

INVESTMENT GUARANTIES

Agreement Between the
UNITED STATES OF AMERICA
and NEPAL

Relating to the Agreement of May 17, 1960

Effected by Exchange of Notes
Signed at Kathmandu June 4, 1963



NEPAL

Investment Guaranties

*Agreement relating to the agreement of May 17, 1960.
Effected by exchange of notes
Signed at Kathmandu June 4, 1963;
Entered into force June 4, 1963.*

*The American Ambassador to the Nepalese Minister of Foreign
Affairs*

EMBASSY OF THE
UNITED STATES OF AMERICA
KATHMANDU, NEPAL,

No. 281

June 4, 1963.

EXCELLENCY:

I have the honor to refer to the Agreement effected by the Exchange of Notes of May 17, 1960,^[1] between our two Governments relating to investment guaranties which may be issued by the Government of the United States of America for investment in activities in Nepal. After the conclusion of this agreement, legislation has been enacted in the United States of America modifying and augmenting the coverage to be provided investors by investment guaranties that may be issued by the Government of the United States of America.

In the interest of facilitating and increasing the participation of private enterprise in furthering the economic development of Nepal, the Government of the United States of America is prepared to issue investment guaranties providing such coverage as may be authorized by the applicable United States legislation for appropriate investments in activities approved by your Government provided that your Government agrees that the undertakings between our respective Governments contained in the above-mentioned agreement will be applicable to such guaranties.

Upon receipt of a Note from Your Excellency indicating that the foregoing is acceptable to the Government of Nepal and that such undertakings shall apply, the Government of the United States of America will consider that this Note and your reply thereto constitute an Agreement between our two Governments on this subject, the Agreement to enter into force on the date of your Note in reply.

¹ TIAS 4477; 11 UST 1396.

Accept, Excellency, the renewed assurances of my highest consideration.

HENRY E STEBBINS

Henry E. Stebbins
American Ambassador

His Excellency

Dr. TULSI GIRI,

Minister of Foreign Affairs,

His Majesty's Government of Nepal.

*The Nepalese Minister of Foreign Affairs to the American
Ambassador*

MINISTRY OF FOREIGN AFFAIRS
HIS MAJESTY'S GOVERNMENT OF NEPAL
KATHMANDU.

June 4, 1963.

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's Note of June 4, 1963, which reads as follows:

"I have the honor to refer to the Agreement effected by the Exchange of Notes of May 17, 1960, between our two Governments relating to investment guaranties which may be issued by the Government of the United States of America for investments in activities in Nepal. After the conclusion of this agreement, legislation has been enacted in the United States of America modifying and augmenting the coverage to be provided investors by investment guaranties that may be issued by the Government of the United States of America.

"In the interest of facilitating and increasing the participation of private enterprise in furthering the economic development of Nepal, the Government of the United States of America is prepared to issue investment guaranties providing such coverage as may be authorized by the applicable United States legislation for appropriate investments in activities approved by your Government provided that your Government agrees that the undertakings between our respective Governments contained in the above-mentioned agreement will be applicable to such guaranties.

"Upon receipt of a Note from Your Excellency indicating that the foregoing is acceptable to the Government of Nepal and that such undertakings shall apply, the Government of the United States of America will consider that this Note and your reply thereto constitute

an Agreement between our two Governments on this subject, the Agreement to enter into force on the date of your Note in reply."

I have the honor to confirm to Your Excellency that the provisions set forth in the said Note are acceptable to His Majesty's Government of Nepal and that it is agreed that Your Excellency's Note and this reply constitute an agreement between our two Governments on this subject, the agreement to enter into force on the date of this Note.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

TULSI GIRI
Dr. Tulsi Giri
Minister for Foreign Affairs.

