

CHINA-NEPAL INDIA CORRIDOR: LEGAL FRAMEWORK PERSPECTIVE

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Building a 'forum for mutual economic development tie' constitutes one of the core objectives behind the idea of setting up of China-Nepal-India corridor'. The corridor is expected to involve number of economic activities, including financial and trade affairs among participating nations as well as individuals and corporate houses. The concept being a new initiative, concerning economic connectivity, requires overall review of the existing legal arrangements of the participating nations as well as mutual bilateral treaties between participating nations, the detail discussion of which is not possible at this moment. However, the following legal regime requires attention for deeper study at the very early stage of the initiative:

- a. Nepal and India have 'trade and transit' treaties concluded for several years in the past, and thus the issues concerning the trade and transit relations between two countries have been adjusted and readjusted for long time in the past. Financial issues such as banking, freight charges, customs, insurances and other relevant issues have largely been largely accommodated by concerned laws of the two countries. Nepal and China have recently concluded the trade and transit treaty, which is yet to come into practice. Looking from the vantage point of the new initiative of 'China-Nepal-India corridor', which provides a common platform for investment, trade and financial transactions among three countries, it is mandatory to 'review the trade and transit treaties between participating countries and take initiative or adjustment'. Nevertheless, what is good to note at this point is that 'having trade and transit treaties among participating treaties' provides a basic legal framework to let the 'new initiative begin'.
- b. Importantly, the Constitutions of all three participating countries directly or indirectly refer to 'socialism' as one of the goals of the goals to be addressed by the economy. The People's Republic of China is a socialist country. The Constitution of India has declared the 'union of India as a "socialist secular nation', and the Constitution of Nepal declares Nepal as a Socialism oriented nation'. Constitutionally, the involvement of the both state-owned enterprises as well as private sector corporate bodies in the new initiative is legally permissible.

The following additional legal regimes are worth considering:

1. Nepal has a prevailing law, entitled **Foreign Investment and Technology Transfer Act, 1992**, which allows investment by enterprises with foreign origin solely or jointly with Nepal-origin enterprise(s). Participation in investment by enterprises from all participating countries has no legal constraint in Nepal. While numbers of adjustments in law may be required, the legal regime of Nepal, in principle, is not obstructive for setting up of China-Nepal-India economic corridor.
2. **The Asian Highway Agreement, 2003**: This intergovernmental agreement is concluded for the purpose of 'access to sea for trading and transit for the landlocked nations and for their economic integration'. This 141,000 KM long highway is supposed to provide a network to Asian landlocked nations. Nepal is a party to this agreement. This agreement further assists in accomplishment of the China-Nepal-India corridor.
3. **The Motor Vehicle Agreement, 2015**: Bangladesh, Nepal, India and Bhutan have 'signed the Motor Vehicle Agreement'. The agreement intends to regulate passenger, personal and cargo vehicular traffic. This treaty arrangement further facilitates the new initiative.
4. **SAARC Framework Agreement For Energy Cooperation (Electricity) (2014)** has been concluded 'regarding the cross border electricity exchanges and trade optimal utilization of regional electricity generating resources, enhanced grid security, and electricity trade arising from diversity in peak demand.' This agreement is also contributive towards the new initiative.
5. **Agreement of South Asian Free Trade Area (SAFTA)** together with SAARC Agreement on Trade in Services promote trading in the SAARC nations and look over issues regarding trade, transport and easy access and liberalization.
6. **Treaty of Peace and Friendship between the Government of India and the Government of Nepal, 1950**, stipulates some special dealings between Nepal and India. While this treaty cannot be a hurdle for setting up of China-Nepal-India corridor, the treaty may require some timely adjustment.
7. Last but not the least, Nepal is a landlocked country and as such is privileged to enjoy rights guaranteed by **UNCLOS articles from 124 to 132**. The corridor must take into account of these rights internationally available to Nepal.