CHAPTER - VIII

CONCLUSION

This concluding chapter sums up the observations made in the preceding chapters.

The first ever regional association of South Asian nations was formed on 8 December 1985 at Dhaka. It was the brain child of Zia-ur-Rahman, President of Bangladesh. The initiative taken by Bangladesh, on 2 May 1980, to forge the spirit of cooperation among the South Asian countries, culminated in the launching of South Asian Association for Regional cooperation (SAARC) on 8 December 1985 at the first ever summit meeting of the Heads of state or Government held in Dhaka. The basic objective of the association is to hasten the process of socio-economic development in the member states through joint endeavours in the agreed areas of cooperation.

The evolution of SAARC has been marked by three distinct phases. The first phase marked the involvement of the Foreign Secretaries and senior officials of the region in the process of formulation of the concept of the association and development of the rationale for the sake of consideration by the regional policymakers. It commenced with the first meeting of the Foreign Secretaries in Colombo in April 1981. Three more meetings at the level of Foreign Secretaries were held in Kathmandu (November 1981), Islamabad (August 1981) and Dhaka (March 1983) respectively. The second phase began in August 1983, with the convening of the Foreign Ministers' meeting in New Delhi. In this meeting the Foreign Ministers signed a Declaration on South Asian Regional cooperation. It also witnessed the launching of the Integrated Programme of Action (IPA). In the third and the final phase, the seven Heads of state or Government assembled at Dhaka in December 1985 to set up a regional organisation i.e., SAARC. It was an epoch-making event in the history of South Asia. At the first summit meeting, the
Charter of the regional grouping was adopted. The Charter laid down the objectives of the association and its principles.

The second SAARC summit was held in Bangalore on 16-17 November 1986. This summit took a major step towards institutionalising SAARC by setting up a permanent Secretariat to coordinate the fruitful implementation of SAARC programmes and projects. A new subject—child survival and development—was introduced at this summit.

Next SAARC summit was held in Kathmandu in November 1987. This summit is memorable for the adoption of two conventions in two crucial areas. The SAARC Regional Convention on Suppression of Terrorism marked an important breakthrough on a trans-border problem that thwarts the peaceful life of the people living in South Asia. The agreement establishing the South Asian Food Security Reserve underlined the significance of collective self-reliance for promoting development and constitutes an important step forward in eradicating the curse of hunger from South Asia. It was at Kathmandu that the leaders took into account the endemic vagaries of nature and expressed their profound concern at the fast degradation of the environment.

Fourth summit of SAARC countries was held in Islamabad from 29-31 December 1988. An outstanding feature of this summit was that it brought together the Prime Ministers of India and Pakistan for the first time since 1972. In order to meet the various basic needs of the people in South Asia, the leaders adopted a regional perspective plan known as “SAARC – 2000-A Basic Need Perspective.”

Fifth SAARC summit was held at Male in November 1990. Signing of the SAARC Convention on Narcotic Drugs and Psychotropic Substances. Taking into account the misery, hardships and suffering borne by disabled people in South Asia, the SAARC leaders at Male, accorded topmost priority to the problems of disabled persons.
In December 1991, the sixth SAARC summit was held in Colombo. Here, the SAARC Heads of State or Government devoted considerable amount of time to the discussion of poverty eradication and commissioned the Independent South Asian Commission on Poverty Alleviation.

Dhaka was chosen as the venue for the seventh SAARC summit. The summit was held on 10-11 April 1993. One of the important steps taken by the seventh summit was the signing of the framework agreement on SAARC Preferential Trading Arrangement (SAPTA).

The most important achievement of the eighth summit held in New Delhi in May 1995 was the operationalisation of SAPTA. The Delhi Declaration adopted at the end of the summit approved the establishment of a South Asian Development Fund (SADF) with the merger of SAARC Fund for Regional Projects (SFRP) and the SAARC Regional Fund (SRF).

At the ninth SAARC summit held in Male from 12-14 May 1997, several important proposals including that of informal political dialogue among the members of SAARC were placed at the inaugural session of the summit. Male summit was overshadowed by Indo-Pak talks which began after a gap of four years with a meeting between I.K. Gujral and his Pakistani counterpart, Nawaz Sharif to discuss all major issues.

Tenth summit of the SAARC nations was held in Colombo from 29-31 July 1998. It occupies a prominent place in the history of SAARC summits as it was held at the backdrop of the nuclearisation of the sub-continent. As an aftermath of the nuclearisation of the sub-continent, the focus of the Colombo summit was on bilateral relations.

After a prolonged interval since July 1998, the eleventh SAARC summit at last took place in Kathmandu from 4-6 January 2002. Never before in the history of SAARC, a summit was held amidst such uncertainty and tremendous bilateral tension. In view of the tensed atmosphere prevailing in the South Asian sub-
continent, it has been decided beforehand by the Summiteers that there would be no bilateral meetings between India and Pakistan – on the sidelines of the summit. Since most of the South Asian countries have been affected by terrorism in varying degrees, it was quite natural that the main focus of the Kathmandu meet was on terrorism. Like earlier summits, India-Pakistan relations remained centre-stage.

