

## **Bretton Woods Agreement Act, 2018 (1961)**

Date of Authentication and Publication

2018.4.5(20 July 1961)

### **Amendments:**

1. Some Nepal Acts Amendment, Repeal and Continuanace Through Re-arrangement Act, 2019 (1963) 2019.12.30 (12 April 1963)
2. Bretton Woods Agreement (First Amendment) Act, 2027 (1971) 2027.12.30 (12 April 1971)
3. Bretton Woods Agreement (Second Amendment) Act, 2034 (1978) 2034.9.18(2 Jan. 1978)
4. Republic Strengthening and Some Nepal Laws Amendment Act, 2066 (2010)<sup>1</sup> 2066.10.7(21 Jan. 2010)

Act Number 10 of the Year 2018 (1961)

### **An Act Made to Enable Nepal to Become a Member of the International Monetary Fund and of the International Bank for Reconstruction and**

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<sup>1</sup> This Act came into force on 15 *Jestha* 2065, "*Prasati*" and the word "Kingdom" has been deleted.

**Development by Acceptance of the International Agreements for the  
Establishment and Operation of the Fund and the Bank**

**Preamble:** Whereas, the International Monetary Fund and the International Bank for Reconstruction and Development were established in pursuance of agreements drawn up at the United Nations Monetary and Financial Conference held at Bretton Woods in New Hampshire in the United States of America in July 1944; and

Whereas, the International Monetary Fund and the International Bank for Reconstruction and Development have prescribed the terms and conditions set out in Schedules 1 and 2 of this Act as the terms and conditions upon which Nepal may be admitted to membership of the International Monetary Fund and the International Bank for Reconstruction and Development, respectively; and

Whereas, for the purpose of complying with the terms and conditions aforesaid, it is necessary to make provision as hereinafter set out;

Now, therefore, be it enacted by His Majesty King Mahendra Bir Bikram Shah Dev in accordance with Article 93 of the Constitution of Nepal<sup>2</sup>.

**1. Short title and commencement:** (1) This Act may be called as the "Bretton Woods Agreement Act, 2018 (1961)."

(2) This Act shall come into force immediately.

**2. Definitions:** Unless the subject or the context otherwise requires, in this Act:

(a) "Fund" means the International Monetary Fund.

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<sup>2</sup> Amended by Some Nepal Acts Amendment, Repeal and Continuance Through Re-arrangement Act, 2019.

- (b) "Bank" means the International Bank for Reconstruction and Development.
- (c) "Fund Agreement" means the Articles of Agreement of the Fund, and this term also includes amendments to the Agreement of the Fund<sup>3</sup>.
- (d) "Bank Agreement" means the Articles of Agreement of the Bank.
- (e)<sup>4</sup> "Special Drawing Rights" means the rights of the Fund to draw moneys from the special account with the Fund to be distributed between among the member states (*Bhagidar*) in order to meet the requirements of international liquidity.

**3. Authorization to conclude Agreements and deposit instruments of**

**acceptance:** The Minister for Finance is, hereby, authorized by instruments under his or her hand to empower such person as may be named in such instruments, on behalf of the Government of Nepal:

- (a) To sign the Articles of Agreement of the International Monetary Fund and the Articles of Agreement of the International Bank for Reconstruction and Development, respectively.
- (b) To deposit with the Government of the United States of America instruments of acceptance of the Fund Agreement and Bank Agreement setting out that the Government of Nepal has accepted in accordance with the Nepal laws the respective Articles and the terms

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<sup>3</sup> Inserted by First Amendment.

<sup>4</sup> Inserted by Second Amendment.

and conditions prescribed thereunder as the terms upon which Nepal shall be admitted to membership of the Fund and of the Bank.

(c)<sup>5</sup> To accept the First Amendment to the Fund Agreement<sup>6</sup>, and deposit an instrument of acceptance to enable Nepal to participate in the Special Drawing Rights as provided by that Amendment.

(d)<sup>7</sup> To accept the Second Amendment to the Fund Agreement, and deposit an instrument of acceptance, accepting the liabilities set forth in that Amendment and to accept increases in quota and share of Nepal with the Bank.

