter of Credit, the Royal Nepalese Consul General, Deputy Consul General or Consul at Kolkata shall furnish the following certificate on the Import Containerised Cargo Declaration, hereinafter referred to as "ICCD".

"I have verified that the goods specified in this Declaration and of the quantity and value specified herein have been permitted to be imported by His Majesty's Government of Nepal without the requirement of import licence or letter of credit".

Signature & Seal

NOTE: His Majesty's Government of Nepal shall arrange to supply through the Indian Embassy at Kathmandu or directly to the Commissioner of Customs, Kolkata, the specimen signature or signatures of official or officials who are authorised to sign import licences issued by His Majesty's Government of Nepal. It shall also arrange to have a copy each of the import licences, wherever such licences are issued by it for such goods, sent directly to the Commissioner of Customs, Kolkata.

2. At the Indian port of entry (hereinafter called the Customs House), the importer or his agent (hereinafter referred to as the importer) shall present a ICCD containing the following particulars:
  - (a) Name of the ship, Rotation number and Line number,
  - (b) Name and address of the importer,
  - (c) Number, description, marks and serial numbers of the packages,
  - (d) Country of consignment and country of origin, if different,
  - (e) Description of goods,



- (f) Quantity of goods,
- (g) Value of goods,
- (h) Import licence number and date,
- (i) Letter of credit number, date and name and address of issuing bank,
- (j) A declaration at the end in the following words:-

"I/We declare that the goods entered herein are for Nepal, in transit through India and shall not be diverted en-route to India, or retained in India.

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

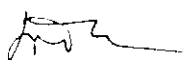
Signature

3. The ICCD shall be made in quadruplicate. All copies of ICCD along with the copy of bill of lading (non-negotiable copy), copy of invoice, copy of packing list and copy of the import licence issued by His Majesty's Government of Nepal, wherever issued, and a copy of the letter of credit, authenticated by a designated authority of HMGN or the issuing bank, shall be presented to the Customs House. The copy of the import licence and the letter of credit so presented shall be examined by the Customs House against the copy of the import licence and/or the statement of particulars of the letter of credit received directly from His Majesty's Government of Nepal. No other additional document may be asked for, except where considered necessary for clearance of specific goods.
4. The shipping agents shall submit an application for issue of a Transshipment Permit, hereinafter referred to as "TP" in prescribed forms (5 copies) along with copies of relevant parts of Import General Manifests (IGMs) to the Appraiser/Superintendent, as is being done under the existing procedure for transshipment of imports for goods destined to ICDs in India. As regards details of cargo in the application of transshipment, reference of relevant IGM may be made in the transshipment application by mentioning "details as part/page.... of IGM No..... as enclosed."
5. Nepalese import goods in transit shall be covered by a bond and/or a bank guarantee, as may be acceptable to Indian Customs, to be furnished by the carrier to the satisfaction of the Commissioner of Customs, Kolkata for an amount equal to the Indian customs duties on



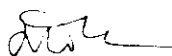
such goods. In the event of the goods not reaching Nepal, irrespective of any other action contemplated in such case under the existing laws, the carrier shall pay to the Commissioner of Customs, Kolkata, the amount of duty secured by means of bank guarantee/cash security on such goods. The said amount shall become payable forthwith on the receipt of a notice to the carrier issued by the Commissioner of Customs, Kolkata, after satisfying himself that the goods have not entered Nepal.

6. The shipping agents shall file another bond with the Indian Customs House at the port of entry, binding themselves to re-export containers within six months of their import into India. The period of six months may be extended by the Deputy/Assistant Commissioner of Customs. The shipping agents shall also submit an authorisation from the carriers appointed for transportation of goods from port of entry to ICD Birgunj through Land Customs Station (LCS) Raxaul, so that issuance of transshipment permit and debiting of carrier's bond can be done simultaneously.
7. On receipt of the application from the shipping agent, the Appraiser/Superintendent shall check whether the name of carrier/shipping agent appears in the negative list. Transshipment permit may be denied in case the name of shipping agent figures in the negative list.
8. In case the name of shipping agent does not figure in the negative list, the details furnished by the shipping agent in the transshipment form shall be scrutinised by the officer and matched with the declaration on the ICCD, and if these are found to be in order, the officer shall debit the bond of the carrier on the basis of value of the goods indicated in the ICCD. The number and date of the ICCD shall be recorded on the TP. After scrutiny of the transshipment form and debiting of bond, the officer shall sign all the copies of TP and put a seal.
9. On arrival of the Nepalese containerised cargo, the Indian customs officer posted at the seaport, shall merely check the 'one-time-lock' of the container put on by the shipping agent or the carrier authorised by the shipping company. If found intact, the customs officer shall allow transportation of the containerised cargo, without examination, unless there are valid reasons to do otherwise.
10. In case where the 'one-time-lock' on the container arriving at the seaport in India is found broken or defective, the Indian customs authorities shall make due verification of the goods to check whether