It appears from the above discussion that although SAARC has not achieved success worth-mentioning its achievements have been modest mainly in the non-political fields.

1) Launching of SAARC Audio Visual Exchange Programme (SAVE) at the second summit held in Bangalore in November 1986 to promote cultural awareness among the people of South Asia.

2) The Agreement on Establishing the SAARC Food Security Reserve (SFSR) was signed in Kathmandu during the third SAARC summit.

3) Another significant agreement by the SAARC leaders was signed at the third SAARC summit in Kathmandu – the SAARC Regional Convention on Suppression of Terrorism. The main purpose of this convention was to combat terrorism regionally.

4) To curb the menace of drug-trafficking, the SAARC Heads of State or Government signed an agreement on “SAARC Regional Convention on Narcotic Drugs and Psychotropic substances” at the fifth summit held in Male in 1990. It entered into force on 15 September 1993.

5) The SAARC Visa Exemption Scheme was initiated in 1992 to encourage the people to freely travel within the region. It became operational from 1 March 1992.
6) In order to provide member-states with credit on easy terms, the SAARC Fund for Regional Projects (SFRP) was set up in 1991.

7) Recognition was given to the SAARC Chamber of Commerce and Industry (SCCI) – a non-governmental organisation.


9) To promote economic cooperation and facilitate trade among the SAARC countries, the Council of Ministers of SAARC states signed the Agreement on SAARC Preferential Trading Arrangement (SAPTA) on April 1993. It came into force on 7 December 1985.

These steps taken by SAARC to promote regional cooperation in South Asia are indeed laudable. But, unfortunately, most of them have not been properly implemented. This is solely because SAARC is confronted with a number of problems that prevent it from functioning properly like other regional organisations. The problems have been discussed in great detail in the previous chapter. Prominent among them are the asymmetry factor, mutual mistrust, structural impediments, Indo-Pak hostility and above all the issue of cross-border terrorism.

Asymmetrical relationship between India and its neighbours is the root cause of SAARC’s poor performance. In terms of size, population, economic resources, military might and industrial development – India far outweighs its neighbours. India is like a giant in the South Asian region. The other members of SAARC, except Pakistan, are like dwarfs. This factor of asymmetry generates a fear-psychosis among the smaller members who always perceive a threat from India. Other regional organisations like the European Union or ASEAN do not suffer from a similar asymmetry caused by the dominance of one of its members. Absence of this factor in case of ASEAN or EU explain their successful performance compared to the slow progress of SAARC.
Feeling of mutual mistrust which is a by-product of the above mentioned factor, creates impediments for SAARC. In South Asia, almost all the members of SAARC have bilateral problems with one another. Since SAARC does not have any conflict resolving mechanism, the problems remain unresolved. These unresolved problems, in turn, make the members suspicious of one another's motives. It should be mentioned here that, as a result of Indo-centric nature of the region, most of the SAARC states have some sort of problems with their giant neighbour – India. This type of situation is not found in either EU or ASEAN.

When the proposal for regional cooperation in South Asia was first mooted by the then President of Bangladesh, Zia-ur-Rahman, India as well as Pakistan expressed their hesitation and indifference to the concept. India was hesitant for two reasons. She thought that the Zia proposal had indirect Western sponsorship. Secondly, India apprehended that smaller countries were trying to put collective pressure on India through this proposed regional forum. On the other hand, Pakistan did not want to join the grouping as it had its own suspicions about the proposed organisation. Pakistan perceived SAARC as a forum which would primarily satisfy the interests of a giant neighbour like India. This is why Pakistan expressed her desire to join a grouping with Iran and Turkey. Sri Lanka too was least interested in SAARC. She was much more interested in ASEAN membership. So it is clear since some members were reluctant to join SAARC, consequently the regional organisation suffered from a lack of 'driving force.'

On the contrary, there were political and security concerns regarding cooperation in case of European Union(EU), similar kind of driving force against the spread of communism acted as a catalyst in the case of ASEAN too. But, in SAARC, there is no such driving force.

While framing the Charter, the founders of SAARC thought that it would be wise to exclude discussion of bilateral issues from the purview of SAARC deliberations. But in practice, member-states have repeatedly brought in political issues before the summits. For instance, at the third SAARC summit in
Kathmandu in November 1987, Prime Ministers of India and Pakistan, Rajiv Gandhi and M.K.Junejo met and agreed to hold bilateral meetings in future.

The provision of the Charter which lays down that decisions at all levels shall be taken on the basis of unanimity is another constraint. Incorporation of this rule in the Charter has made SAARC almost invalid. It is a fact that most of the members of SAARC share bilateral problems with one another – specially with India. These problems in turn have made them inimical towards each other. Quite naturally, it is very difficult for them to be unanimous.