**4. Powers to pay moneys to the Fund and the Bank:** The Minister for Finance shall have authority to pay to the Fund and the Bank from the Consolidated Fund of the Government of Nepal such moneys/subscription as may be payable from time to time to the Fund and the Bank on account of the Government of Nepal, as specified in the terms and conditions set out in Schedule.....<sup>8</sup>

**4A.<sup>9</sup> Obligation to provide currency:** In the event of the need of a member using the special drawing rights in such a circumstance as may be specified by the Fund pursuant to Section 4 of Article 19<sup>10</sup> of the Fund Agreement, and as set out in Schedule 13, the Minister for Finance shall provide freely convertible currency<sup>11</sup> on behalf of the Government of Nepal.

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<sup>5</sup> Inserted by First Amendment.

<sup>6</sup> Amended by Second Amendment.

<sup>7</sup> Inserted by Second Amendment.

<sup>8</sup> Deleted by Second Amendment.

<sup>9</sup> Inserted by First Amendment.

<sup>10</sup> Amended by Second Amendment.

<sup>11</sup> Amended by Second Amendment.

**4B.<sup>12</sup> Obligation to reconstitute the holdings of used special drawing**

**rights:** If the special drawing rights are used on behalf of the Government of Nepal as provided in Section 6 (a) of Article 19<sup>13</sup> of the Fund Agreement, and as set out in Schedule 13, the Minister for Finance shall reconstitute the special drawing rights to the extent so used, and all payments required to be made in effecting such reconstitution shall be made out of the Consolidated Fund of the Government of Nepal.

**4C.<sup>14</sup> Obligation to provide freely convertible currencies:** If freely convertible currencies are demanded in consonance with the Fund Agreement, the Minister for Finance may, on behalf of the Government of Nepal, provide such currencies.

**5. Power to issue promissory notes:** The Minister for Finance may, on behalf of the Government of Nepal, create non-interest bearing and non-negotiable notes or bonds/conditions as set forth in Section 4 of Article 3<sup>15</sup> of the Fund Agreement, as set out in Schedule-3 and as set forth in Section 12 of Article 5 of the Bank Agreement, as set out in Schedule-4, in such forms as he or she thinks fit and issue them in the name of the Fund or the Bank, and the payments of the notes or bonds so created shall be paid out of the Consolidated Fund of the Government of Nepal.

**6. Power to raise loans:** (1) For the purpose of providing any sums required for making any payments out of the Consolidated Fund of the Government of Nepal pursuant to this Act, the Minister for Finance may, on behalf of

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<sup>12</sup> Inserted by First Amendment.

<sup>13</sup> Amended by Second Amendment.

<sup>14</sup> Inserted by Second Amendment.

<sup>15</sup> Amended by Second Amendment.

the Government of Nepal, raise loans by the creation and issue of non-interest-bearing and non-negotiable notes or bonds in the name of the *Nepal Rastra Bank*, in such forms as he or she may think fit.

(2) Notwithstanding anything contained in <sup>16</sup>Clause (11) of Section 25<sup>17</sup> of the *Nepal Rastra Bank Act, 2058*, the *Nepal Rastra Bank* may, on the basis of the notes or bonds created and issued in accordance with the provision set forth in Sub-section (1), disburse loans to the Minister for Finance, the amount of loans so borrowed shall be repaid/returned within Five years after the date of such borrowing.

(3) Such moneys as required for the repayment of notes or bonds created and issued in the name of the *Nepal Rastra Bank* under Sub-section (1) shall be paid out of the Consolidated Fund of the Government of Nepal.

7. **Nepal Rastra Bank to be nominated as fiscal agency and depository:** (1) The *Nepal Rastra Bank* is, hereby, nominated as the fiscal agency for the purposes of Section 1 of Article 5 of Schedule 5 of the Fund Agreement and as the depository for the purposes of Section 2 of Article 13 of Schedule 6 of the Fund Agreement.

(2) The *Nepal Rastra Bank* is, hereby, nominated as the depository for the purposes of Section 11 of Article 5 of Schedule 7 of the Bank Agreement.

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<sup>16</sup> The serial order of Section is not in order as upon Amendment.

<sup>17</sup> Amended by the Second Amendment.

(3)<sup>18</sup> The *Nepal Rastra Bank* shall have power to acquire, exercise and deal with special drawing rights of the Government of Nepal and to perform all other negotiable transactions supplemental or incidental thereto

**8.<sup>19</sup> Status, immunities and privileges of the Fund and the Bank:** (1)

Notwithstanding anything contained in the Nepal laws in force, the status, immunities and privileges set forth in Article 9 of the Fund Agreement, and as set out in Schedule-8, and set forth in Article 7 of the Bank Agreement, and as set out in Schedule-9, shall be accorded to the Fund and the Bank, respectively.