His Excellency
HENRY E. STEBBINS,
*American Ambassador to Nepal,
Kathmandu.*

TIAS 5391

GUARANTY OF PRIVATE INVESTMENTS

**Agreement Between the
UNITED STATES OF AMERICA
and NEPAL**

**Effected by Exchange of Notes
Signed at Washington May 17, 1960**



NEPAL

Guaranty of Private Investments

*Agreement effected by exchange of notes
Signed at Washington May 17, 1960;
Entered into force May 17, 1960.*

*The Acting Secretary of State to the Nepalese Deputy Prime
Minister*

DEPARTMENT OF STATE
WASHINGTON

May 17, 1960

EXCELLENCY :

I have the honor to refer to conversations which have recently taken place between representatives of our two Governments relating to guaranties authorized by Section 413(b)(4) of the Mutual Security Act of 1954, [1] as amended. I also have the honor to confirm the following understandings reached as a result of these conversations:

1. The Governments of the United States of America and of the Kingdom of Nepal will, upon the request of either of them, consult respecting projects in Nepal proposed by citizens of the United States of America with respect to which guaranties under Section 413(b)(4) of the Mutual Security Act of 1954, as amended, have been made or are under consideration.
2. The Government of the United States of America agrees that it will issue no guaranty with respect to any project unless it is approved by the Government of the Kingdom of Nepal.
3. With respect to such guaranties extending to projects which are approved by the Government of the Kingdom of Nepal in accordance with the provisions of the aforementioned Section 413(b)(4), the Government of the Kingdom of Nepal agrees:

(a) That if the Government of the United States of America makes payment in United States dollars to any person under any such guaranty, the Government of the Kingdom of Nepal will recognize the transfer to the Government of the United States

¹ 68 Stat. 847; 22 U.S.C. § 1933(b)(4).

of America of any currency, credits, assets, or investment on account of which such payment is made, and the subrogation of the Government of the United States of America to any right, title, claim or cause of action existing in connection therewith;

(b) That rupee amounts acquired by the Government of the United States of America pursuant to such guaranties shall be accorded treatment not less favorable than that accorded to private funds arising from transactions of United States nationals which are comparable to the transactions covered by such guaranties, and that such rupee amounts shall be freely available to the Government of the United States of America for administrative expenses;

(c) That any claim against the Government of the Kingdom of Nepal to which the Government of the United States of America may be subrogated as a result of any payment under such a guaranty, shall be the subject of direct negotiations between the two Governments. If within a reasonable period, they are unable to settle the claim by agreement, it shall be referred for final and binding determination to a sole arbitrator selected by mutual agreement. If the Governments are unable, within a period of three months, to agree upon such selection, the arbitrator shall be one who may be designated by the President of the International Court of Justice at the request of either Government;

(d) That if the Government of the United States of America issues guaranties to cover losses by reason of war with respect to investments in Nepal, the Government of the Kingdom of Nepal agrees that nationals of the United States of America to whom such guaranties have been issued, will be accorded by the Government of the Kingdom of Nepal treatment no less favorable than that accorded, in like circumstances, to its nationals or nationals of third countries, with reference to any reimbursement, compensation, indemnification, or any other payment, including the distribution of reparations received from enemy countries, that the Government of the Kingdom of Nepal may make or pay for losses incurred by reason of war; if the Government of the United States of America makes payment in United States dollars to any national of the United States of America under a guaranty for losses by reason of war, the Government of the Kingdom of Nepal will recognize the transfer to the Government of the United States of America of any right, privilege, or interest, or any part thereof, that such nationals may be granted or become entitled to as a result of the aforementioned treatment by the Government of the Kingdom of Nepal;

(e) The aforementioned subparagraph (c) with respect to the arbitration of claims shall not be applicable to the type of guaranties against losses by reason of war provided for in subparagraph (d).

Upon receipt of a note from Your Excellency indicating that the foregoing provisions are acceptable to the Government of the Kingdom of Nepal, the Government of the United States of America will consider that this note and your reply thereto constitute an agreement between the two Governments on this subject, the agreement to enter into force on the date of your note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

DOUGLAS DILLON
*Acting Secretary of State of the
United States of America*

His Excellency
General SUBARNA S. J. B. RANA,
*Deputy Prime Minister of the
Kingdom of Nepal,
Washington, D.C.*

The Nepalese Deputy Prime Minister to the Acting Secretary of State

ROYAL NEPALESE EMBASSY

EXCELLENCY:

