



# FAQs on MCC Nepal Compact



## 1. What is the MCC Nepal Compact ?

The MCC Nepal Compact is a five-year USD 500 million grant agreement signed between Government of Nepal (GoN) and Millennium Challenge Corporation (MCC) on 14 September 2017. The GoN is investing an additional USD 130 million in the program, for a total of USD630 million.

## 2. What is the Millennium Challenge Account Nepal (MCA-Nepal) ?

MCA-Nepal is a Development Board (Bikas Samiti), a government owned legal entity established in April 2018 (Baisakh 2075 BS) under Development Board Act, 2013 BS (1956 AD) by the GoN. It is the agency for implementing the MCC Nepal Compact projects.

## 3. Who is responsible for the operations of MCA-Nepal ?

MCA-Nepal Development Board exercises the right and obligation to oversee, manage and implement the Compact. MCA-Nepal is led by an Executive Director, who is supported by directors, managers, specialists and other staff. MCA-Nepal has a governing body of the Board of Directors with the representation from the Ministry of Finance, Ministry of Energy, Ministry of Physical Infrastructure and Transportation and Nepal Electricity Authority (NEA) among others. It is chaired by the Secretary of Ministry of Finance.

## 4. What role does the GoN have in program implementation ?

The GoN plays a central role. MCA-Nepal, established with approval from the Council of Ministers in April 2018, is itself a GoN entity.

## 5. How many people are working at MCA-Nepal now? How many people will the program ultimately employ ?

Currently, around 60 staff work for MCA-Nepal. Once construction begins, the program is expected to provide direct employment opportunities to approximately 7,500 people over the duration of the projects.

## 6. Will MCA-Nepal be exempted from paying taxes ?

The assistance provided under the MCC agreement is a tax-free grant. However, MCA-Nepal staff pay taxes in accordance to the income tax regulations. Any equipment, goods or services procured through the grant are exempt from the payment of taxes and duties. MCA-Nepal does not pay any tax as it is a non-income generating body.

## 7. What is the scope of the Electricity Transmission Project under MCA-Nepal ?

The Electricity Transmission Project under MCA-Nepal will build around 315 kilometers of double circuit high capacity 400 kV transmission line and three new electricity sub-stations. The project will also provide technical assistance to the GoN in various energy sector undertakings.

## 8. What districts will the transmission lines pass through ?

The transmission line will pass through Kathmandu, Sindhupalchowk, Nuwakot, Dhading, Makwanpur, Chitwan, Tanahun, Palpa, Nawalpur and Parasi districts.

## 9. What is the scope of the Road Maintenance Project ?

The Road Maintenance Project aims to maintain road quality by supporting maintenance of commercially important roads. This is being done by introducing new technologies. Upon completion, the project is expected to result in significant cost and time savings in road maintenance in Nepal.

## 10. Which roads will be maintained and improved ?

The focus will be the East-West Highway in Dang district. The section on which the new road maintenance will be piloted is the Dhankhola to Lamahi section of the East-West Highway. Based on the results of the pilot, MCA-Nepal will further complete the Lamahi to Shivakhola section. At present, the total road segment proposed for maintenance in the East-West Highway is approximately 77 km.

## 11. Who will own the land leased/purchased for the Electricity Transmission Project to build transmission line after five years ?

The land will be acquired using Nepal's Land Acquisition Act, 2034 BS and will be under the GoN's ownership.

## 12. What will be the status of MCA-Nepal after the program period ends ?

MCA-Nepal is responsible to complete the projects under the Compact within five years after the date of Entry into Force (EIF). After delivery of the projects, the government can dissolve the office or it can be given some other responsibility by changing its name, and all property of MCA-Nepal will be handed over to its line ministry or an entity, designated by the ministry.

## 13. What is MCC ?

MCC is an independent U.S. foreign assistance agency with the mission of reducing poverty through economic growth. MCC forms partnerships with developing countries who are committed to good governance, economic freedom, and investing in their citizens.

## 14. In how many countries is MCC implemented ?

Since its establishment in 2004, MCC has signed 37 Compacts with nearly 30 countries worth more than USD 13 billion in grants. Out of the 37 Compacts, 25 have been completed and the rest are in implementation.

## 15. Why is ratification of the "MCC Nepal Compact" necessary ?

The Compact needs to have the status of an international agreement under Nepal's Treaty Act of 1990. As advised by Nepal's Ministry of Law, Justice and Parliamentary Affairs; such a status is obtained through parliamentary ratification. Nepal's Parliament has ratified other international agreements in the past under the Treaty Act.

## 16. Which other international agreements have been ratified by Nepal's Parliament ?

Since MCC agreement is an international agreement, similar to other agreements and treaties ratified by the Parliament of Nepal, it requires the parliamentary ratification. Some examples of international agreements and treaties, ratified by the Parliament of Nepal in the past, are as follows:

- Protocol on Accession to the World Trade Organization;
- Charter of the United Nations; and
- Vienna Convention on Diplomatic Relations.

