

The MCC Nepal Compact A Victim of Political Divisions

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Summary

The Millennium Challenge Corporation (MCC) Nepal Compact has politically divided Nepal's ruling coalition. The Nepali Congress wants to push for its ratification in the parliament, but its coalition partners have some serious reservations. To convince the Nepali political leadership, the MCC's Vice President, Fatema Z Sumar, arrived in Kathmandu and held meetings with leaders from both the ruling coalition and the opposition.

Four months after signing the memorandum of understanding on the Belt and Road Initiative with China,¹ Nepal signed the Millennium Challenge Corporation (MCC) Nepal Compact with the United States (US) in September 2017. Under MCC Nepal Compact, the American government will provide US\$500 million (S\$676 million) in grants while Nepal will contribute US\$130 million (S\$175 million) for projects that prioritise energy and roadways.² However, the Nepali parliament has yet to ratify the MCC Nepal Compact. After Sher Bahadur Deuba became prime minister in July 2021, expectations for the MCC Nepal Compact's ratification increased as he had, over the years, pushed for this agreement and made a public commitment in this regard.³ The MCC Nepal Compact bill was registered in the Nepali parliament in July 2019 by the then government of K P Sharma Oli. At that time, the Communist Party of Nepal [CPN (Maoist Centre)] and prominent leaders of the Unified Marxist-Leninist (UML) objected to the MCC Nepal Compact's ratification.⁴ Now, the ruling Nepali Congress wants to push for the MCC Nepal Compact's parliamentary ratification, but its coalition partners, the CPN (Maoist Centre) and the CPN (Unified Socialist), have reservations about it.⁵ To ensure the MCC Nepal Compact's ratification the US is also sparing no effort. On 27 July 2021, during their telephonic talks, US Secretary of State, Antony J Blinken and Deuba discussed many bilateral issues, including the MCC Nepal Compact.⁶

¹ Nepal and China signed the memorandum of understanding on cooperation under the BRI on 12 May 2017. It aims "at promoting cooperation on policy exchanges, infrastructure connectivity, trade connectivity, financial integration and connectivity of people". Ministry of Foreign Affairs, Government of Nepal <https://mofa.gov.np/nepal-china-relations/>. Accessed on 10 September 2021.

² Nepal Compact Signing Ceremony, Millennium Challenge Corporation, United States of America, <https://www.mcc.gov/news-and-events/event/signing-091417-nepal>. Also see, Binod Ghimire, "Why the MCC compact courted controversy in Nepal", *The Kathmandu Post*, 9 January 2020, <https://kathmandupost.com/national/2020/01/09/why-the-mcc-compact-courted-controversy-in-nepal>. Accessed on 8 September 2021.

³ Anil Giri, "US interest, Nepal foreign policy under Beijing's watch with changes in Kathmandu", *The Kathmandu Post*, 28 July 2021, <https://kathmandupost.com/national/2021/07/28/us-interest-nepal-foreign-policy-under-beijing-s-watch-with-changes-in-kathmandu>. Accessed on 31 July 2021.

⁴ Tika R Pradhan and Anil Giri, "As MCC becomes a lightning rod for controversy, Deuba is in a tight spot", *The Kathmandu Post*, 5 September 2021, <https://kathmandupost.com/politics/2021/09/05/as-mcc-becomes-a-lightning-rod-for-controversy-deuba-is-in-a-tight-spot>. Accessed on 6 September 2021.

⁵ Ibid.

⁶ Ibid.

Moreover, on 9 September 2021, the MCC's Vice President, Fatema Z Sumar, arrived in Kathmandu to give the MCC Nepal Compact a further push.

Critical Questions and Issues

The MCC is, as defined, an “innovative and independent US foreign assistance agency” to help to fight against global poverty.⁷ This agency was created by the US Congress in January 2004. The MCC provides time-limited grants to promote economic growth, reduce poverty and strengthen institutions. Through such investments, the US not only supports “stability and prosperity in partner countries *but also enhances American interests* (emphasis mine).”⁸

The country selection for the grant is made by the MCC's Board, which examines a country's performance on 20 independent and transparent policy indicators and selects countries based on policy performance.⁹ These countries are required to identify their priority areas for sustainable economic growth. When a country is awarded an MCC compact, it sets up a local accountable entity to manage all aspects of policy implementation. The MCC's focus is “producing results and ensuring that the American people are getting a good return on their investment.” There are three types of MCC grants:¹⁰

1. Compacts: large, five-year grants for selected countries that meet the MCC's eligibility criteria.
2. Concurrent Compacts for Regional Investments: grants that promote cross-border economic integration and increase regional trade and collaboration.
3. Threshold Programmes: smaller grants focused on policy and institutional reform in selected countries that come close to passing the MCC's eligibility criteria and show a firm commitment to improving their policy performance.