In SAARC, unlike other regional groupings, summits have been entrusted with enormous powers. Annual summits have been made the engine of SAARC. Summits which are held once in a year cannot be expected to do justice to all matters. Often, summits are postponed. In case of postponement, the functioning of SAARC suffers a lot.

Indo-Pak hostility is no doubt the most important obstacle that has impaired the development of SAARC. There are a number of contentious issues between them such as the Kashmir issue, nuclear arms race, Siachen Glacier, cross-border terrorism etc. Inimical relationship between the two principal actors of SAARC is largely responsible for the poor performance of SAARC. Both India and Pakistan are so pre-occupied with each other’s threat perception that they cannot dedicate themselves towards the cause of building a South Asian community. The evolution of SAARC into a regional community is still a distant goal because there are no signs of improvement in bilateral relations between these two arch-rivals.
Some recommendations are suggested which would enable SAARC achieve its cherished goals.

Firstly, an attempt can be made to discuss the contentious issues within the framework of SAARC. It is hoped that a free and fair discussion of bilateral issues would enable the members to solve some of their unresolved problems.

Secondly, economic cooperation should be given top priority. Because it is generally believed that cooperation in the economic sphere would in the long run, encourage the SAARC members to initiate cooperative endeavours in the political fields.

Thirdly, since India and Pakistan are the two major members of SAARC and the success of SAARC depends upon their good bilateral relations, both India and Pakistan should try to resolve their bilateral disputes and remove their traditional animosities.

Moreover, a change in India’s attitude towards its neighbours would be able to remove their anti Indian feelings. India should be ready to sacrifice some of its non-vital interests.

SAARC, since its inception in 1985, has travelled through more than one and a half decade. But it is still suffering from a host of problems explained above. This have made the future of this organisation rather gloomy unlike that of ASEAN and EU. It is earnestly hoped that SAARC would be able to cope with the problems, solve them and ultimately succeed and reach its avowed objectives -- by taking into proper consideration the measures recommended here.
Appendix - I

Charter of the South Asian Association for Regional Cooperation

We, the Heads of State or Government of BANGLADESH, BHUTAN, INDIA, MALDIVES, NEPAL, PAKISTAN and SRI LANKA:

1. *Desirous* of promoting peace, stability, amity and progress in the region through strict adherence to the principles of the UNITED NATIONS CHARTER and NONALIGNMENT, particularly respect for the principles of sovereign equality, territorial integrity, national independence, non-use of force and non-interference in the internal affairs of other states and peaceful settlement of all disputes;

2. *Conscious* that in an increasingly interdependent world the objectives of peace, freedom, social justice and economic prosperity are best achieved in the SOUTH ASIAN region by fostering mutual understanding, good neighbourly relations and meaningful cooperation among the Member States which are bound by ties of history and culture;

3. *Aware* of the common problems, interests and aspirations of the peoples of SOUTH ASIA and the need for joint action and enhanced cooperation within their respective political and economic systems and cultural traditions;

4. *Convinced* that regional cooperation among the countries of SOUTH ASIA is mutually beneficial, desirable and necessary for promoting the welfare and improving the quality of life of the peoples of the region;

5. *Convinced* further that economic, social and technical cooperation among the countries of SOUTH ASIA would contribute significantly to national and collective self-reliance;
6. *Recognising* that increased cooperation, contacts and exchanges among the countries of the region will contribute to the promotion of friendship and understanding among their peoples;

7. *Recalling* the DECLARATION signed by their Foreign Ministers in NEW DELHI on August 2, 1983 and *noting* the progress achieved in regional cooperation;

8. *Reaffirming* their determination to promote such cooperation within an institutional framework:

DO HEREBY AGREE to establish an organisation to be known as SOUTHERN ASIAN ASSOCIATION FOR REGIONAL COOPERATION, hereinafter referred to as the ASSOCIATION, with the following objectives, principles, institutional and financial arrangements:

**Article I**

**Objective**

The objectives of the ASSOCIATION shall be:

a) To promote the welfare of the peoples of SOUTH ASIA and to improve their quality of life;

b) To accelerate economic growth, social progress and cultural development in the region and to provide all individuals the opportunity to live in dignity and to realise their full potentials;

c) To promote and strengthen collective self-reliance among the countries of SOUTH ASIA.

d) To contribute to mutual trust, understanding and appreciation of one another’s problems;
e) To promote active collaboration and mutual assistance in the economic, social cultural, technical and scientific fields;

f) To strengthen cooperation with other developing countries;

g) To strengthen cooperation among themselves in international forums on matters of common interests; and

h) To cooperate with international and regional organisations with similar aims and purposes.

Article II

Principles

1. Cooperation within the framework of the ASSOCIATION shall be based on respect for the principles of sovereign equality, territorial integrity, political independence, non-interference in the internal affairs of other States and mutual benefit.