Similarly, the House of Representatives has ratified following treaties and agreements recently:

- International Agreement for the Establishment of the University for Peace;
- Regional Cooperative agreement for Research, Development and Training related to Nuclear Science and Technology, 2017;
- Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their utilization to the Convention on Biological Diversity;
- Convention for the Unification of Certain Rules for International Carriage by Air;
- BIMSTEC Convention on Cooperation in Combating International Terrorism, Transnational Organized Crime and Illicit Drug Trafficking.

## 17. Will the Compact prevail over Nepal's Constitution ?

No, the Compact will not prevail over Nepal's Constitution. Based on the spirit of the International Treaty Act, if any provision in the agreement contradicts with local laws, the provisions in the agreement would be treated as equal to local laws in the context of the implementation of the Compact. The Constitution of Nepal has explicitly provisioned that any

agreement or treaty would be nullified to the extent of the contradiction with the principal law.

#### 18. Why are there so many preconditions in the Compact ?

The preconditions were made to ensure that implementation is not disrupted after work begins and were mutually agreed on by Nepal and MCC. Time and cost overruns are common in large infrastructure projects. MCC's model tries to minimize these challenges through completion of activities that appear as preconditions.

#### 19. What is host country ownership ?

It means Nepal itself, through MCA-Nepal, implements the project, with MCC oversight and assistance. Host country ownership is a feature of all MCC Compact programs around the world.

#### 20. What was the process that Nepal had to follow to secure the Compact ?

Nepal was selected by MCC's Board of Directors as an eligible country to develop a Compact in 2014. The GoN then worked with MCC to design a program that would address its main constraints to economic development, and the Compact was signed on 14 September 2017.

#### 21. What was the process of designing the MCC Nepal Compact ?

The MCC Nepal Compact is based on the constraints to economic growth report, jointly prepared by the GoN and MCC in 2014. A detailed feasibility study, conducted in 2016 by the GoN, narrowed down the scope of the program to two major growth constraints: electricity transmission and road maintenance.

#### 22. How is MCC related to the Indo-Pacific Strategy (IPS) ? Is it part of the U.S. National Security and Defense Strategy ?

The MCC Nepal Compact is an agreement between MCC and the GoN; and this relationship predates the Indo-Pacific Strategy. The MCC Compact is a non-military agreement; and by U.S. law, MCC funding cannot be used for military assistance or training.

#### 23. Is the Compact a counterbalance to China's Belt and Road Initiative ?

MCC has been working in partnership with the GoN since 2012, prior to Nepal's MoU with China on the Belt and Road Initiative. There is no competition or connection between the two.

#### 24. Is it true that only US companies can be contracted for this project ?

No, all contracts are open to international bidders who meet the standards of MCC's Program Procurement Guidelines, which also require all procurements to be open, fair and competitive.

#### 25. Does MCC own intellectual property (IP) rights to the Nepal Compact ?

The GoN will own all IPs developed as part of implementing the projects under the Compact. While maintaining its ownership on the IP Rights, the GoN will provide MCC with the right to use such IPs to ensure that MCC may be able to use the knowledge in improving its future Compact activities without charging fees.

#### 26. Does the MCC Nepal Compact require India's approval ?

No, the MCC Nepal Compact does not require approval from the Government of India. The Government of India and the Government of Nepal will collaborate to build a roughly 120 km transmission line in Indian territory to connect with the transmission line built in Nepal. The Compact agreement requires Nepal and India to agree on building the transmission line in Indian territory. There was a similar agreement regarding the existing Dhalkebar-Muzaffarpur Transmission Line.

#### 27. Is there a guarantee that India will purchase electricity from Nepal ?

There is a long history of relations between Nepal and India, and these two nations have worked together through various joint mechanisms.

It is anticipated that the transmission line between Nepal and India will promote regional connectivity in the energy sector and the connectivity will be expanded to other countries. The Power Trade Agreement (PTA) between the GoN and the Government of India, signed on October 2014, has paved a way for cross-border electricity trade between these two countries. The energy trade in any direction through cross-border transmission lines ultimately depends on market forces, such as the status of demand and supply, and price.

#### 28. Who has the ability to audit the Compact ?

Both the GoN and MCC have audit rights. Nepal's District Treasury Controller Office and the Office of Auditor General have conducted financial audits of the Compact. Further details on auditing has been mentioned in the Section 3.8 (a) of the Compact.

#### 29. Can the US unilaterally terminate the Compact ?

The Compact states that either Nepal or the US can terminate the Compact at any time by informing the other party in writing with a 30 days' notice. Further details on termination has been mentioned in the Section 5.1 (a) of the Compact.