the same are in accordance with the ICCD, put fresh 'one-time-lock' and allow the container to move to the destination. The serial number of the new 'one-time-lock shall be endorsed in the ICCD and the TP.

11. After the Customs House is satisfied as regards the checks contemplated in the preceding paragraphs, it shall endorse loading/dispatch particulars of the goods on all copies of TPs.
12. In case of any suspicion of pilferages, traffic-in-transit shall be subject to checks by the Indian Customs during the period that they are in transit, as may be necessary.
13. On arrival of the cargo by rail at Raxaul Land Customs Station, the following examination procedure will be followed:
  - (a) On arrival of the cargo, the Indian Customs authorities shall merely check the 'one-time-lock' of the container put on by the shipping agent or the carrier authorised by the shipping company or the customs authorities at the sea port or during the transit and so endorsed on the TP and, if found intact, shall approve for onward transmission of the containerised cargo, without examination of the cargo unless there are valid reasons to do otherwise.
  - (b) In case where the 'one-time-lock' of the container is found broken or defective, the Indian customs authorities at the railway station shall get the container grounded for making due verifications of the goods to check whether the goods are in accordance with the ICCD and conform to the import licence, wherever such licence is issued, and the letter of credit. Respective representatives of the concerned Carrier, Shipping Agents and importer shall be involved in the process of verifications.
  - (c) If, on verification in presence of agencies listed in (b) above, the goods are found in accordance with the ICCD and conform to the import licence, wherever such licence is issued, and the letter of credit, the Indian customs authorities at the Raxaul LCS shall put fresh 'one-time-lock' and approve for onward transmission of the container. The serial number of the new 'one-time-lock' shall be endorsed by the Indian customs authorities at the border railway station on the TP.



14. On arrival of traffic-in-transit at Raxaul LCS, the carrier shall present the original copy of the TP duly endorsed by the Indian Customs House of entry, to the Indian customs officer at the Raxaul LCS, who shall compare the original copy with the duplicate received by him in a sealed cover and will, after satisfying himself as regards the checks contemplated at subparagraphs (a), (b) and (c) above, endorse all the copies of the TPs. The goods in transit shall be allowed onward movement by rail only after clearance as above by the Indian customs officer at the Raxaul LCS. The carrier shall, thereafter, through such measures as may be necessary, ensure that the goods cross the border and reach Nepal.
15. Indian customs officer at the Raxaul LCS will certify on the copies of the TP that goods have been allowed transit into Nepal. The Indian customs officer shall then hand over the original copy of the TPs to the carrier and send the duplicate to the Indian Customs House at the port of entry. After the original TP is received back duly endorsed by the Nepalese customs officer, Raxaul LCS will forward the same to the customs authority at the port of entry (Customs House, Kolkata).
16. The copy of TP endorsed by the Nepalese Customs shall then be sent to Kolkata Customs for closure of manifest in respect of containers transported to ICD Birgunj. In case the carrier is not able to produce evidence of the export of goods to Nepal (to the satisfaction of Dy./Assistant Commissioner of Indian Customs at Raxaul Railway LCS) and/or endorsed TPs are not produced within the stipulated time, the carrier's and the shipping agent's bonds may be enforced.



EXPROT PROCEDURE

When goods from Nepal are cleared for export to third countries, in transit through India, the following procedure shall be observed:-

1. The designated officer in charge of the Nepalese customs office in ICD Birgunj shall furnish the following certificate on the "Export Containerised Cargo Declaration", referred hereinafter to as ECCD:

"I have verified that the goods specified in this Declaration and of the quantity and value specified herein have been permitted to be exported under Licence Number.....dated ..... (wherever issued) and under Letter of Credit Number.....dated.....issued by .....(name and address of the issuing bank)".

Signature & Seal

Note: The requirement of giving particulars of Letter of Credit in the above certificate will not apply in the case of goods for the exports of which from Nepal, no Letter of Credit is required under the laws of His Majesty's Government of Nepal.