There is a deep political and ideological divide on the MCC Nepal Compact. Many of those who oppose the MCC Nepal Compact see it as a part of the Washington's Indo-Pacific strategy with an aim to counter Chinese expansion of influence in the region through the BRI.¹¹ Even Beijing largely perceives so¹² notwithstanding the fact that in 2020, the Chinese Ambassador to Nepal, Hou Yanqi, said, “We welcome any international assistance to Nepal if it is for economic cooperation...We would like to see the ratification process of the MCC and the Nepal government take a positive decision for its interest.”¹³

⁷ Millennium Challenge Corporation, United States of America, <https://www.mcc.gov/about>. Accessed on 18 August 2021.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Tika R Pradhan and Anil Giri, “As MCC becomes a lightning rod for controversy, Deuba is in a tight spot”, op. cit.

¹² Anil Giri, “US interest, Nepal foreign policy under Beijing's watch with changes in Kathmandu”, op. cit.

¹³ Binod Ghimire, “China says it welcomes any foreign economic support—even the MCC—to Nepal”, *The Kathmandu Post*, 3 January 2020, <https://kathmandupost.com/2/2020/01/03/china-says-it-welcomes-any-foreign-economic-support-even-the-mcc-to-nepal>. Accessed on 18 July 2021.

To seek further clarifications, on 3 September 2021, a letter with questions regarding the MCC Nepal Compact was sent by the Nepal Ministry of Finance to the MCC's headquarters in Washington DC. Notably, Nepal's Finance Minister Janardan Sharma is from the Maoist Centre party which has serious reservations about the MCC Nepal Compact. The Maoist Centre Chair, Pushpa Kamal Dahal, approved the questions raised in the letter and Deuba was also aware of them.¹⁴ The major questions and queries raised in the letter were:¹⁵

1. whether the MCC Nepal Compact falls under the Indo-Pacific strategy proposed by the US;
2. whether the MCC Nepal Compact has a security impact on Nepal;
3. whether the project will be audited by Nepal or the US; and
4. whether the agreement is above Nepal's constitution and law.

The MCC sent a 11-page response, along with a letter addressed to Sharma, on 8 September 2021. In its response to the questions and queries, the MCC said:

1. The MCC Nepal Compact is not an agreement under the Indo-Pacific strategy. Any decision by Nepal regarding the Indo-Pacific strategy is separate and independent from the MCC Nepal Compact. It is also not a part of any military strategy of the US.¹⁶
2. The Nepal government will maintain all records and documents regarding the project, including ensuring no misuse of funds. The MCC has the right to access such documents for verification purposes. The Auditor General of Nepal can conduct audits of the projects.¹⁷
3. The MCC Nepal Compact does not affect or limit Nepal's sovereign right to sign assistance or investment agreements with any other country.¹⁸ Nepal's agreement with all other donors and countries are separate and independent from the MCC Nepal Compact.¹⁹
4. The Nepal constitution prevails over the MCC Nepal Compact.²⁰ The US government guarantees Nepali diplomats and ambassadors, certain protection in Washington DC. The Nepal government has to reciprocate the same to the MCC's staff in Kathmandu. Immunity for MCC employees from the jurisdiction of Nepal's courts and tribunals

¹⁴ Tika R Pradhan and Anil Giri "As MCC becomes a lightning rod for controversy, Deuba is in a tight spot" *The Kathmandu Post*, 5 September 2021, op. cit.

¹⁵ Jagdishwar Pandey, "Letter from the government to the United States to clarify the controversial points of the MCC", Kantipur, 8 September 2021, <https://ekantipur.com/news/2021/09/03/163067872490459444.html>. Accessed on 9 September 2021.

¹⁶ "Responses by Millennium Challenge Corporation to Consolidated Clarification Questions from Government of Nepal Regarding the Millennium Challenge Compact", Millennium Challenge Corporation, United States of America, 8 September 2021. <https://drive.google.com/file/d/156L1jGJgoKrFnRrVlXrz9-dz-9GSaYd3/view>. Accessed on 9 September 2021. P. 4.

¹⁷ Ibid., p. 6.

¹⁸ Ibid., p.7.