(2) Notwithstanding anything contained in the Nepal laws in force, the status, immunities and privileges set forth in Article 9 of the Fund Agreement and immunities from all kinds of taxes shall be accorded on the special drawing rights or dealing and transactions thereof, as provided in Article 21(b)<sup>20</sup> of the Fund Agreement, and as set out in Schedule-12.

**9. Non-application of exchange contracts:** Notwithstanding anything contained in the Nepal laws in force, the matters on the non-application of exchange contracts, as contained in Section 2(b) of Article 8 of the Fund Agreement, and as set out in Schedule-10, shall have full force of law and apply as such throughout Nepal.

**10. Power to amend Schedules:** If any amendment is made to any matter contained in any Schedule of this Act of the Fund Agreement and the Bank Agreement, the Government of Nepal may accordingly amend the Schedule

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<sup>18</sup> Inserted by Third Amendment.

<sup>19</sup> Amended by First Amendment.

<sup>20</sup> Amended by Second Amendment.

of this Act, by publishing a notification in the Nepal Gazette, from time to time.

**11. Power to frame Rules:** The Government of Nepal may frame Rules in order to implement the objectives of this Act.

**12.** .....<sup>21</sup>

NEPAL LAW COMMISSION

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<sup>21</sup> Deleted by Some Nepal Acts Amendment, Repeal and Continuance Through Re-arrangement Act, 2019.

## Schedule-1

International Bank for Reconstruction and Development

1818 H. Street, N.W.

Washington 25, D.C.

Resolution No. 144

### **Admission of Nepal to Membership of the Bank**

Whereas, the Government of Nepal has applied for admission to membership in the International Bank for Reconstruction and Development in accordance with Section 1 (b) of Article 2<sup>22</sup> of the Articles of Agreement of the Bank; and

Whereas, pursuant to section 20 of the By-laws of the Bank, the Executive Directors, after consultation with representatives of the Government of Nepal, have made recommendations to the Board of Governors regarding this application;

Now, therefore, the Board of Governors hereby resolves that the terms and conditions upon which Nepal shall be admitted to membership in the Bank shall be as follows:

**1. Definitions:** As used in this Resolution:

- (a) “Bank” means the International Bank for Reconstruction and Development;
- (b) “Articles” means the Articles of Agreement of the Bank;

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<sup>22</sup> Membership on the Bank shall open for other members of the Fund at such times and on such terms and conditions as the Bank may specify.

- (c) “Dollars” means United States dollars of the weight and fineness in effect on 1 July 1944;
  - (d) “Subscription” means the capital stock of the Bank subscribed to by a member;
  - (e) “Member” means member of the Bank.
2. **Subscription:** By accepting membership in the Bank, Nepal shall subscribe to 100 shares of the capital stock of the Bank at the par value of \$100,000 per share.
3. **Membership in the Fund:** Before accepting membership in the Bank, Nepal shall accept membership in and become a member of the International Monetary Fund.
4. **Payment of Subscription:**
- (a) Before accepting membership in the Bank, Nepal shall pay to the Bank on account of the subscription price of one-half of such shares:
    - (i) gold or United States dollars equal to 2% thereof; and
    - (ii) an amount in its own currency which at the appropriate prevailing exchange rate, shall be equal to 18% thereof.
  - (b) With respect to the subscription price of the other one-half of such shares, the 2% portion payable in gold or United States dollars and the 18% portion payable in the currency of the member shall be left uncalled, as set out in Resolution No. 129, on the same basis as the 2% and 18% portions of subscriptions made pursuant to Resolution No. 128 of the Board of Governors.