2. The exporter or his agent (hereinafter referred to as the exporter) shall present to the Indian customs officer at the Raxaul LCS, an ECCD containing the following particulars:

- (a) Name and address of the exporter,
- (b) Number, description, marks and serial numbers of the packages,
- (c) Country to which consigned,
- (d) Description of goods,
- (e) Quantity of goods,
- (f) Value of goods,
- (g) Export Licence Number and date, if required,
- (h) Country of origin of goods,



- (i) Letter of Credit number, date and name and address of issuing bank,
- (j) A declaration at the end in the following words:-

"I/We declare that the goods entered herein are of Nepalese origin, are for export from Nepal to countries other than India and shall not be diverted en-route to India or retained in India.

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

Signature

3. The ECCD shall be made in quadruplicate. All copies of ECCD, along with copy of bill of lading, copy of invoice, copy of packing list and copy of the Letter of Credit, authenticated by the concerned Nepalese bank, shall be presented to the Indian Customs officer at LCS Raxaul. No additional documents will be asked for by the Indian Customs, except when considered necessary for the clearance of any specific goods.
4. The shipping agents shall submit an application for issue of a Trans-shipment Permit, hereinafter referred to as "TP" in prescribed forms (5 copies) along with a copy of ECCD to the Appraiser/Superintendent for Trans-shipment of exports for goods transited to go via the gateway port of Kolkata.
5. Nepalese export goods in transit shall be covered by a bond and/or a bank guarantee, as may be acceptable to Indian Customs, to be furnished by the carrier to the satisfaction of Indian Customs, for an amount equal to the Indian customs duties on such goods. In the event of the goods not reaching the gateway port, irrespective of any other action contemplated in such case under the existing laws, the carrier shall pay to the Commissioner of Customs, Patna, the amount of duty secured by means of bank guarantee/cash security on such goods. The said amount shall become payable forthwith on the receipt of a notice to the carrier issued by the Commissioner of Customs, Patna, after satisfying himself that the goods have not reached the destined gateway port.
6. The shipping agents shall file another bond with the Indian Customs at LCS Raxaul, binding themselves to re-export containers within six



months of their import into India. The period of six months may be extended by the Deputy/Assistant Commissioner of Customs. The shipping agents shall also submit an authorisation from the carriers appointed for transportation of goods from ICD Birgunj through LCS Raxaul to gateway port, so that issuance of trans-shipment permit and debiting of carrier's bond can be done simultaneously.

7. On receipt of the application from the shipping agent, the Appraiser/Superintendent at LCS Raxaul shall check whether the name of carrier/shipping agent appears in the negative list. Transshipment permit may be denied in case the name of shipping agent figures in the negative list.
8. In case the name of shipping agent does not figure in the negative list, the details furnished by the shipping agent in the transshipment form shall be scrutinised by the officer and matched with the declaration on the ECCD, and if these are found to be in order, the officer shall debit the bond of the carrier on the basis of value of the goods indicated in the ECCD. The number and date of the ECCD shall be recorded on the TP. After scrutiny of the transshipment form and debiting of bond, the officer shall sign all the copies of TP and put a seal.
9. On arrival of sealed export container at Raxaul, the Indian customs officer posted at LCS Raxaul, shall merely check the 'one-time-lock' of the container put on by the shipping agent or the carrier authorised by the shipping company. If found intact, the customs officer shall allow transportation of the container, without examination, unless there are valid reasons to do otherwise.
10. In case where the 'one-time-lock' on the container arriving at LCS Raxaul is found broken or defective, the Indian Customs authorities shall make due verification of the goods to check whether the goods are in accordance with ECCD and shall put fresh 'one-time-lock' and allow the containers to be transported. The serial number of the new 'one-time-lock' shall be endorsed in the ECCD.
11. After the Indian Customs at LCS Raxaul are satisfied as regards the checks contemplated in the preceding paragraphs, it shall endorse loading/dispatch particulars of goods on all the copies of TPs.
12. In case of any suspicion of pilferage, the goods in transit shall be subject to such checks by the Indian Customs, as may be necessary.