2. Such cooperation shall not be a substitute for bilateral and multilateral cooperation but shall complement them.

3. Such cooperation shall not be inconsistent with bilateral and multilateral obligations.

Article III

Meetings of the Heads of State or Government

The Heads of State or Government shall meet once a year or more often as and when considered necessary by the Member States.
Article IV

Council of Ministers

1. A Council of Ministers consisting of the Foreign ministers of the Member States shall be established with the following functions:

   a) formulation of the policies of the ASSOCIATION.

   b) review of the progress of cooperation under the ASSOCIATION;

   c) decision on new areas of cooperation;

   d) establishment of additional mechanism under the ASSOCIATION as deemed necessary;

   e) decision on other matters of general interest to the ASSOCIATION;

2. The Council of Ministers shall meet twice a year. Extraordinary session of the Council may be held by agreement among the Member States.

Article V

Standing Committee

1. The Standing Committee comprising the Foreign Secretaries shall have the following functions:

   a) overall monitoring and coordination of programme of cooperation;

   b) approval of projects and programmes and the modalities of their financing;

   c) determination of inter-sectoral priorities;

   d) mobilisation of regional and external resources;
e) identification of new areas of cooperation based on appropriate studies.

2. The Standing Committee shall meet as often as deemed necessary.

3. The Standing Committee shall submit periodic reports to the Council of Ministers and make reference to it as and when necessary for decisions on policy matters.

Article VI

Technical Committees

1. Technical Committees comprising representatives of Member States shall be responsible for the implementation, coordination and monitoring of the programmes in their respective areas of cooperation.

2. They shall have the following terms of reference.

a) determination of the potential and the scope of regional cooperation in agreed areas;

b) formulation of programmes and preparation of projects;

c) determination of financial implications of sectoral programmes;

d) formulation of recommendations regarding apportionment of costs;

e) implementation and coordination of sectoral programmes;

f) monitoring of progress in implementation.

3. The Technical Committees shall submit periodic reports to the Standing Committee.

4. The Chairmanship of the Technical Committees shall normally rotate among Member States in alphabetical order every two years.
5. The Technical Committees may, interalia, use the following mechanisms and modalities, if and when considered necessary:

a) meeting of heads of national technical agencies;

b) meetings of experts in specific fields;

c) contact amongst recognised centres of excellence in the region.

**Article VII**

**Action Committees**

The Standing Committee may set up Action Committees comprising Member States concerned with implementation of projects involving more than two but not all Member States.

**Article VIII**

**Secretariat**

There shall be a Secretariat of the ASSOCIATION.

**Article IX**

**Financial Arrangements**

1. The contribution of each Member State towards financing of the activities of the ASSOCIATION shall be voluntary.

2. Each Technical Committees shall make recommendations for the apportionment of costs of implementing the programmes proposed by it.
3. In case sufficient financial resources cannot be mobilised within the region for funding activities of the ASSOCIATION, external financing from appropriate sources may be mobilised with the approval of or by the Standing Committee.

Article X

General Provisions

1. Decisions at all levels shall be taken on the basis of unanimity.

2. Bilateral and contentious issues shall be excluded from the deliberations.
Appendix – 2

SAARC REGIONAL CONVENTION
ON
SUPPRESSION OF TERRORISM

THE MEMBER STATES OF THE SOUTH ASIAN ASSOCIATION FOR
REGIONAL COOPERATION (SAARC)

MINDFUL of the principles of cooperation enshrined in the SAARC Charter.

RECALLING that at the Dhaka Summit on December 7-8, 1985, the Heads of State or Government of the member States of the SAARC recognised the seriousness of the problem of terrorism as it affects the security and stability of the region;

ALSO RECALLING the Bangalore Summit Declaration of 17 November 1986, in which the Heads of State or Government of SAARC agreed that cooperation among SAARC States was vital if terrorism was to be prevented and eliminated from the region; unequivocally condemned all acts, methods and practices of terrorism as criminal and deplored their impact on life and property, socio-economic development, political stability, regional and international peace and cooperation; and recognized the importance of the principles laid down in UN Resolution 2625(XXV) which among others required that each state should refrain from organising, instigating, assisting or participating in acts of civil strife or terrorist acts in another state or acquiescing in organised activities within its territory directed towards the commission of such acts;
AWARE of the danger posed by the spread of terrorism and its harmful effect on peace, cooperation, friendship and good neighbourly relations and which could also jeopardise the sovereignty and territorial integrity of states;

HAVE RESOLVED to take effective measures to ensure that perpetrators of terroristic acts do not escape prosecution and punishment by providing for their extradition or prosecution, and to this end,

HAVE AGREED as follows:

**Article I**

Subject to the overall requirements of the law of extradition, conduct constituting any of the following offences, according to the law of the Contracting State, shall be regarded as terroristic and for the purpose of extradition shall not be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives:

(a) An offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on December 16, 1970;

(b) An offence within the scope of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;

(c) An offence within the scope of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, signed at New York on December 14, 1973;

(d) An offence within the scope of any Convention to which the SAARC member States concerned are parties and which obliges the parties to prosecute or grant extradition;
(e) Murder, manslaughter, assault causing bodily harm, kidnapping, hostage-taking and offences relating to firearms, weapons, explosives and dangerous substances when used as a means to perpetrate indiscriminate violence involving death or serious bodily injury to persons or serious damage to property;

(f) An attempt or conspiracy to commit an offence described in sub-paragraphs (a) to (e), aiding, abetting or counselling the commission of such an offence or participating as an accomplice in the offences so described.