5. **Representation and Information:** Before accepting membership in the Bank, Nepal shall represent to the Bank that it has taken all action necessary to sign and deposit the instrument of acceptance and sign the Article as contemplated by paragraph 6 (d) and (e) of this Resolution, and Nepal shall furnish to the Bank such information in respect of such action as the Bank may request.
6. **Acceptance of Membership:** Nepal shall become a member of the Bank with a subscription as set out in paragraph 2 of this Resolution as of the date when Nepal shall have complied with the following requirements:
- (a) become a member of the International Monetary Fund;
  - (b) made the payments called for by paragraph 4 of this Resolution;
  - (c) furnished the representation, and such information as may have been requested, pursuant to paragraph 5 of this Resolution;
  - (d) deposited with the Government of the United States of America an instrument stating that it has accepted in accordance with its law the Articles and all the terms and conditions prescribed in this Resolution, and that it has taken all steps necessary to enable it to carry out all its obligations under the Articles and this Resolution;
  - (e) signed the original copy of the Articles held in the Archives of the Government of the United States of America.
7. **Limitation on Period for Acceptance of Membership:** Nepal may accept membership in the Bank pursuant to this Resolution until 31 March 1961, and if the Executive Directors deems necessary for an extraordinary circumstance that this limitation on period for acceptance of membership

by Nepal pursuant to this Resolution should be extended, they may extend this limitation on period.

NEPAL LAW COMMISSION

## Schedule-2

### **Resolution on Membership of Nepal**

Whereas, the Government of Nepal, Nepal on 13 April 1960, applied for membership in the International Monetary Fund in accordance with section 2 of Article II of the Articles of Agreement of the Fund; and

Whereas, pursuant to section 21 of the By-laws of the Fund, the Executive Directors have consulted with the representative of that Government and have agreed upon the terms and conditions which, in the opinion of the Executive Directors, the Board of Governors may wish to prescribe for admitting Nepal to membership in the Fund;

Now, therefore, the Board of Governors, having considered the recommendations of the Executive Directors, hereby resolves that the terms and conditions upon which Nepal shall be admitted to membership in the Fund shall be as follows:

1. **Definitions:** As used in this Resolution;
  - (a) the term “Fund” means the International Monetary Fund;
  - (b) the term “Articles” means the Articles of Agreement of the International Monetary Fund;
  - (c) the term “dollars” means United States dollars of the weight and fineness in effect on 1 July 1944.
2. **Quota:** The quota of Nepal shall be 7,500,000 (Seven Million Five Hundred Thousand dollars).

3. **Subscription:** The subscription of Nepal shall be equal to its quota. Nepal shall pay in gold, as a minimum, Three and half percent of its quota. The balance of the subscription shall be paid in the currency of Nepal.
4. **Payment of Subscription:** The portion of the subscription to be paid in gold shall be paid not later than the day the Articles are signed on behalf of Nepal. In case Nepal does not acquire membership in the Fund, the gold so paid shall be returned to it by the Fund. The remaining part of the subscription which has not been paid in gold shall be paid before the Thirtieth day after the initial par value of the currency of Nepal has been agreed in accordance with Paragraph 5 below.
5. **Determination of Par Value:** Within 30 days after the Fund so requests, Nepal shall communicate to the Fund a proposed par value for its currency, and within 60 days following the Fund's receipt of the proposed par value, Nepal and the Fund shall agree on an initial par value for the currency: provided that the Fund may extend the period of 60 days and that Nepal shall be deemed to have withdrawn from the Fund if agreement on a par value has not been reached when the extended period expires. In the period between accepting membership and the establishment of an initial par value pursuant to this paragraph, Nepal shall not change its exchange rates prevailing at the time of accepting membership without agreement with the Fund after prior consultation.
6. **Exchange Transactions with the Fund:** Nepal may not engage in exchange transactions with the Fund until:
  - (a) the Thirtieth day of the par value of its currency having been agreed in accordance with paragraph 5 above; and

(b) its subscription has been paid in full.

7. **Representation and Information:** Before accepting membership in the Fund, Nepal shall represent to the Fund that it has taken all action necessary to sign and deposit the Instrument of Acceptance and sign the Articles, as contemplated by paragraph 8 (a) and (b) of this Resolution, and Nepal shall furnish to the Fund such information in respect of such action as the Fund may request.

8. **Acceptance of Membership:** After the Fund shall have informed the Government of the United States of America that Nepal has complied with the conditions set out in paragraph 7 of this Resolution, Nepal shall become a member of the Fund as of the date when Nepal shall have complied with the following requirements:

- (a) Nepal shall deposit with the Government of the United States of America an instrument stating that it has accepted in accordance with its law the Articles and all the terms and conditions prescribed in this Resolution, and that it has taken all steps necessary to enable it to carry out all its obligations under the Articles and this Resolution; and
- (b) Nepal shall sign the original copy of the Articles held in the Archives of the Government of the United States of America.