13. On arrival of the cargo by rail at the gateway port in Kolkata, the following examination procedure will be followed :

- (a) On arrival of the cargo, the Indian Customs authorities shall check the 'one-time-lock' of the container put on by the shipping agent in ICD Birgunj or by the carrier authorised by the shipping company or during the transit and so endorsed on the TP and, if found intact, shall approve for onward shipment of sealed export container, without examination of the cargo unless there are valid reasons to do otherwise.
- (b) In case where the 'one-time-lock' of the container is found broken or defective, the Indian Customs authorities at the port shall make due verifications of the goods to check whether the goods are in accordance with the ECCD and conform to the export licence, wherever such licence is issued, and the Letter of Credit. Respective representatives of the concerned Carrier, Shipping Agents and exporter shall be involved in the process of verifications.
- (c) If, on verification, done in presence of agencies listed in (b) above, the goods are found in accordance with the ECCD and conform to the export licence, wherever such licence is issued, and the Letter of Credit, the Indian Customs authorities at the gateway port of Kolkata shall put fresh 'one-time-lock' and approve for onward shipment of the container. The serial number of the new 'one-time-lock' shall be endorsed by the Indian Customs authorities at the gateway port of Kolkata on TP.

14. On arrival of traffic-in-transit at the gateway port, the carrier shall present the original copy of the TP duly endorsed by the Raxaul LCS Customs, to the gateway port customs officer Kolkata, who shall compare the original copy with the duplicate received by him in a sealed cover and will, after satisfying himself as regards the checks contemplated at sub-paragraphs (a), (b) and (c) above, endorse all the copies of the TPs. The goods in transit shall be allowed onward shipment by vessel only after clearance as above by the Indian Customs officer at the gateway port. The customs officer at the gateway port will certify on the copies of the TP that goods have been allowed shipment and then hand over the original copy of the TPs to the carrier and send the duplicate to Raxaul LCS Customs for reconciliation of bonds.



15. A copy of the TPs endorsed by Kolkata Customs at the gateway port shall be sent to LCS in Raxaul for closure of bonds in respect of containers transshipped from ICD Birgunj. In case the endorsed TPs are not produced within the stipulated time, the carrier and shipping agent's bonds may be enforced.



## RULES FOR CLAIMS

A rail terminal together with rail tracks, bridges, associated structures and linkage with the rail network of Indian Railways is operational at Birgunj in Nepal. The references to the railway administration in Nepal in this document will be deemed to refer to MOICS, HMGN or an agency specifically designated for this purpose by HMGN.

### 1. Notices for Claim

- 1.1 Any intimation of loss, damage etc., detected on opening a sealed wagon or container taken over at a point of interchange as also any report of non-receipt shall constitute a valid claim between MOR and MOICS, provided it is preferred within the time limit set out in these rules.
- 1.2 A certificate by a Gazetted Officer/concerned Station Master/Station in-charge that the claim has been posted within the time limit shall be accepted.
- 1.3 Such intimation shall be sent by registered post with acknowledgement/by hand/by fax and in the case of loss, damage etc. from a sealed wagon/container, shall be accompanied by a timed copy of the telegram or fax or letter issued by the unloading station in which the loss, deficiency, etc. is reported, and a certificate that the seals have been certified as intact by the officer as referred to in 1.2 above.
- 1.4 On receipt of an intimation of a claim in respect of a consignment booked to the railway in the other country, the railway will send by registered post an acknowledgement notice in the approved Form to the railway in the other country.

### 2. Time Limits

- 2.1 Time Limits for proving delivery in good condition or furnishing



instructions shall be as under:

- |                                                                                                                                 |                                                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) Intimation of loss, damage etc.                                                                                             | Within 12 months of the date of booking of the consignment.                                                                                              |
| (b) For non-receipt of a consignment or package.                                                                                | Booking railway one and a half month and each intermediate railway one & half months calculated from the date of receipt of notice in the approved form. |
| (c) For damage, deficiency in weight or pilferage recorded at the point of interchange or reported from a "seals intact" wagon. | Three months from the date of receipt of the report of damage etc.                                                                                       |

- 2.2 The concerned railway station shall on its own initiative either repudiate or settle the claims on best terms obtainable, if definite instructions are not received within the time limit prescribed by (b) or (c) above.
- 2.3 After a claim has been settled in terms of this clause, the paying railway shall so advise the other railway concerned within one month of the date of payment.
- 2.4 In respect of claims in the categories referred to in clause (b) above, debit for the amount paid shall be raised within three months, but not more than six months, after the notice of payment, unless in the meantime, the railway given notice is able to establish its non-liability or intimates its desire that the case should be referred to arbitration.
- 2.5 In respect of claims in the categories referred to in clause (c) above, debit for the amount paid shall be raised within three months, but not more than six months, after the notice of payment. Debits raised in terms of this clause shall neither be rejected nor disputed.