**Article II**

For the purpose of extradition between SAARC member States, any two or more Contracting States may, by agreement, decide to include any other serious offence involving violence, which shall not be regarded as a political offence or an offence connected with a political offence or an offence inspired by political motives.

**Article III**

1. The provision of all extradition treaties and arrangements applicable between Contracting States are hereby amended as between Contracting States to the extent that they are incompatible with this Convention.

2. For the purpose of this Convention and to the extent that any offence referred to in Article I or agreed to in terms of Article II is not listed as an extraditable offence in any extradition treaty existing between Contracting States, it shall be deemed to be included as such therein.

3. Contracting States undertake to include these offences as extraditable offences in any future extradition treaty to be concluded between them.
4. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, the requested State may, at its option, consider this Convention as the basis for extradition in respect of the offences set forth in Article I or agreed to in terms of Article II. Extradition shall be subject to the law of the requested State.

5. Contracting States which do not make extradition conditional on the existence of a treaty, shall recognise the offences set forth in Article I or agreed to in terms of Article II as extraditable offences between themselves, subject to the law of the requested State.

**Article IV**

A Contracting State in whose territory a person suspected of having committed an offence referred to in Article I or agreed to in terms of Article II is found and which has received a request for extradition from another Contracting State, shall, if it does not extradite that person, submit the case without exception and without delay, to its competent authorities, so that prosecution may be considered. These authorities shall take their decisions in the same manner as in the case of any offence of a serious nature under the law of the State.

**Article V**

For the purpose of Article IV, each Contracting State may take such measures as it deems appropriate, consistent with its national laws, subject to reciprocity, to exercise its jurisdiction in the case of an offence under Article I or agreed to in terms of Article II.

**Article VI**

A Contracting State in whose territory an alleged offender is found, shall, upon receiving a request for extradition from another contracting state, take
appropriate measures, subject to its national laws, so as to ensure his presence for purposes of extradition or prosecution. Such measures shall immediately be notified to the requesting State.

Article VII

Contracting States shall not be obliged to extradite, if it appears to the requested State that by reasons of the trivial nature of the case or by reason of the request for the surrender or return of a fugitive offender not being made in good faith or in the interests of justice or for any other reason it is unjust or inexpedient to surrender or return the fugitive offender.

Article VIII

1. Contracting States shall, subject to their national laws, afford one another the greatest measure of mutual assistance in connection with proceedings brought in respect of the offences referred to in Article I or agreed to in terms of Article II, including the supply of all evidence at their disposal necessary for the proceedings.

2. Contracting States shall cooperate among themselves, to the extent permitted by their national laws, through consultations between appropriate agencies, exchange of information, intelligence and expertise and such other cooperative measures as may be appropriate, with a view to preventing terroristic activities through precautionary measures.

Article IX

1. The Convention shall be open for signature by the member States of SAARC at the SAARC Secretariat in Kathmandu.

2. It shall be subject to ratification. Instruments of Ratification shall be deposited with the Secretary-General of SAARC.
Article X

The Convention shall enter into force on the fifteenth day following the date of the deposit of the seventh Instrument of Ratification with the Secretary-General of SAARC.

Article XI

The Secretary-General of SAARC shall be the depository of this Convention and shall notify member States of signatures to this Convention and all deposits of Instruments of Ratification. The Secretary-General shall transmit certified copies of such Instruments to each member State. The Secretary-General shall also inform member States of the date on which this Convention will have entered into force in accordance with Article X.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this convention.

DONE at Kathmandu on this Fourth Day of November One Thousand Nine Hundred and Eighty Seven, in eight originals, in the English Language, all texts being equally authentic.

HUMAYUN RASHEED CHOWDHURY
Minister of Foreign Affairs
People’s Republic of Bangladesh

K. NATWAR-SINGH
Minister of State for External Affairs
Republic of India

SHAILENDRA KUMAR UPADHYAYA
Minister of Foreign Affairs and Land Reforms
His Majesty’s Government of Nepal

DAWA Tsering
Minister of Foreign Affairs
Kingdom of Bhutan

FATHULLA JAMEEL
Minister of Foreign Affairs
Republic of Maldives

ZAIN NOORANI
Minister of State for Foreign Affairs
Islamic Republic of Pakistan

A. C. SHAHUL HAMEED
Minister of Foreign Affairs
Democratic Socialist Republic of Sri Lanka
Appendix – 3

AGREEMENT
ON
SAARC PREFERENTIAL TRADING AGREEMENT (SAPTA)