9. **Limitation on Period of Acceptance of Membership:** Nepal may accept membership in the Fund pursuant to this Resolution within 6 months of the effective date of this Resolution, which date shall be the date of its adoption by the Board of Governors; provided, however, that, if extraordinary circumstances are deemed by the Executive Directors to

warrant an extension of the period during which the applicant may accept membership pursuant to this Resolution, the Executive Directors may extend such period until such later date as they may determine.

NEPAL LAW COMMISSION

## **Schedule-3<sup>23</sup>**

### **Section 4 of Article 3 of the Articles of Agreement of the International Monetary Fund**

**Section- 4. Substitution of securities for currency:** The Fund shall accept from any member in place of any part of the member's currency in the general account of the Fund which in the judgment of the Fund is not needed for its operations, notes or similar obligations issued by the member or the depository designated by the member under Section 2 of Article 13, which shall be non-negotiable, non-interest-bearing and payable at their par value on demand by crediting the account of the Fund in the designated depository. This Section shall apply not only to currency subscribed by members but also to any currency otherwise due to, or acquired by, the Fund.

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<sup>23</sup> Amended by the Second Amendment.

## **Schedule-4**

### **Section 12 of Article 5 of the Articles of Agreement of the International Bank for Reconstruction and Development**

**Section 12. Form of Holdings of Currency:** The Bank shall accept from any member, in place of any part of the member's currency, paid in to the Bank under Article 11, Section 7 (1), or to meet amortization payments on loans made with such currency, and not needed by the Bank in its operations, notes or similar obligations issued by the Government of the member or the depository designated by such member, which shall be non-negotiable, non-interest-bearing and payable at their par value on demand by credit to the account of the Bank in the designated depository.

## **Schedule-5**

### **Section 1 of Article 5 of the Articles of Agreement of the International Monetary Fund**

**Section-1 of Article 5. Agencies dealing with the Fund:** Each member shall deal with the Fund only through its Treasury, central bank, stabilization fund, or other similar fiscal agency and the Fund shall deal only with or through the same agencies.

NEPAL LAW COMMISSION

## **Schedule-6**

### **Section 2 of Article 13 of the Articles of Agreement of the International Monetary Fund**

**Section-2 of Article 13. Depositories:** (a) Each member country shall designate its central bank as a depository for all the Fund's holdings of its currency, or if it has no central bank it shall designate such other institution as may be acceptable to the Fund.

(b) The Fund may hold other assets, including gold, in the depositories designated by the five members having the largest quotas and in such other designated depositories as the Fund may select. Initially, at least one-half of the holdings of the Fund shall be held in the depository designated by the member in whose territories the Fund has its principal office and at least Forty per cent shall be held in the depositories designated by the remaining Four members referred to above. However, all transfers of gold by the Fund shall be made with due regard to the costs of transport and anticipated requirements of the Fund. In an emergency the Executive Directors may transfer all or any part of the Fund's gold holdings to any place where they can be adequately protected.

## **Schedule-7**

### **Section 11 of Article 5 of the Articles of Agreement**

### **of the International Bank for Reconstruction and Development**

**Section 11. Depositories:** (a) Each member shall designate its central bank as a depository for all the Banks holdings of its currency or, if it has no central bank, it shall designate such other institution as may be acceptable to the Bank.

(b) The Bank may hold other assets, including gold, in depositories designated by the Five members having the largest number of shares and in such other designated depositories as the Bank may select. Initially, at least one-half of the gold holdings of the Bank shall be held in the depository designated by the member in whose territory the Bank has its principal office, and at least 40 per cent shall be held in the depositories designated by the remaining four members referred to above, each of such depositories to hold, initially, not less than the amount of gold paid on the shares of the member designating it. However, all transfers of gold by the Bank shall be made with due regard to the costs of transport and anticipated requirements of the Bank. In an emergency the Executive Directors may transfer all or any part of the Banks gold holdings to any place where they can be adequately protected.

## Schedule-8

### Article 9 of the Articles of Agreement of the International Monetary

#### Fund: Status, Immunities and Privileges

**Section 1 of Article 9 Purposes of Article:** To enable the Fund to fulfill the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Fund in the territories of each member.

**Section 2. Status of the Fund:** The Fund shall possess full juridical personality, and in particular, the capacity:

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

**Section 3. Immunity from judicial process:** The Fund, its property and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that it expressly waives its immunity for the purpose of any proceedings or by the terms of any contract.

