

GOVERNMENT OF INDIA (भारत सरकार)
MINISTRY OF RAILWAYS (रेल मंत्रालय)
(RAILWAY BOARD/रेलवे बोर्ड)

No.2019/TT-III(F)/72/NPL/04-Pt.


New Delhi, Dated : 29.06.2021

OFFICE MEMORANDUM

Sub: **Letter of Exchange (LoE) for Amendments to Rail Services Agreement (RSA) between India and Nepal**

Please find enclosed herewith the signed Letter of Exchange (LoE) dated 29.06.2021 on the amendments to India-Nepal Rail Services Agreement-2004, for further necessary action.

Encls : As above


(Dr. Manoj Singh)
Exe. Director/Traffic Transportation(F)
Ph : 23047303 Tele/Fax :23383506
Email : manoj.singh04@gov.in

The Joint Secretary (North)
(Shri Anurag Srivastava)
Ministry of External Affairs,
South Block,
New Delhi.

**Sushant Kumar Mishra,
Additional Member (Traffic Transportation)**



भारत सरकार
रेल मंत्रालय, (रेलवे बोर्ड)
रेल भवन, नई दिल्ली-110001
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)
RAIL BHAVAN, NEW DELHI-110001

New Delhi, 29th June, 2021.

LETTER OF EXCHANGE

Amendment to Rail Services Agreement between the Government of Nepal and the Government of India signed on 21st May, 2004

Excellency,

I write to acknowledge the receipt of your letter dated 28th June, 2021 which reads as follows:

“I have the honour to refer to the understandings reached between the Government of Nepal and Government of India in the First, Second and Third Comprehensive Review Meetings of the Rail Services Agreement held (in New Delhi, 12-14 November, 2009, Kathmandu, 1-2 March, 2012 and New Delhi 6-7 June, 2019 respectively) pursuant to Article 1.4 of the India-Nepal Rail Services Agreement (“RSA”) signed on 21st May, 2004 for amendment in relevant Articles of Rail Services Agreement, as under:

I. Replace Article 1.1 of the RSA with the following:

Article 1.1: Ministry of Industry, Commerce and Supplies, Government of Nepal and Ministry of Railways, Government of India have entered into this Agreement for operating and managing the rail services between Kolkata/Haldia/Vishakhapatnam Port and any other agreed Ports in India under the Treaty of Transit between Nepal and India and Birgunj ICD and any other agreed operational ICD/ICP/Stations in Nepal for transit traffic and between stations on Indian Railways network and Birgunj ICD and any other agreed operational ICD/ICP/Stations in Nepal for bilateral traffic.

II. Replace Article 1.4 of the RSA with the following:

Article 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 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 provision of the Agreement shall be reviewed and may be modified by mutual consent.

III. Article 1.6: Definitions:

Delete the term “Four wheeler equivalent” and “ICD Birgunj” and their definitions and replace the definition of “ICD” with the following definition:

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ICD: "Inland Clearance Depot for the purpose of this Agreement is a common user facility in Nepal with the rail link to stations on Indian Railways network having public authority status, equipped with fixed installations and offering services for handling and temporary storage of import/export laden and empty containers/bulk/break-bulk cargo 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.

IV. Insert definition of the following terms in Article 1.6 of the RSA:

Eight-wheeler Equivalent: Indian Railways enumerate wagon population in terms of eight-wheeler equivalents by using a standard conversion formula for all types of wagons.

GON: Government of Nepal

Reefer Container: Reefer Container is a refrigerated container, used for transportation of temperature sensitive cargo. Reefer Container has an integral refrigeration unit which rely on external power from electrical power points at a land based site and generator car on container trains.

Rolling Stock: All types of covered wagons, tank wagons, flat wagons and open wagons owned by Indian Railways or any other authorized cargo train operators licensed by Indian Railways or privately-owned wagons approved by Indian Railways under any train operator or wagon investment schemes.

DSO Container: Containers including dwarf containers or any other containers for movement of domestic/bilateral traffic conforming to Maximum Moving Dimensions (MMD) of Indian Railways.

Designated Ports: A Port notified under the relevant provisions of Customs Act 1962 of India and designated for Nepal bound cargo, both inbound and outbound, as agreed between the Government of Nepal and the Government of India under the Treaty of Transit.