Preamble

The Government of 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 hereinafter referred to as “Contracting States”,

Motivated by the commitment to promote regional co-operation for the benefit of their peoples, in a spirit of mutual accommodation, with full respect for the principles of sovereign equality, independence and territorial integrity of all States;

Aware that the expansion of trade could act as a powerful stimulus to the development of their national economies, by expanding investment and production, thus providing greater opportunities of employment and help securing higher living standards for their population;

Convinced of the need to establish and promote regional preferential trading arrangements for strengthening intra-regional economic cooperation and the development of national economies;

Bearing in mind the urgent need to promote the intra-regional trade which presently constitutes a negligible share in the total volume of the South Asian trade;
Recalling the direction given at the Fourth SAARC Summit meeting held in Islamabad in December 1988 that specific areas be identified where economic cooperation might be feasible immediately;

Guided by the declared commitment of the Heads of State or Government of the Member Countries at the Sixth SAARC Summit held in Colombo in December 1991 to the liberalisation of trade in the region through a step by step approach in a such manner that countries in the region share the benefits of trade expansion equitably;

Cognizant of the mandate given by the Sixth SAARC Summit in Colombo to formulate and seek agreement on an institutional framework under which specific measures for trade liberalisation among SAARC Member State could be furthered and to examine the Sri Lankan proposal to establish the SAARC Preferential Trading Arrangement (SAPTA) by 1997;

Recognising that a preferential trading arrangement is the first step towards higher levels of trade and economic cooperation in the region,

Have agreed as follows:

**Article – 1**

**Definitions**

For the purpose of this Agreement:

1. "Least Developed Country" means a country designated as such by the United Nations.

2. "Contracting State" means any Member State of the South Asian Association for Regional Cooperation (SAARC) which has entered into this Agreement.
3. "**Serious injury**" means significant damage to domestic producers, of like or similar products resulting from a substantial increase of preferential imports in situations which cause substantial losses in terms of earnings, production or employment unsustainable in the short term. The examination of the impact on the domestic industry concerned shall also include an evaluation of other relevant economic factors and indices having a bearing on the state of the domestic industry of that product.

4. "**Threat of serious injury**" means a situation in which a substantial increase of preferential imports is of a nature to cause "serious injury" to domestic producers, and that such injury, although not yet existing, is clearly imminent. A determination of threat of serious injury shall be based on facts and not on mere allegation, conjecture, or remote or hypothetical possibility.

5. "**Critical circumstance**" means the emergence of an exceptional situation where massive preferential imports are causing or threatening to cause "serious injury" difficult to repair and which calls for immediate action.

6. "**Sectoral basis**" means agreements amongst Contracting States regarding the removal or reduction of tariff, non-tariff and para-tariff barriers as well as other trade promotion or cooperative measure for specified products or groups of products closely related in end-use or in production.

7. "**Direct trade measures**" means measures conducive to promoting mutual trade of Contracting States such as long and medium-term contracts containing import and supply commitments in respects of specific products, buy-back arrangements, state trading operations, and government and public procurement.

8. "**Tariffs**" means customs duties included in the national tariff schedules of the Contracting States.
9. "Para-tariffs" means border charges and fees, other than "tariffs", on foreign trade transactions of a tariff-like effect which are levied solely on imports, but not those indirect taxes and charges, which are levied in the same manner on like domestic products. Import charges corresponding to specific services rendered are not considered as para-tariff measures.

10. "Non-tariff" means any measure, regulation, or practice, other than "tariff" and "para-tariffs", the effect of which is to restrict imports, or to significantly distort trade.

11. "Products" means all products including manufactures and commodities in their raw, semi-processed and processed forms.

**Article - 2**

**Establishment and Aims**

1. By the present Agreement, the Contracting States establish the SAARC Preferential Trading Arrangement (SAPTA) to promote and sustain mutual trade and the economic cooperation among the Contracting States, through exchanging concessions in accordance with this Agreement.

2. SAPTA will be governed by the provisions of this Agreement and also by the rules, regulations, decisions, understandings and protocols to be agreed upon within its framework by the Contracting States.

**Article - 3**

**Principles**

SAPTA shall be governed in accordance with the following principles:

a. SAPTA shall be based and applied on the principles of overall reciprocity and mutuality of advantages in such a way as to benefit equitably all
Contracting States, taking into account their respective levels of economic and industrial development, the pattern of their external trade, trade and tariff policies and systems;

b. SAPTA shall be negotiated step by step, improved and extended in successive stages with periodic reviews;

c. The special needs of the Least Developed Contracting States shall be clearly recognised and concrete preferential measures in their favour should be agreed upon.

d. SAPTA shall include all products, manufactures and commodities in their raw, semi-processed and processed forms.

**Article – 4**

**Components**

SAPTA may, inter-alia, consist of arrangements relating to:

a. tariffs.

b. para-tariffs;

c. non-tariff measures;

d. direct trade measures.