**Section 4. Immunity from judicial process:** Property and assets of the Fund, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

**Section 5. Immunity of archives:** The archives of the Fund shall be inviolable.

**Section 6. Freedom of assets from restrictions:** To the extent necessary to carry out the operations provided for in this Agreement, all property and assets of the Fund shall be free from restrictions, regulations, controls and moratoria of any nature.

**Section 7. Privilege for communications:** The official communications of the Fund shall be accorded by members the same treatment as the official communications of other members.

**Section 8. Immunities and privileges of officers and employees:** All governors, executive directors, alternates, members of the Board, agents appointed pursuant to Section 3(j) of Article 12 of the Agreement and advisors of any person mentioned above,<sup>24</sup> and officers and employees of the Fund:

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Fund waives this immunity;
- (ii) not being local nationals, shall be granted the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives,

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<sup>24</sup> Inserted by Second Amendment.

officials and employees of comparable rank of other members.

**Section 9. Immunities from taxation:** (a) The Fund, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Fund shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Fund to executive directors, alternates, officers or employees of the Fund who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Fund, including any dividend or interest thereon, by whomsoever held

- (i) which discriminates against such obligation or security solely because of its origin; or
- (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Fund.

**Section 10. Application of Article:** Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Fund of the detailed action which it has taken.

## Schedule-9

### **Article 7 of the Articles of Agreement of the International Bank for Reconstruction and Development: Status, Immunities and Privileges**

**Section 1 of Article 7. Purposes of Article:** To enable the Bank to fulfill the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Bank in the territories of each member.

**Section 2. Status of the Bank:** The Bank shall possess full juridical personality, and, in particular, the capacity:

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

**Section 3. Position of the Bank with regard to judicial process:** Actions may be brought against the Bank only in a court of competent jurisdiction in the territories of a member in which the bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

**Section 4. Immunity of assets from seizure:** Property and assets of the Bank, where ever located and by whom so ever held, shall be immune from

search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action

**Section 5. Immunity of archives:** The archives of the Bank shall be inviolable.

**Section 6. Freedom of assets from restrictions:** To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature.

**Section 7. Privilege for communications:** The official communications of the Bank shall be accorded by each member the same treatment that it accords to the official communications of other members.

**Section 8. Immunities and privileges of officers and employees:** All governors, executive directors, alternates, officers and employees of the Bank:

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Bank waives this immunity;
- (ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives,

officials and employees of comparable rank of other members.

**Section 9. Immunities from taxation:** (a) The Bank, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Bank shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to executive directors, alternates, officials or employees of the Bank who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Bank (including any dividend or interest thereon) by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is issued by the Bank; or
- (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Bank (including any dividend or interest thereon) by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or

- (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank

**Section 10. Application of Article:** Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Bank of the detailed action which it has taken.

NEPAL LAW COMMISSION

## **Schedule-10**

### **Section 2(b) of Article 8 of the Articles of Agreement of the International Monetary Fund**

**Section 2(b) of Article.** Exchange contracts which involve the currency of any member and which are contrary to the exchange control regulations of that member maintained or imposed consistently with this Agreement shall be unenforceable in the territories of any member. In addition, members may, by mutual accord, co-operate in measures for the purpose of making the exchange control regulations of either member more effective, provided that such measures and regulations are consistent with this Agreement.

## **Schedule-11<sup>25</sup>**

### **Article 15 of the Fund Agreement**

**Article 15 Section 1. Authority to allocate special drawing rights:** To meet the need, as and when it arises, for a supplement to existing reserve assets, the Fund is authorized to allocate special drawing rights to members that are participants in the Special Drawing Rights Department.

**Article 15 Section 2. Valuation of the special drawing right:** The method of valuation of the special drawing right shall be determined by the Fund by a seventy percent majority of the total voting power, provided, however, that an eighty-five percent majority of the total voting power shall be required for a change in the principle of valuation or a fundamental change in the application of the principle in effect.

### **Section 3 of Article 16 of the Fund Agreement**

**Article 16 Section 3. Recording and information:** All changes in holdings of special drawing rights shall take effect only when recorded by the Fund in the Special Drawing Rights Department. Participants shall notify the Fund of the provisions of this Agreement under which special drawing rights are used. The Fund may require participants to furnish it with such other information as it deems necessary for its functions.