I have the honour to acknowledge the receipt of Your Excellency's note of May 17, 1960 which reads as follows:

"I have the honour to refer to conversations which have recently taken place between representatives of our two Governments relating to guaranties authorized by Section 413(b) (4) of the Mutual Security Act of 1954, as amended. I also have the honour to confirm the following understandings reached as a result of these conversations:

1. The Governments of the United States of America and the Kingdom of Nepal will, upon the request of either of them, consult respecting projects in Nepal proposed by citizens of the United States of America with respect to which guaranties under Section 413(b) (4) of the Mutual Security Act of 1954, as amended, have been made or are under consideration.
2. The Government of the United States of America agrees that it will issue no guaranty with respect to any project unless it is approved by the Government of the Kingdom of Nepal.

3. With respect to such guaranties extending to projects which are approved by the Government of the Kingdom of Nepal in accordance with the provisions of the aforementioned Section of 413(b)(4), the Government of the Kingdom of Nepal agrees:
- (a). That if the Government of the United States of America makes payment in United States dollars to any person under such guaranty, the Government of the Kingdom of Nepal will recognize the transfer to the Government of the United States of America of any currency, credits, assets, or investment on account of which such payment is made, and the subrogation of the Government of the United States of America to any right, title, claim or cause of action existing in connection therewith;
 - (b). That rupee amounts acquired by the Government of the United States of America pursuant to such guaranties shall be accorded treatment not less favourable than that accorded to private funds arising from transactions of United States nationals which are comparable to the transactions covered by such guaranties, and that such rupee amounts shall be freely available to the Government of the United States of America for administrative expenses;
 - (c). That any claim against the Government of the Kingdom of Nepal to which the Government of the United States of America may be subrogated as a result of any payment under such guaranty, shall be the subject of direct negotiations between the two Governments. If within a reasonable period, they are unable to settle the claim by agreement, it shall be referred for final and binding determination to a sole arbitrator selected by mutual agreement. If the Governments are unable, within a period of three months, to agree upon such selection, the arbitrator shall be one who may be designated by the President of the International Court of Justice at the request of either Government;
 - (d). That if the Government of the United States of America issues guaranties to cover losses by reason of war with respect to investments in Nepal, the Government of the Kingdom of Nepal agrees that nationals of the United States of America to whom such guaranties have been issued, will be accorded by the Government of the Kingdom of Nepal treatment

no less favourable than that accorded, in like circumstances, to its nationals or nationals of third countries, with reference to any reimbursement, compensation, indemnification, or any other payment, including the distribution of reparations received from enemy countries, that the Government of the Kingdom of Nepal may make or pay for losses incurred by reason of war; if the Government of the United States of America makes payment in United States dollars to any national of the United States of America under a guaranty for losses by reason of war, the Government of the Kingdom of Nepal will recognize the transfer to the Government of the United States of America of any, right, privilege, or interest, or any part thereof, that such nationals may be granted or become entitled to as a result of the aforementioned treatment by the Government of the Kingdom of Nepal;

- (e). The aforementioned subparagraph (c) with respect to the arbitration of claims shall not be applicable to the type of guaranties against losses by reason of war provided for in subparagraph (d).

“Upon receipt of a note from Your Excellency indicating that the foregoing provisions are acceptable to the Government of the Kingdom of Nepal, the Government of the United States of America will consider that this note and your reply thereto constitute an agreement between the two Governments on this subject, the agreement to enter into force on the date of your note in reply.”

I have the honour to confirm to Your Excellency that the provisions set forth in the said note are acceptable to His Majesty's Government of Nepal and that it is agreed that Your Excellency's note and this reply constitute an agreement between our two Governments on this subject, the agreement to enter into force on the date of this note.

I avail myself of this opportunity to present to Your Excellency the assurances of my highest consideration.

SUBARNA SHUMSHER.
*Deputy Prime Minister
of Nepal.*

WASHINGTON, D.C.,
May 17, 1960.

His Excellency
C. DOUGLAS DILLION,
*Acting Secretary of State
Department of State
Washington D.C.*

TIAS 4477