**Article – 5**

**Negotiations**

1. The Contracting States may conduct their negotiations for trade liberalisation in accordance with any or a combination of the following approaches and procedures:-

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a. Product-by-product basis;
b. Across-the-board tariff reductions;
c. Sectoral basis;
d. Direct trade measures.

2. Contracting States agreed to negotiate tariff preferences initially on a product-by-product basis.

3. The Contracting States shall enter into negotiations from time to time with a view to further expanding SAPTA and the fuller attainment of its aims.

**Article – 6**

**Additional Measures**

1. Contracting States agree to consider, in addition to the measure set out in Article 4, the adoption of trade of facilitation and other measures to support and complement SAPTA to mutual benefit.

2. Special consideration shall be given by Contracting States to requests from Least Developed Contracting States for technical assistance and cooperation arrangements designed to assist them in expanding their trade with other Contracting States and in taking advantages of the potential benefits of SAPTA. The possible areas for such technical assistance and cooperation are listed in Annex –1.

**Article – 7**

**Schedules of Concessions**
The tariff, para-tariff and non-tariff concessions negotiated and exchanged amongst Contracting States shall be incorporated in the National Schedules of Concessions. The initial concessions agreed to by the Contracting States are attached as Annex – II.

Article – 8

Extension of Negotiated Concessions

The concessions agreed to under SAPTA, except those made exclusively to the Least Developed Contracting States in pursuance of Article 10 of this Agreement, shall be extended unconditionally to all Contracting States.

Article – 9

Committee of Participants

A Committee of Participants, hereinafter referred to as the Committee, consisting of representatives of Contracting States, is hereby established. The Committee shall meet at least once a year to review the progress made in the implementation of this Agreement and to ensure benefits of trade expansion emanating from this Agreement accrue to all Contracting States equitably. The Committee shall also accord adequate opportunities for consultation on representation made by any Contracting State with respect to any matter affecting the implementation of the Agreement. The Committee shall adopt appropriate measures for settling such representations. The Committee shall determine its own rules of procedures.

Article – 10

Special Treatment for the

Least Developed Contracting States
1. In addition to other provisions of this Agreement, all Contracting States shall provide, wherever possible, special and more favourable treatment exclusively to the Least Developed Contracting States as set out in the following sub-paragraphs;

   a. Duty-free access, exclusive tariff preferences or deeper tariff preferences for the export products,

   b. The removal of non-tariff barriers,

   c. The removal, where appropriate, of para-tariff barriers,

   d. The negotiations of long-term contracts with a view to assisting Least Developed Contracting States to achieve reasonable levels of sustainable exports of their products,

   e. Special consideration of exports from Least Developed Contracting States in the application of safeguard measures,

   f. Greater flexibility in the introduction and continuance of quantitative or other restrictions provisionally and without discrimination in critical circumstances by the Least Developed Contracting States on imports from other Contracting States.
Article – 11

Non-application

Notwithstanding the measures as set out in Article 4 and 6, the provisions of this Agreement shall not apply in relation to preferences already granted or to be granted by any Contracting State to other Contracting States outside the framework of this Agreement, and to third countries through bilateral, plurilateral and multilateral trade agreements, and similar arrangements. The Contracting States shall also not be obliged to grant preferences in SAPTA which impair the concession extended under those agreements.

Article – 12

Communication, Transport and Transit

Contracting States agree to undertake appropriate steps and measures for developing and improving communication system, transport infrastructure and transit facilities for accelerating the growth of trade within the region.

Article – 13

Balance-of-payments Measures

1. Notwithstanding the provisions of this Agreement, any Contracting State facing serious economic problems including balance of payments difficulties may suspend provisionally the concessions as to the quantity and value of merchandise permitted to be imported under the Agreement. When such action has taken place, shall simultaneously notify the other Contracting States and the Committee.

2. Any Contracting State which takes action according to paragraph 1 of this Article shall afford, upon request from any other Contracting State,
adequate opportunities for consultations with a view to preserving the
stability of the concessions negotiated under the SAPTA. If no satisfactory
adjustment is effected between the Contracting States concerned within 90
days of such notification, the matter may be referred to the Committee for
review.

Article 14

Safeguard Measures

If any product, which is a subject of a concession with respect to a preference
under this Agreement, is imported into the territory of a Contracting State in such
a manner or in such quantities as a cause or threaten to cause, serious injury in the
importing Contracting State, the importing Contracting State concerned may, with
prior consultations, except in critical circumstances, suspend provisionally
without discrimination, the concession accorded under the Agreement. When such
action has taken place the Contracting State which initiates such action shall
simultaneously notify the other Contracting State(s) concerned and the Committee
shall enter into consultations with the concerned Contracting State and endeavour
to reach mutually acceptable agreement to remedy the situation. In the event of
the failure of the Contracting States to resolve the issue within 90 days of the
receipt of original notification, the Committee of Participants shall meet with 30
days to review the situation and try to settle the issue amicably. Should the
consultations in the Committee of Participants fail to resolve the issue within 60
days, the parties affected by such action shall have the right to withdraw
equivalent concession (s) or other obligation(s) which the Committee does not
disapprove of.
Article – 15

Maintenance of the Value of Concessions
Any of the concessions agreed upon under this Agreement shall not be diminished or nullified, by the application of any measures restricting trade by the Contracting States except under the provisions as spelt out in other Articles of this Agreement.