### **Section 1 of Article 17 of the Fund Agreement**

**Article 17 Section 1. Participants:** Each member of the Fund that deposits with the Fund an instrument setting forth that it undertakes all the

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<sup>25</sup> Inserted by First Amendment and Amended by Second Amendment.

obligations of a participant in the Special Drawing Rights Department in accordance with its law and that it has taken all steps necessary to enable it to carry out all of these obligations shall become a participant in the Special Drawing Rights Department as of the date the instrument is deposited, except that no member shall become a participant before the provisions of this Agreement pertaining exclusively to the Special Drawing Rights Department have entered into force and instruments have been deposited under this Section by members that have at least Seventy-Five percent of the total of quotas.

### **Article 22 of the Fund Agreement**

**Article 22. General Obligations of Participants:** In addition to the obligations assumed with respect to special drawing rights under other articles of this Agreement, each participant undertakes to collaborate with the Fund and with other participants in order to facilitate the effective functioning of the Special Drawing Rights Department and the proper use of special drawing rights in accordance with this Agreement and with the objective of making the special drawing right the principal reserve asset in the international monetary system.

## **Schedule-12<sup>26</sup>**

### **Article 21 (b) of the Fund Agreement**

**Article 21 (b):** In addition to the privileges and immunities that are accorded under Article IX of this Agreement, no tax of any kind shall be levied on special drawing rights or on operations or transactions in special drawing rights.

NEPAL LAW COMMISSION

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<sup>26</sup> Amended by Second Amendment.

## **Schedule-13<sup>27</sup>**

### **Section 4 of Article 19 of the Fund Amendment**

**Article 19, Section 4<sup>28</sup> Obligation to provide currency:** A participant designated by the Fund under Section 5 of this Article shall provide on demand a freely usable currency<sup>29</sup> to a participant using special drawing rights under Section 2 (a) of this Article. A participant's obligation to provide currency shall not extend beyond the point at which its holdings of special drawing rights in excess of its net cumulative allocation are equal to twice its net cumulative allocation or such higher limit as may be agreed between a participant and the Fund. A participant may provide currency in excess of the obligatory limit or any agreed higher limit.

**Article 19, Section 5<sup>30</sup> Designation of participants to provide currency:**

- (a) The Fund shall ensure that a participant will be able to use its special drawing rights by designating participants to provide currency for specified amounts of special drawing rights for the purposes of Sections 2(a) and 4 of this Article. Designations shall be made in accordance with the following general principles supplemented by such other principles as the Fund may adopt from time to time:

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<sup>27</sup> Inserted by First Amendment.

<sup>28</sup> Amended by Second Amendment.

<sup>29</sup> Amended by Second Amendment.

<sup>30</sup> Amended by Second Amendment.

- (1) A participant shall be subject to designation if its balance of payments and gross reserve position is sufficiently strong, but this will not preclude the possibility that a participant with a strong reserve position will be designated even though it has a moderate balance of payments deficit. Participants shall be designated in such manner as will promote over time a balanced distribution of holdings of special drawing rights among them.
  - (2) Participants shall be subject to designation in order to promote reconstitution under Section 6(a) of this Article, to reduce negative balances in holdings of special drawing rights, or to offset the effect of failures to fulfill the expectation in Section 3(a) of this Article.
  - (3) In designating participants, the Fund normally shall give priority to those that need to acquire special drawing rights to meet the objectives of designation under (2) above.
- (b) In order to promote over time a balanced distribution of holdings of special drawing rights under (a)(1) above, the Fund shall apply the rules for designation in Schedule F or such rules as may be adopted under (c) below.
- (c) The rules for designation may be reviewed at any time and new rules shall be adopted if necessary. Unless new rules are adopted, the rules in force at the time of the review shall continue to apply.

**Article 19, Section 2(a)<sup>31</sup> Operations and transactions between member**

**states:** A member state shall be entitled to use its special drawing rights to obtain an equivalent amount of currency from a participant designated under Section 5 of this Article.

**Schedule-14<sup>32</sup>**

**Section 6 (a) of Article 19<sup>33</sup> of the Fund Agreement**

**Article 19, Section 6 (a)<sup>34</sup> Reconstitution:** Participants that use their special drawing rights shall reconstitute their holdings of them in accordance with the rules for reconstitution in Schedule G or such rules as may be adopted under (b) below.

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<sup>31</sup> Amended by Second Amendment.

<sup>32</sup> Inserted by Amendment.

<sup>33</sup> Amended by Second Amendment

<sup>34</sup> Amended by Second Amendment