

## **Agreement for Establishment of SAARC Arbitration Council**

The Governments of the South Asian Association for Regional Cooperation (SAARC) Member States comprising the People's Republic of Bangladesh, the Kingdom of Bhutan, the Republic of India, the Republic of Maldives, the Kingdom of Nepal, the Islamic Republic of Pakistan and the Democratic Socialist Republic of Sri Lanka;

**Desirous** of creating conditions favourable for fostering greater investment by investors of one Member State in the territory of another Member State;

**Desirous** of providing a regional forum for settlement of commercial disputes by conciliation and arbitration;

**Have agreed as follows:**

### **Article-I Establishment of the SAARC Arbitration Council**

1. (1) There is hereby established a body to be known as the SAARC Arbitration Council (hereinafter referred to as the "Council").
  - (2) The Council shall have full legal personality.
  - (3) The legal capacity of the Council shall include:
    - (a) the capacity to contract;
    - (b) to sue and be sued in its name; and
    - (c) to acquire, hold and dispose of properties.
2. The location of the Council shall be decided.

### **Article-II Objectives and Functions of the Council**

3. The objectives and functions of the Council are to:
  - (a) provide a legal framework within the region for fair and efficient settlement through conciliation and arbitration of commercial, investment and such other disputes as may be referred to the Council by agreement;

- (b) promote the growth and effective functioning of national arbitration institutions within the region;
- (c) provide fair, inexpensive and expeditious arbitration in the region;
- (d) promote international conciliation and arbitration in the region;
- (e) provide facilities for conciliation and arbitration;
- (f) act as a co-ordinating agency in the SAARC dispute resolution system;
- (g) coordinate the activities of and assist existing institutions concerned with arbitration, particularly those in the region;
- (h) render assistance in the conduct of ad hoc arbitration proceedings;
- (i) assist in the enforcement of arbitral awards;
- (j) maintain registers/panels of:
  - (i) expert witnesses, and
  - (ii) suitably qualified persons to act as arbitrators as and when required; and
- (k) carry out such other activities as are conducive or incidental to its functions.

4. The Council shall have the powers necessary to enable it to carry out its objectives and functions.

### **Article-III Organisational set-up of the Council**

5. (1) There shall be for the Council a Director-General who shall:
- (a) be a citizen of a SAARC Member State; and
  - (b) be appointed, on the principle of alphabetical rotation among SAARC Member States commencing from the Member State hosting the Council, by the Secretary-General of SAARC with the approval of the Council of Ministers.
- (2) The Director-General shall hold office for a non-renewable period of three years on such terms and conditions as may be determined by the Council of Ministers. However, the tenure of the first Director-General will be for a period of four years.

- (3) The Director-General shall be the chief executive of the Council and be responsible for the day-to-day administration of the Council and will work under the supervision of the Governing Board comprising a Member nominated by each Member State.
  - (4) The salary and allowances of the Director-General shall be determined by the Council of Ministers.
  - (5) With regard to matters not covered in this Agreement, including the Service Rules, Provisions relating to Financial and Administrative Matters, Financial Regulations, Financial Rules and Procedures and Rules of Procedures for Governing Boards applicable to the SAARC Regional Centres under the Harmonized Rules will be applicable, *mutatis-mutandis*, to the Council.
6. The Council, its Director-General and staff shall enjoy such immunities and privileges as are essential for the effective functioning of the Council to be specified in the Headquarters Agreement between the Council and the Host Member State.

#### **Article-IV Rules**

7. (1) Subject to the Conciliation Rules to be agreed and annexed to this Agreement, the Governing Board may make any additional rules for the administration of conciliation proceedings conducted under the auspices of the Council, including the schedule of fees to be charged.
- (2) Subject to the Arbitration Rules to be agreed and annexed to this Agreement, the Governing Board may make any additional rules for the administration of arbitrations conducted under the auspices of the Council, including the schedule of fees to be charged.
- (3) The Rules made under sub-paras (1) & (2) of this Article shall be made public.

#### **ARTICLE V Entry into Force**

8. This Agreement shall enter into force on completion of formalities, including ratification, by all Member States and upon issue of notification thereof by the SAARC Secretariat.

**ARTICLE VI**  
**Depositary**

9. This Agreement shall be deposited with the Secretary General of SAARC.

**ARTICLE VII**  
**Reservations**



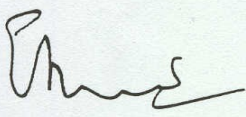
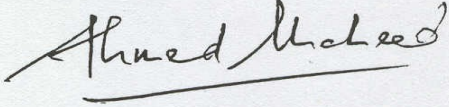
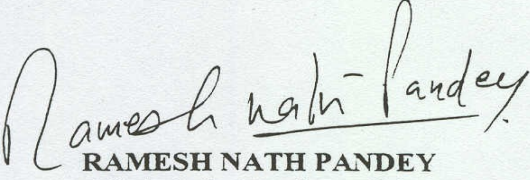
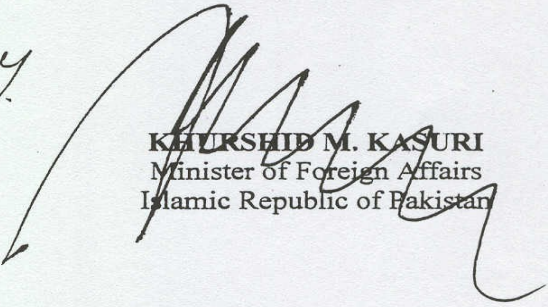
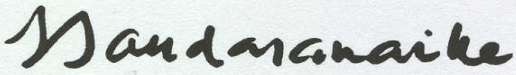
10. This Agreement shall not be subject to reservations either at the time of signature or at the time of notification to the SAARC Secretariat of the completion of formalities in terms of Article V.

**ARTICLE VIII**  
**Amendment**

11. This Agreement may be amended by consensus amongst the Member States. Any Member State proposing amendment(s) shall notify the other Member States through the SAARC Secretariat. Such amendment(s) shall become effective upon the notification issued by the SAARC Secretariat on completion of formalities, including ratification, by all Member States.

**IN WITNESS WHEREOF**, the undersigned being duly authorized thereto by their respective Governments have signed this Agreement on Establishment of SAARC Arbitration Council.

**DONE at Dhaka, Bangladesh On This The Thirteenth Day of November Two Thousand Five in Nine Originals in the English Language All Texts Being Equally Authentic.**

 <b>M. MORSHED KHAN, M.P.</b> Minister of Foreign Affairs People's Republic of Bangladesh	 <b>KHANDU WANGCHUK</b> Minister for Foreign Affairs Kingdom of Bhutan
 <b>E. AHAMED</b> Minister of State for External Affairs Republic of India	 <b>DR. AHMED SHAHEED</b> Minister of Foreign Affairs Republic of Maldives
 <b>RAMESH NATH PANDEY</b> Minister for Foreign Affairs Kingdom of Nepal	 <b>KHURSHID M. KASURI</b> Minister of Foreign Affairs Islamic Republic of Pakistan
 <b>ANURA BANDARANAIKE, M.P.</b> Minister of Foreign Affairs Democratic Socialist Republic of Sri Lanka	