

Nepal Treaty Act, 2047 (1990)

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Act No. 16 of the year 2047 (1990)

An act made for procedure relating to the treaty

Preamble: Whereas, it is expedient to make legal provisions in regard to the procedure relating to signing, ratification, accession, acceptance, or approval of treaties or agreements to which Nepal¹ or Government of Nepal² is a party, as well as in regard to their implementation,

Now therefore, be enacted by His Majesty King Birendra Bir Bikram Shah Dev under Article 129 of the Constitution on the advice and with the approval of the Council Ministers.

1. **Short Title and Commencement:** (1) This Act may be called “Nepal Treaty Act, 2047 (1990).”

(2) It shall be deemed to have come into force from Kartik 23, 2047 (9 November, 1990).

(3) It shall be applicable in respect to the treaties to be signed with Nepal or Government of Nepal as a party, after the commencement of the Constitution.

2. **Definition:** In this Act, unless the subject or the context otherwise requires,-

(a) “Treaty” means an agreement concluded in writing between two or more states, or between any state and any inter-governmental

¹ Amendment by Interim Constitution of Nepal, 2063

organization and this term also includes any document of this nature, irrespective of how it is designated.

- (b) “Full Power” means the letter of authority issued by Government of Nepal empowering anyone to negotiate or accept the final draft or certified copy of or sign a treaty and this term also includes the authority granted to maintain reservations while holding such negotiations or signing a treaty, or to perform any other function in respect to such treaty.
- (c) “Reservation” means a declaration made by any party while signing a multilateral treaty or ratifying, acceding to, accepting or approving such a treaty, that any provision of the treaty shall not be applicable to it and this term also includes the declaration made by any party in order to explain its position in respect to such provision.
- (d) “Denunciation” means a declaration made for the termination of a treaty by fulfilling the formalities mentioned in the treaty.
- (e) “Constitution” means the Constitution of the Kingdom of Nepal, 2047 (1990).

3. Power to Conclude Treaties: No one, except, the Prime minister and the Minister of Foreign Affairs, shall negotiate, accept the final draft or a certified copy, or sign or maintain reservations, or perform any other function related to a treaty to which Nepal or Government of Nepal is a party, without full power.

Provided that nothing contained in this Section shall prejudice the power of a Nepalese Ambassador of Charge d’Affaires representing Nepal in any foreign nation or international organization to conclude a treaty on any matter with such foreign nation or inter-governmental organization, as well as the leader of a delegation participating in any international

conference to negotiate or accept the final draft or a certified copy of the treaty to be signed in the conference.

4. Procedure Relating to the Ratification and Accession of Treaties:

(1) In case it becomes necessary for Government of Nepal to ratify, accede to accept, or approve any treaty, on subjects other than those mentioned in Clause (2) of Article 126 of the Constitution, which needs ratification, accession, acceptance or approval, or in case it becomes necessary for Government of Nepal to accede to any treaty, it shall table a resolution to that effect at the House of Representatives.

(2) The resolution concerning the ratification, accession, acceptance or approval of any treaty tabled pursuant to Sub-section (1) shall be adopted by a majority of the members present in the House of Representatives.

(3) Government of Nepal shall notify the concerned party or authority about the ratification, accession, acceptance or approval of the treaty in accordance with the provision made in the treaty after a resolution is adopted by the House of Representatives pursuant to Sub-section (2),.

(4) Nepal or Government of Nepal may not become a party to any treaty relating to the establishment of any inter-governmental organization, or acquisition of membership of such organization, or of any treaty that conflicts with any prevailing law, until a resolution is adopted by the House of Representatives for its ratification, accession, acceptance or approval, even if no provision has been made in such treaty for ratification, accession, acceptance or approval.

5. Ratification, Accession, Acceptance or Approval of Some Specific

Treaties: (1) Government of Nepal shall table a resolution in the Parliament for the ratification, approval or acceptance on the matters as

mentioned in Clause (2) of Article 126 of the Constitution or to obtain permission to accede to any such treaty to that effect.

(2) Government of Nepal shall notify the concerned party or authority in a manner as prescribed in the concerned treaty about its ratification, accession, acceptance or approval after a resolution is adopted by the Parliament under Clause (2) of Article 126 of the Constitution pursuant to Sub-section (1).

6. **Power of Government of Nepal to Sign and Enforce a Treaty:** A treaty on any matters other than those as mentioned in Section 4 or Clause (2) of Article 126 of the Constitution, may be signed as per the decision of Government of Nepal and Nepal or Government of Nepal shall be considered a party to that treaty, and such treaty shall be considered to have been accepted.
7. **Power to Denounce or Suspend a Treaty:** Unless otherwise contained in the treaty to which Nepal or Government of Nepal is a party, Government of Nepal shall have the power to denounce, or partially or fully suspend such treaty, or withdraw the suspension imposed thereon and if the treaty is related to Section 4 or Clause (2) of Article 126 of the Constitution, the House of Representatives shall be informed regarding such action.
8. **Treaties not to be enforced with Retroactive Effect:** Unless otherwise contained in the treaty, it shall not be enforced with retroactive effect.
9. **Treaty Provisions Enforceable as good as Laws:** (1) In case of the provisions of a treaty, to which Nepal or Government of Nepal is a party upon its ratification accession, acceptance or approval by the Parliament, inconsistent with the provisions of prevailing laws, the inconsistent

provision of the law shall be void for the purpose of that treaty, and the provisions of the treaty shall be enforceable as good as Nepalese laws.

(2) Any treaty which has not been ratified, accede to, accepted or approved by the Parliament, though to which Nepal or Government of Nepal is a party, imposes any additional obligation or burden upon Nepal, or Government of Nepal, and in case legal arrangements need to be made for its enforcement, Government of Nepal shall initiate action as soon as possible to enact laws for its enforcement.

10. **Submission before House of Representatives:** A notice, regarding a treaty accepted and enforced by the Government of Nepal according to Section 6, shall be presented before the House of Representatives for its information within a month after the meeting of the House of Representatives in convened.
11. **Registration of a Treaty:** Government of Nepal, if thinks it appropriate, may register a treaty to which Nepal or Government of Nepal is a party, with the Secretariats of the concerned International Organizations or the United Nations Organization.
12. **A Treaty to be published:** The authentic copies of the treaties, deemed appropriate by Government of Nepal from among those to which the Nepal or Government of Nepal is a party, shall be published in the Nepal Gazette.

Provided that the treaties ratified, accepted or approved by the Parliament, and the treaties accepted to by Nepal or Government of Nepal as per the decision of the Parliament, shall be published in the Nepal Gazette within sixty days after such ratification, accession, acceptance or approval.

13. **Power to Frame Rules:** Government of Nepal may frame necessary Rules for the purpose to implement the objectives of this Act.

14. **Transitional Arrangements**: Until the commencement of the first Session of the Parliament after the election held under the Constitution, the power to ratify, accede to, accept or approve treaties on subjects other than those mentioned in Clause (2) of Article 126 of the Constitution to which Nepal or Government of Nepal is a party, shall rest on the Council of Ministers.