3. Procedure for reporting loss, damage, etc. detected in wagons with "Seals Intact"

- 3.1 The loss of a package or consignment shall be notified to the station which last sealed the wagon/container, by telegram/fax specifying the condition of the seals at the time of unloading and be tendered for dispatch on the day the wagon is opened.
- 3.2 Any damage or deficiency other than the loss of a package or consignment shall be notified to the station, which last sealed the wagon/container, by a letter to be dispatched within 24 hours of the unloading of the wagon. The condition of the seals at the time the wagon was opened shall be mentioned in the letter. The station copies of telegrams and registers of letters issued, shall be maintained and retained for at least one year.
- 3.3 When shackles with lead rivets are used, if the shackle is received without card attachment, the seal shall not be considered as intact although the impression on the lead is intact.

4. Extent of Indian Railways' Monetary Liability

- 4.1 Indian Railways' Monetary Liability will depend on whether the value of the consignment has been declared and percentage charge on the excess value has been paid or not.
- 4.2 Unless the percentage charge has been paid, the liability of the Indian Railways will not exceed the amount calculated at the rate of Rs.50/- per Kg.
- 4.3 For consignments booked on payment of percentage charge, Indian Railways' liability will not exceed the declared value. The amount verified as the actual loss will be paid as compensation subject to a maximum of the declared value.
- 4.4 Certain items specified in Railways (Extent of Monetary Liability and Prescription of Percentage Charge) Rules, 1990, Railways (Extent of Monetary Liability and Prescription of Percentage Charge) Amendment Rules, 1998 and Part-I, Schedule-II of Rule 901 (5) of IRCA Coaching Tariff No.25, Part-I, Volume-III will be booked only on payment of percentage charge as applicable.



## 5. Determination of Liability

5.1 Incidence of claims for loss, damage, etc. to consignment, including loss, damage, etc. resulting from mis-dispatch or delay by one country with another shall be determined as under:

- (i) In all cases where the damage or deficiency can be localized, the responsibility shall lie with the country in which the damage or deficiency occurs.
- (ii) With regard to consignments handed over after check at the point of interchange, on the basis of the condition in which they are handed over.
- (iii) With regard to consignments made over in sealed wagons, based on the condition in which the wagons are handed over at the interchange point provided always that any report issued within 24 hours of the unloading of the wagon shall be accepted by both countries as correct, and claims based on such reports shall be decided as under:
  - (a) If they arise out of damage not localized – to be divided between the two countries in the proportion of the mileage/kilometrage travelled by the consignment in each country.
  - (b) If they arise out of deficiencies – be treated as the responsibility of the forwarding country.
  - (c) If they arise out of loss and/or pilferage – to be treated as the responsibility of the forwarding country.
- (iv) With regard to claims arising on mis-dispatched consignments, the railway initiating the mis-dispatch will be responsible for two thirds of any loss, damage, etc. and the railway on which the loss or damage occurs will be responsible for the balance.
- (v) With regard to claims arising from delay, the railway on which a consignment takes more than the normal time in transit or which is responsible for delay in making over or taking over at an interchange point or for causing delay by mis-dispatch or otherwise, shall be entirely responsible.





- (vi) There shall be no claims/liabilities for containers and wagons interchanged between MOR and MOICS if customs seals and/or one time locks are intact.

6. Seals

6.1 The seal card label and/or bracket label to be used for India-Nepal traffic will be white with green line printed across.

6.2 Customs Seals shall be accepted as original stations seals, provided that:

(a) The railway reporting the loss, damage, etc. certifies that the consignment could not be checked at the time the wagon/container was opened for customs examination at the border station and that the report of loss, damage, etc. was made within 24 hours of the subsequent unloading of the wagon/container;

(b) If any package is taken out of the wagon/container by the customs staff at the checking station, advice should be sent by wire to the booking, sealing and destination stations to this effect giving full details of the packages taken out. A memo indicating the details of the check conducted and the packages taken out of the wagon/container should also be kept inside the wagon/container.

7. Articles Received in Excess:

7.1 Whenever a package is found to be in excess, this should be notified to the station which last sealed the wagon/container, by a telegram which shall specify the condition of the seals at the time of unloading, and be tendered for dispatch on the day the wagon is opened. The package shall be the property of the receiving railway unless it is linked with a specific consignment.