Customs Office: A Customs Office notified under the relevant provision of Customs Act 2007 of Nepal.

Nepal Railway: Nepal Railway Company established in Nepal and authorized by Government of Nepal for train operation.

ICP: Integrated Check Post (ICP) for the purpose of this Agreement is an integrated development of land border area for facilitation of transit trade and bilateral trade between India-Nepal as well as for movement of passengers across the border connected with the rail link to stations on Indian Railways network

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having public authority status, systematically planned, properly inter-connected and efficiently managed border check-posts between Nepal and India.

Designated Land Customs Station: A Land Customs Station (LCS) notified under the relevant provisions of Customs Act, 1962 of India and designated for Nepal bound cargo, both inbound and outbound, as agreed between the Government of Nepal and Government of India.

Station: Station in context of Indian Railways includes all stations, goods sheds, sidings, Inland Container Depots, Container Freight Stations (CFS), Container terminals, private and public freight terminals located on or served by the Indian Railways network. Station in the context of Nepal includes all stations and goods sheds located in Nepal and served by Nepal Railway Company/GON.

Locomotives: All types of locomotives running on IR system can be used to haul rolling stock between India and Nepal.

Authorised Cargo Train Operators: Authorised Cargo Train Operators includes Container Train Operator(CTO), Automobile Freight Train Operator(AFTO), Special Freight Train Operator (SFTO) or any other operator authorized by Indian Railways.

V. **Replace the term** "His Majesty's Government of Nepal", "HMGN" wherever it occurs in the RSA and the Annexure thereto, with the term "Government of Nepal", "GON".

VI. Replace Article 2 in the RSA with the following:

Article 2.1: Broad gauge rail link between Raxaul (India) and Birgunj (Nepal) is operational between India and Nepal.

Article 2.2: Broad gauge rail links between Biratnagar (Nepal) and Jogbani (India), Bhairahawa (Nepal) and Nautanawa (India), and Inarwa (Nepal) and Jaynagar (India) shall be operational after completion notification.

VII. Insert a new Article 3.3 as follows in the RSA immediately after Article 3.2:

Article 3.3: Interchange Station for running of trains between other border crossing points at Nepal-India border shall be notified by Indian Railways

VIII. Replace Article 4.1 of RSA with the following:

Article 4.1: Rail linked ICD/ICP at Nepal-India border in Nepal side shall be operated and managed by a Terminal Management Company (TMC) appointed by the Government of Nepal. The TMC shall work in accordance with the provisions of this Agreement.

IX. Replace Article 10.1 and 10.2 with the following:

Article 10.1: Only ISO/DSO and Reefer containers of ISO specifications, dwarf containers or any other containers conforming to the MMD of Indian Railways in single stack, double stack or any other combination which is permitted on Indian Railways can be loaded on flat wagons owned by Indian Railways or any other authorized cargo train operators licensed by Indian Railways will be permitted for interchange between Nepal and India.

Article 10.2: All covered wagons, flat wagons, tank wagons and open wagons or any other type of wagons owned by Indian Railways or any other authorized cargo train operators licensed by Indian Railways or privately-owned wagons approved by Indian Railways under any train operator or wagon investment schemes shall be allowed in interchange between Nepal and India subject to provisions contained in Article 12.2 of this Agreement.

X. Replace Article 12.2 with following Articles:

Article 12.2: Provisions in respect of movement of rail traffic:

Article 12.2.1: Rail traffic between the two countries shall comprise of all types of cargo in all types of rolling stock which are permitted to move on the Indian Railway network including container/reefer container traffic moving in Flat wagons, break-bulk, bulk and bagged cargo in covered wagons, break-bulk cargo which cannot be handled manually such as HR coils and heavy equipment/machinery including over-dimensional cargo in flat wagons, bulk cargo such as Coal, Clinker etc. in open (BOXN) wagons and liquid/oils cargo in tank wagons, automobile traffic in flat and covered wagons and parcel traffic in parcel vans. Alcoholic Liquor/Beverages (including beer) and other concentrates, Perfumes, Cosmetics, Cigarettes, Tobaccos, and such other items as may be notified by the Government of India, in consultation with the Government of Nepal, shall not be loaded on flat wagons and open wagons.

