



SAARC ARBITRATION COUNCIL

A SPECIALIZED BODY OF SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION

by

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Some statistics from the region



- ❖ Out of the total World Population of Approx. 7.3 Billion SAARC Region has Approx. 1.7 Billion (23% of the World).
- ❖ Out of the total youth population of 1.8 Billion SAARC Region has approx. 494.4 Million (27% of the world).
- ❖ Total Foreign Direct Investment (FDI) in South Asia in year 2014 was USD 41 Billion which is 1.7% of the world inflow of FDI.
- ❖ 1.4 Billion Asians earn less than poverty threshold of USD 1.25 USD per day.
- ❖ The SAARC Region is 25% of the global market.

Figures are from 2014-15

Reasons for low trade volumes



Three of the reason for non-expansion of trade and investment in the region:

- ❖ Not having an independent mechanism for the investors and traders to resolve their dispute without being subject to the jurisdiction of another state.
- ❖ Not having a mechanism that could quickly provide a decision or remedy in the event of a dispute.
- ❖ Even if these services were available, it was outside the region at a very high cost.

SARCO Introduction



- ❖ One of the primary objectives of the SAARC is “to accelerate economic growth in the region” through collective self reliance among the countries of South Asia.
- ❖ In order to accelerate the economic growth in the region, it is important to increase across border investment and trade, for which strengthening the mental trust and understanding of one another is very important.
- ❖ To achieve this SAARC Standing Committee decided to establish an independent dispute settlement mechanism for the SAARC Countries

INTRODUCTION (Cont..)



- ❖ Pakistan is the Permanent Host Country of SARCO.
- ❖ In 2012, SARCO was declared as a Specialized Body of SAARC.

Main objectives



- * To provide a **legal framework** within the region for fair and efficient settlement of commercial, investment & other disputes of similar nature through the means of **conciliation and arbitration**.
- * To **promote the growth of arbitration** in the region by providing fair, inexpensive and expeditious arbitration services.
- * To act as a **co-ordinating agency** among the SAARC Countries on alternative dispute resolution.
- * To **assist in the enforcement** of arbitral awards.
- * To **assist** in conducting **ad-hoc arbitration** proceeding and
- * To **promote** the growth of the **concept of arbitration** through national centers in the region.

Management



- * The policy-making body of SARCO is the Governing Board, which comprises of one representative from each SAARC Member States, a representative of the SAARC Secretary General, a representative from the Ministry of Foreign Affairs of the Government of Pakistan (Host Country) and the Director General of SARCO.
- * The Governing Board meets at least once a year to lay down the policy-guidelines, to approve the programme of activities and the budget of the Council. All decision at the Governing Board are made unanimously. The Last Meeting of the Governing Board was held on 19 & 20 of September 2015 in Lahore.

Management



- * The administrative (Institutional) and Programming budgets of SARCO are contributed by the Member States on an agreed formula and Capital Budget is born by the Government of Pakistan.
- * Based on the policy-guidelines laid down by the Governing Board, the administration of SARCO is carried out by the Director General who is the Chief Executive Officer.
- * According to Article III of the Agreement for Establishment of SARCO, the post of Director General is rotated among Member States in the alphabetical order starting from Pakistan once in every three years.

Vision and Mission



VISION

- * To be the most sought Arbitration Forum in the region, by becoming a centre of excellence for Alternative Dispute Resolution.

MISSION

- * To provide fair, inexpensive, expeditious and high quality arbitral and conciliatory services to resolve trade, commercial, investment and disputes of similar nature in order to facilitate the expansion of business activities in the region.

Arbitration at SARCO



- ❖ The Arbitration Centre established at the Secretariat of SARCO in Islamabad is equipped with the necessary **facilities** to conduct both domestic and regional arbitrations.
- ❖ It has two **panels of arbitrators** consisting eminent specialists in different fields or professions. One panel is appointed by the governments of the Member States. The other panel is nominated by Professional Bodies and Associations of the Member States.
- ❖ The **rules of procedure** that are required for the conduct of Arbitrations & Conciliations at SARCO are based on the UNCITRAL Model Law and will be revised from time to time.

Arbitration at SARCO (Cont..)



- * - The Awards given according to the rules of procedure at SARCO are deemed to be **foreign arbitral awards** and could be enforced under the New York Convention on the reorganization and enforcement of foreign arbitral awards of 1959.
- * The unique feature of SARCO is that parties **do not have to visit the Secretariat** at Islamabad to resolve their disputes. SARCO is prepared to visit and hold the arbitration at a venue of the parties' choice.
- * When recommending the **fees for arbitrators**, SARCO has taken into consideration the value of the dispute and the affordability. For detail please visit our website www.sarco.org.pk

Model Arbitration Clause



- * By Including the model clause of SARCO into your agreements you could avail the services of SARCO in the event of a dispute under such agreements. If you have already signed the agreement you could incorporate this clause through an addendum to the agreement or if both parties agree you could avail the services of SARCO by referring the dispute jointly to us.

“Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the SAARC Arbitration Rules as at present in force”.

Model Arbitration Clause



- * At the Meeting of the Council of Ministers held 2014, it was agreed to incorporate “SAARC Arbitration Clause” in future bi-lateral or Multi-lateral agreements signed between Member States. Hence it was incorporated into the “SAARC Framework Agreement for Energy Cooperation” signed at the Kathmandu Summit in 2014.
- * They wanted the Member States to encourage its citizens to include the Model Clause in to their commercial and/or trade agreements because SARCO arbitrators being from the region, will understand the nuances which are unique to the region when settling disputes.

Legal Framework For Arbitration In The Region



- * Domestic Arbitration Laws
 - * Afghanistan, Bhutan, Bangladesh, India, Maldives, Nepal, Pakistan and Sri-Lanka,
- * Agreement for establishment of SAARC Arbitration Council (signed and ratified)
- * New York Convention on Enforcement of Foreign Awards
 - * Afghanistan, Bhutan, Bangladesh, India, Nepal, Pakistan and Sri-Lanka

Why SARCO?



SARCO provides following edge to the parties to conduct Arbitration or Conciliation (Mediation):

1. It is a specialized body representing the region.
2. Endorsed by governments of all SAARC member states.
3. Availability of eminent local arbitrators from the SAARC Countries.
4. Party are free to choose their own arbitrators.
5. Available to government agencies, private companies and individuals.
6. Seat of Arbitration being flexible according to needs of parties.
7. Case-Management Conference for efficient conduct of arbitration.
8. Expeditious conclusion of disputes (approx. 6 – 12 months)
9. Confidentiality and Limited discovery
10. Competitively low, value-based fee structure
11. Enforceability of SARCO Awards as “Foreign Award”.
12. Provides necessary services to conduct arbitration and conciliation, efficiently.

Affiliate Institutions



- * Lahore Chamber of Commerce and Industry (LCCI)- Mediation Center
- * Indian Council of Arbitration (ICA)
- * All India Association of Industry (AIAI)
- * Sri Lanka National Arbitration Centre(SLNAC)
- * Maldives International Arbitration Centre (MIAC)
- * Pakistan Mediation Centre (PMC)
- * National Center for Dispute Resolution-Pakistan (NCDR)
- * Bangladesh International Arbitration Centre (BIAC)
- * Dhaka Chamber of Commerce and Industry (DCCI)
- * South Asia University(SAU)
- * SAARC Development Fund (SDF)



THANK YOU

For further information

Please visit

www.sarco.org.pk