Article – 16

Rules of Origin
Products contained in the National Schedules of Concessions annexed to this Agreement shall be eligible for preferential treatment if they satisfy the rules of origin, including special rules of origin, in respect of the Least Developed Contracting States, which are set out in Annex - III.

Article – 17

Modification and Withdrawal of Concessions

1. Any Contracting State may, after a period of three years from the day the concession was extended, notify the Committee of its intention to modify or withdraw any concession included in its appropriate schedule.

2. The Contracting State intending to withdraw or modify a concession shall enter into consultation and/or negotiations, with a view to reaching agreement on any necessary and appropriate compensation, with Contracting States with which such concession was initially negotiated and with any other Contracting States that have a principal or substantial supplying interest as may be determined by the Committee.
3. Should no agreement be reached between the Contracting States concerned within six months of the receipt of notification and should the notifying Contracting State proceed with its modification or withdrawal of such concessions, the affected Contracting State as determined by the Committee may withdraw or modify equivalent concessions in their appropriate schedules. Any such modification or withdrawal shall be notified to the Committee.

**Article – 18**

**Withholding or Withdrawal of Concessions**

A Contracting State shall at any time be free to withhold or two withdraw in whole or in part any item in its schedule of concessions in respect of which it determines that it was initially negotiated with a State which has ceased to be a Contracting State in this Agreement. A Contracting State taking such action shall notify the Committee, and upon request, consult with Contracting States that have a substantial interest in the product concerned.

**Article – 19**

**Consultations**

1. Each Contracting State shall accord sympathetic consideration to and shall afford adequate opportunity for consultations regarding such representations as may be made by another Contracting State with respect to any matter affecting the operation of this Agreement.

2. The Committee may, at the request of a Contracting State, consult with any Contracting State in respect of any matter for which it has not been possible to find a satisfactory solution through such consultation under paragraph 1 above.
Article – 20

Settlement of Disputes

Any dispute that may arise among the Contracting States regarding the interpretation and application of the provisions of this Agreement or any instrument adopted within its framework shall be amicably settled by agreement between the parties concerned. In the event of failure to settle a dispute, it may be referred to the Committee by a party to the dispute. The Committee shall review the matter and make a recommendation thereon within 120 days from the date on which the dispute was submitted to it. The Committee shall adopt appropriate rules for this purpose.

Article – 21

Withdrawal from SAPTA

1. Any Contracting State may withdraw from this Agreement at any time after its entry into force. Such withdrawal shall be effective six months from the day on which written notice thereof is received by the SAARC Secretariat, the depositary of this Agreement. That Contracting State shall simultaneously inform the Committee of the action it has taken.

2. The rights and obligations of a Contracting State which has withdrawn from this Agreement shall cease to apply as of that effective date.

3. Following the withdrawal by any Contracting State, the Committee shall meet within 30 days to consider action subsequent to withdrawal.
Article – 22

Entry into Force

This Agreement shall enter into force on the thirtieth day after the notification issued by the SAARC Secretariat regarding completion of the formalities by all Contracting States.

Article – 23

Reservations

This Agreement may not be signed with reservations nor shall reservations be admitted at the time of notification to the SAARC Secretariat of the completion of formalities.

Article – 24

Amendments

The Agreement may be modified through amendments to this Agreement. All amendments shall become effective upon acceptance by all Contracting States.

Article – 25

Depositary

This Agreement shall be deposited with the Secretary-General of SAARC who shall promptly furnish a certified copy thereof to each Contracting State.

IN WITNESS WHEREOF the undersigned being duly authorised thereto by their respective Governments have signed this Agreement on the SAARC Preferential Trading Arrangement.
Done at DHAKA this ELEVENTH day of APRIL One Thousand Nine Hundred Ninety Three in eight Originals in the English language.

A.S.M. MOSTAFIZUR RAHMAN
Minister of Foreign Affairs
People's Republic of Bangladesh

DAWA TSERING
Minister of Foreign Affairs
Kingdom of Bhutan

DINESH SINGH
Minister of External Affairs
Republic of India

FATHULIA JAMEEL
Minister of Foreign Affairs
Republic of Maldives

MAHESH ACHARYA
State Minister of Finance
His Majesty's Government of Nepal

MOHAMMAD SIDDIQUE KHANKANJU
Minister of State of Foreign Affairs
Islamic Republic of Pakistan

HAROLD HERAT
Minister of Foreign Affairs
Democratic Socialist Republic of Sri Lanka