Article 12.2.1A: The Nepal bound bulk cargo shall move by rail from the entry points in India or Stations from India to Stations in Nepal or railway stations in India on Indo-Nepal border such as to Jogbani or Nautanwa (Sunauli) or similar other stations and thereafter shall move by road following amendment in India-Nepal Treaty of Transit.

Article 12.2.2: Movement of Reefer containers shall be allowed subject to a minimum of 14 containers of forty feet (FEU) or equivalent twenty feet reefer containers (TEU) or a combination equivalent to minimum 14 FEUs. Such number of reefer containers should be offered for movement to any authorized cargo train operator licensed by Indian Railways for each destination at one time. However, if the authorized cargo operator wants to run less 14FEU or equivalent, they are permitted to run depending on operational and commercial

considerations to be decided by the operators themselves. The infrastructure required to handle this traffic at ICD/ICP in Nepal should be ensured

Article 12.2.3: Movement of open wagons (BOXN wagons) owned by Indian Railways or any other authorized cargo train operators licensed by Indian Railways or privately-owned wagons approved by Indian Railways under any train operator or wagon investment schemes will be permitted for Bilateral and Transit Trade such as Coal, Clinker, etc. to and from ICD/ICP/Stations to be constructed in Nepal for handling such cargo.

XI. Delete **Article 12.3** of the RSA.

XII. Replace **Article 14.1** in the RSA with the following:

Article 14.1: Indian Railways locomotive using wagons owned by Indian Railways or any other authorized cargo train operators licensed by Indian Railways or privately-owned wagons approved by Indian Railways under any train operator or wagon investment schemes will run all trains between India and Nepal.

XIII. Insert a new **Article 14.1A** as follows in the RSA immediately after Article 14.1:

Article 14.1A: The Government of India shall permit the Nepal Railway Company owned rail/wagon for cargo movement from Kolkata/Haldia up to Biratnagar/Birgunj routes and vice versa following the set procedures and standards of Indian Railways.

XIV. Replace Article 14.2 in the RSA with the following:

Article 14.2: Arrangements of crews for trains running from India to Nepal and Nepal to India will be decided mutually between Indian Railways and Nepal Railway Company/GON based on operational considerations.

XV. Replace Article 19.1 in the RSA with the following:

Article 19.1: Procedures for customs examination and clearance shall be in accordance with the provisions laid down in Annexure - 'A' and 'B' of this Agreement.

XVI. Insert a new **Article 19.3** as follows in the RSA immediately after Article 19.2

Article 19.3: Procedure for Transshipment/transit for the cargo moving from ICD Birgunj in Nepal to Kolkata/Haldia/Vishakhapatnam Ports or any other agreed Port in India under the Treaty of Transit between India and Nepal and vice-versa shall be in accordance with the provisions laid down in Annexures - 'F' and 'G' to this Agreement, which will be inserted by mutual consent at a

mutually agreed date. Till such time, the cargo will be moved as per the procedure laid down in Annexures - 'A' and 'B' of the RSA.

XVII. Replace Article 21.3(b) in the RSA with the following:

Article 21.3(b): For traffic originating at Kolkata/Haldia Ports/Vishakhapatnam Port/any other agreed Port in India under the Treaty of Transit between India and Nepal, freight charges from the point of origin to the international border between India and Nepal will be prepaid directly through Nepali commercial bank to respective account of railway operator held with commercial bank in India.

XVIII. Replace **Article 22:** Detention Charges with following articles:

Article 22.1: The agency designated for this purpose by MOICS in respect of ICDs/ICPs and Nepal Railway Company in respect of stations in Nepal 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/ICP/Station in Nepal after the lapse of the notified free time at scales of charge notified by MOR from time to time.

Article 22.2 : The agency designated for this purpose by MOICS in respect of ICDs/ICPs and Nepal Railway Company in respect of stations in Nepal will pay Detention/Wagon Hire charge in respect of wagons/flats of Indian Railways or any other authorized cargo train operators licensed by Indian Railways to the agency designated for this purpose by MOR for the duration of time spent at ICD/ICP/Stations in Nepal after the lapse of the notified free time at a scales of charge notified by MOR from time to time.