¹⁹ Ibid., p.8

²⁰ Ibid., p.2

applies *only* to claims or losses arising out of activities or omissions under the compact.²¹

Besides, the letter from the Nepal finance minister also asked:

“There are 22 criteria specified in the threshold regarding providing grants to Nepal. The ‘Nepal Growth Diagnostic’ had concluded that the country lagged far behind in most of the criteria specified to meet the threshold. It seems that the countries achieving a threshold of more than 75 percent are eligible to receive the grant. But in the case of Nepal, not even 50 percent has been met. It seems that there is policy categorization of countries receiving grants. What is the basis for claiming that Nepal is not prioritized under a military strategy?”²²

To it, the MCC’s response was:

“First, the US laws that governs [the] MCC prohibits [the] MCC from using funding for any military purpose...Therefore, there is no connection between the MCC Nepal Compact and any military alliance or defense strategy. Second, the MCC process for selecting partners as compact eligible is based on statutorily prescribed criteria that specifically does not include any military factors. To be considered for eligibility by [the] MCC’s board of directors, a country must: (1) be classified as a low income or lower middle-income country by the World Bank, and (2) pass the annual MCC country scorecard that focuses on the country’s commitment to just and democratic governance, investing in people, and economic freedom...Nepal was selected as eligible to develop a compact program with MCC in December 2014, in recognition of the country’s consistently strong performance on the MCC country scorecard and its continued commitment to democratic governance...”²³

Fatema Sumar’s Visit to Nepal

A day after sending this response, Sumar arrived in Kathmandu. On the day of her arrival Sumar met Oli, now leader of the opposition, CPN (Unified Socialist) chair Madhav Kumar Nepal and Janata Samajbadi Party leaders Baburam Bhattarai and Upendra Yadav. After the meeting, Rajan Bhattarai, head of CPN (UML)’s Foreign Affairs Department, said, “[We told the delegation] when we were in the government, we tried to ratify the MCC but some parties and the Speakers [Krishna Bahadur Mahara and Agni Sapkota] were reluctant to move the compact in Parliament... Now we are in the opposition, and we don’t have a position now. We will make our position clear once the ruling alliance makes its position

²¹ Ibid., p. 10.

²² Ibid., p. 1.

²³ Ibid., p. 1.

clear.”²⁴ Beduram Bhusal, general secretary of the CPN (Unified Socialist), said, “We have yet to make our position on the MCC [Nepal Compact]...Our previous policy on the MCC remains the same...that we cannot give the nod to its ratification unless some provisions are amended.”²⁵ On the amendment and other changes, the MCC stated, “Generally, [the] suspension or termination of a compact has only occurred due to instances of significant political upheaval such as coup d’état, an invasion, or significant political violence against the population.”²⁶...The MCC Nepal Compact cannot be amended at this time.”²⁷

On 10 September 2021, Sumar met Dahal. During the meeting, Dahal said that the ruling coalition “should also have consensus on the matter”. He said, “his party was of the opinion that the MCC should be passed only after forging national consensus as it has already become a topic of national debate in Nepal.”²⁸ Finally, the MCC officials met Deuba. During the meeting, Sumar expressed hope that the MCC Nepal Compact would be ratified soon by the Nepali parliament. To it, Deuba told the delegation that he was trying to forge a consensus among the political parties for an early ratification of the MCC Nepal Compact.²⁹

Conclusion

The MCC Nepal Compact has created a political divide in Nepal. Those who opposing the MCC Nepal Compact see it as a part of the “grand design” of the US to pull Nepal to its side and counter the Chinese BRI. This may have some serious repercussions on Nepal’s relationships with China. Although Beijing says that it is not against Nepal seeking assistance from anyone, the Chinese are keeping a keen eye on political developments in Nepal.

In response to the questions asked by Nepal and during the visit of Sumar, the MCC has tried to clear much confusion about the policies. However, whether the answers and meetings were able to convince the Nepali political leadership or not depends on their decision on the ratification of the MCC Nepal Compact.

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²⁴ Anil Giri, “US officials get down to business with a series of meetings, starting with Oli”, *The Kathmandu Post*, 10 September 2021, <https://kathmandupost.com/national/2021/09/10/us-officials-get-down-to-business-with-a-series-of-meetings-starting-with-oli>. Accessed on 10 September 2021.

²⁵ Ibid.

²⁶ “Responses by Millennium Challenge Corporation to Consolidated Clarification Questions from Government of Nepal Regarding the Millennium Challenge Compact”, op. cit., p. 7.

²⁷ Ibid., p. 9.

²⁸ “MCC will be endorsed only after forging national consensus, Dahal tells Sumar” *Nepal Press*, 10 September 2021. <https://english.nepalpress.com/2021/09/10/mcc-will-be-endorsed-only-after-forging-national-consensus-dahal-tells-sumar/>. Accessed on 11 September 2021.

²⁹ Anil Giri, “Deuba tells US delegation he is hopeful of MCC ratification soon”, *The Kathmandu Post*, 11 September 2021. <https://kathmandupost.com/national/2021/09/11/deuba-tells-us-delegation-he-is-hopeful-of-mcc-ratification-soon>. Accessed on 11 September 2021.