#### 30. Why is MCC funding necessary if Nepal can obtain loans to build electrical infrastructure and maintain roads ?

MCC funding provided under the Compact is a grant, which does not have to be paid back through people's taxes, unlike most infrastructure programs based on loans that accrue interest. The MCC model allows countries to focus on improving their economic growth without worrying about repayment. It is therefore in Nepal's interest to use grant assistance compared to loans.

#### 31. How long will the Compact run in Nepal? Will it stay indefinitely?

The Compact program will run for exactly five years from the day it begins and will be handed over to Nepal. A few provisions of the Compact survive beyond the handover stage: additional 120 days to close the office, requirement of monitoring of project performance to ensure intended outcomes are met, and maintenance of accounting and other records.

#### 32. Is MCC against Nepal's national interest ?

No. The MCC Compact development was supported by all Governments in Nepal from 2011 till now and is expected to improve Nepal's electricity and transport sector, which is in Nepal's national interest. It was designed keeping Nepal's national interest in mind.

#### 33. Will MCC affect Nepal's foreign policy of non-alliance ?

No. The MCC Compact agreement does not require Nepal to sign-up for any alliance. The Compact's sole focus is to help Nepal for economic growth and poverty reduction.

#### 34. Will American troops start coming to Nepal if MCC Compact is endorsed ?

No. MCC's projects are strictly non-military. The MCC Act 2003 prohibits funding on military activities.

#### 35. Will foreigners get unconditional authority to work and live in Nepal through the Compact ?

No. All foreigners working with MCA-Nepal projects, including contractors, must comply with the provisions in Nepal's immigration laws. Ninety-six percent of the work force at MCA-Nepal are Nepali citizens.

#### 36. Will MCC employees be immune from local law ?

The immunity for MCC employees from the jurisdiction of Nepal's courts and tribunals applies only to claims or losses arising out of activities under the Compact and does not extend to non-project activities. This immunity is typical in diplomatic relationships, and also applicable to Nepali diplomats serving abroad.

#### 37. Why was the Program Implementation Agreement (PIA) signed while the ratification of the Compact was being discussed ?

The various conditions to the Compact's entry into force include ratifying the Compact, signing the PIA, and other items as set forth in the Compact. Signing of the PIA does not need to follow, and is not dependent on Compact ratification. PIA is a separate requirement under the Compact for completing preparatory work.

#### 38. Why has the Program Implementation Agreement (PIA) changed some provisions of the original agreement i.e. the Compact agreement ? For instance, the PIA makes MCA-Nepal decisions binding on the GoN, while the Compact agreement does not.

The Compact and the PIA are distinct but complementary agreements. Because the PIA is a separate agreement from the Compact, it does not change provisions of the Compact agreement. Instead, the PIA further defines parameters of the Compact. MCA-Nepal with its role defined in the PIA as an autonomous development board that is accountable to the GoN exercises the right and obligation to oversee, manage and implement the Compact. In case of a conflict, the Compact agreement supersedes the PIA.

#### 39. Why did both MCC and the GoN spend money on the projects prior to the Entry into Force (EIF) of the Compact ?

These funds have gone towards project preparatory tasks required for the Compact implementation. All large infrastructure projects require to be appropriately studied, surveyed, and scoped in advance to ensure timely completion. It is more important for the MCC Nepal Compact because US funds will not be available after five years, counted from the start of implementation. Based on experience, we know many projects without preparations take more time for completion. The MCC model requires full preparation before starting construction works to ensure timely completion.

#### 40. Is there any difference between the preparatory phase and implementation phase of MCC Nepal Compact ?

The preparatory and implementation phases of the MCC Nepal Compact are two distinct stages in the execution of the agreement. Since the projects have to be completed within an agreed time frame of five years, MCC has adopted a two-phased implementation model, i.e., the preparatory phase and implementation phase. Based on this approach, various works under the preparatory phase that are underway include but are not limited to Resettlement Action Plan, and redress of grievances on transmission line alignment, land acquisition, and the Environmental Impact Assessment (EIA). Completion of these preparatory works allow for quick and unhindered enforcement of construction contracts and thereby enhances the probability of project completion within the agreed five-year period. The preparatory works ensure readiness for the implementation phase, but are not part of program implementation.



"Fostering economic growth with better access to electricity and roads"

For more information :

More information on MCC Nepal Compact is available on <https://mcanp.org>. Updates on MCC Nepal Compact are also available on MCA-Nepal's Twitter page (@MCA\_Nepal) and Facebook page (<https://www.facebook.com/MCANPL/>). Any other information on MCC Nepal Compact can be acquired by sending an e-mail to [info@mcanp.org](mailto:info@mcanp.org) or contacting the office at +977-1-4238353/4238392.

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