XIX. Replace the Title of Annexure 'A' of the RSA with the following:

IMPORT PROCEDURE FOR CUSTOMS EXAMINATION AND
CLEARANCE OF TRANSIT CARGO

XX. Replace Para 9 of Annexure 'A' with the following:

Para 9: On arrival of the Nepali containerized cargo, the Indian customs officer stationed at the port of entry, shall affix a "One Time Lock" or an Electronic Cargo Tracking System as agreed by both GON and GOI on the container and shall allow transportation of the containerized cargo, without examination unless there are valid reasons to do otherwise.

XXI. Replace the Title of Annexure 'B' of the RSA with the following:

EXPORT PROCEDURE FOR CUSTOMS EXAMINATION AND
CLEARANCE OF TRANSIT CARGO

XXII. Replace Paragraph 4.2 of Annexure 'C' of the RSA with the following:

Para 4.2: Unless the percentage charge has been paid, the liability of the Indian Railways will be as per prevailing rates of the Indian Railways.

XXIII. Replace Title of Annexure 'D' of the RSA with the following:

IMPORT PROCEDURE FOR CUSTOMS EXAMINATION AND
CLEARANCE OF THE NEPAL-INDIA BILATERAL TRAFFIC FROM
NEPAL TO INDIA

XXIV. Replace the term "flats/BOX wagons and/or break-bulk cargo" as occurred in the first sentence of Annexure 'D' with the term "flats/BOXN wagons/break-bulk cargo loaded in covered wagons".

XXV. Replace the term "flats/BOX wagons and/or break-bulk cargo loaded in covered wagons" as occurred in Paragraph 5 of Annexure 'D' with the term "container/break-bulk cargo traffic moving in flats/tank/covered wagons/reefer containers and Coal, Clinker, etc. in open wagons".

XXVI. Replace the Title of Annexure 'E' of the RSA with the following:

EXPORT PROCEDURE FOR CUSTOMS EXAMINATION AND
CLEARANCE OF THE NEPAL-INDIA BILATERAL TRAFFIC FROM
INDIA TO NEPAL.

XXVII. Replace the phrase - "as detailed in the Nepal Invoice Procedure (DRP) under Rules 18 & 19 of the Central Excise Rules, 2002" as occurred in the 2nd line of the paragraph 1 under the "Export Procedure from India to Nepal" with the phrase "as per rules and provisions applicable for export to Nepal." in Paragraph 1 of Annexure 'E' of the RSA.

XXVIII. Replace the term "flats/BOX wagons and/or break-bulk cargo loaded in covered wagons" as occurred in the second sentence under "Export Procedure from India to Nepal" of Annexure 'E' of the RSA, with the term "container/break-bulk cargo traffic moving in flats/tank/covered wagons/reefer containers and Coal, Clinker, etc. in open wagons".

XXIX. Replace the term "container/break-bulk cargo" as occurred in Paragraph 3 of Annexure 'E' of the RSA with the term "cargo".

XXX. Replace the term "1962" as occurred in Paragraph 9 (c) of Annexure 'E' of the RSA with the term "2007".

XXXI. Insert the terms "/Vishakhapatnam and any other agreed Ports in India under the Treaty of Transit between Nepal and India" after the terms "Kolkata/Haldia ports" wherever appearing in the RSA.

XXXII. Replace the terms "Container Corporation of India (CONCOR) or CONCOR" by "any authorized cargo train operators licensed by Indian Railways" wherever appearing in the RSA including Annexures.

XXXIII. Insert the terms "and any other agreed operational ICD/ICP/Stations in Nepal" after the terms "Birgunj ICD" wherever appearing in the RSA.


This letter and your Excellency's confirmation shall amend the Nepal-India Rail Services Agreement signed between Nepal and India-2004.

I shall be grateful if your Excellency could kindly confirm that the foregoing correctly sets out the understanding reached between our two Governments."

I confirm that the foregoing correctly sets out the understanding reached between our two Governments.

Please accept, Excellency, the assurances of my highest consideration.

Dated: 29th June, 2021.


(**Sushant Kumar Mishra**)
Additional Member(Traffic Transportation),
Ministry of Railways (Railway Board),
Government of India,

His Excellency
Shri Dinesh Bhattarai
Secretary (Commerce and Supplies),
Ministry of Industries, Commerce and Supplies,
Government of Nepal,
Kathmandu, Nepal.