



RESERVE BANK OF INDIA
Foreign Exchange Department
Central Office
Mumbai - 400 001

RBI/2009-10/318

A. P. (DIR Series) Circular No. 35

February 17, 2010

To

All Authorised Dealer Category-I banks

Madam / Sir,

**Memorandum of Procedure for channeling transactions
through Asian Clearing Union (ACU)**

Attention of Authorised Dealer Category-I (AD Category – I) banks is invited to the Memorandum containing detailed procedural instructions for channeling transactions through Asian Clearing Union (ACU) (Memorandum ACM) issued in April, 2003 and other relevant instructions issued from time to time.

2. In view of the changes effected in the settlement system in ACU mechanism, as decided in the 37th ACU Board Meeting held in June, 2008, the Memorandum ACM containing Memorandum of Procedure for channeling transactions through Asian Clearing Union (ACU) has been updated. The revised Memorandum ACM is annexed.

3. AD Category-I banks may bring the contents of this circular to the notice of their constituents concerned.

4. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions/ approvals, if any, required under any other law.

Yours faithfully,

(D. Mishra)

Chief General Manager

ACM

**MEMORANDUM OF PROCEDURE FOR CHANNELING
TRANSACTIONS THROUGH ASIAN CLEARING UNION**

1. Introduction

This edition of the Memorandum details the revised procedure to be followed by the AD Category-I banks for handling transactions to be cleared through Asian Clearing Union (ACU).

2. Handling of ACU Transactions

All transactions to be cleared through the ACU will be handled by AD Category-I banks in the same manner as other normal foreign exchange transactions. All AD Category-I banks in India have been permitted to handle ACU transactions. AD Category-I banks may freely enter into correspondent arrangements with banks in the other countries participating in the Clearing Union.

3. Eligible Instruments of Payment

The Asian Monetary Units (AMUs) is the common unit of account of ACU and be denominated as 'ACU Dollar' and 'ACU Euro', which shall be equivalent in value to one US Dollar and one Euro, respectively. All instruments of payment shall be denominated in AMUs. Settlement of such instruments may be made by AD Category-I banks through operation on ACU Dollar and ACU Euro Accounts.

4. ACU Dollar Accounts and ACU Euro Accounts

- (i) The essence of the procedure for settlement of eligible transactions through the ACU is that a large part of the transactions, as possible, should be settled directly through the accounts maintained by AD Category-I banks with banks in the other participating countries and vice versa; only the spill-overs in either direction being required to be settled by the Central Banks in the countries concerned through the Clearing Union.

- (ii) AD Category-I banks are permitted to settle commercial and other eligible transactions in much the same manner as other normal foreign exchange transactions. The procedures for opening letters of credit, negotiation of documents, etc., in respect of trades in convertible currencies are applicable for trades routed through the ACU mechanism.
- (iii) To facilitate settlement of transactions through the ACU in this manner, AD Category-I banks may freely open with their branches/correspondents 'ACU Dollar' and 'ACU Euro' accounts. These must be kept distinct from U.S. Dollar and Euro accounts respectively, if any, maintained for settlement of transactions taking place outside the Clearing Union. The terms ACU Dollar and ACU Euro are specifically being used in order to identify the use of U.S. Dollar and Euro respectively in relation to ACU transactions. Otherwise, there is no distinction, value-wise, between ACU Dollar and the U.S. Dollar and between ACU Euro and Euro.
- (iv) AD Category-I banks should ensure that at all times the balances maintained in the ACU Dollar and ACU Euro accounts are commensurate with the requirements of their normal exchange business and funds rendered surplus should be repatriated to India regularly.

5. Mechanism for settlement through the Union

- (i) The Reserve Bank has been undertaking to receive and pay U.S. Dollars, effective 1st January 1996 and Euros, effective 1st January 2009, from/to AD Category-I banks for the purpose of funding or for repatriating the excess liquidity in the ACU Dollar and ACU Euro accounts respectively, maintained by the AD Category-I banks with their correspondents in the other participating countries. Similarly, the Reserve Bank has also been receiving and delivering U.S. Dollar and Euro amounts for absorbing liquidity or for funding the ACU Dollar (vostro) and ACU Euro (vostro) accounts respectively, maintained by the AD Category-I banks on behalf of their overseas correspondents.
- (ii) Funding of ACU Dollar and ACU Euro account maintained with a correspondent bank in another ACU participant country will continue to be

effected by the Reserve Bank only after receiving an intimation that equivalent amount of U.S. Dollar and Euro is being credited to its account with the Federal Reserve Bank of New York, New York, and its account with the Deutsche Bundesbank, Frankfurt respectively, by the AD Category-I bank on the value date. Similarly, Reserve Bank will continue to arrange for payment of US Dollar and Euro from its accounts with the Federal Reserve Bank of New York, New York and the Deutsche Bundesbank, Frankfurt respectively, to the account of the correspondent of the AD Category-I bank, in case it has received intimation of surrender of surplus funds to the other participant Central Bank on behalf of the AD Category-I bank in India.

- (iii) In the case of funding of ACU Dollar and ACU Euro accounts maintained by foreign commercial banks with the AD Category-I banks in India, Reserve Bank on receipt of an advice from participant Central Bank will arrange to credit U.S. Dollar and Euro amounts to the Nostro Accounts of the AD Category-I banks. The AD Category-I banks will credit the U.S. Dollar and Euro amounts to the ACU Dollar and ACU Euro accounts respectively, of the foreign commercial banks of the participating countries concerned on the value date. Similarly, the AD Category-I banks will receive instructions from their overseas correspondents to surrender excess liquidity in their ACU Dollar and ACU Euro accounts to the Reserve Bank. In such cases the AD Category-I banks will have to actually remit the U.S. Dollar and Euro amounts to the account of Reserve Bank with the Federal Reserve Bank of New York, New York and Deutsche Bundesbank, Frankfurt respectively, on the value date and Reserve Bank will arrange to advise the other participant Central Banks to make available the U.S. Dollar and Euro amounts to the commercial banks in their countries.

6. Applicability of Foreign Exchange Regulations

Operations conducted in and through the ACU Dollar and ACU Euro accounts will be subject to compliance with all the FEMA regulations and the specific provisions of this Memorandum.

7. Eligible Payments

Transactions that are eligible to be made through ACU are payments –

- (a) from a resident in the territory of one participant to a resident in the territory of another participant;
- (b) for current international transactions as defined by the Articles of Agreement of the International Monetary Fund;
- (c) permitted by the country in which the payer resides;
- (d) not declared ineligible under paragraph 8 of this Memorandum; and
- (e) for export/import transactions between ACU member countries on deferred payment terms.

Note:- Trade transactions with Myanmar may be settled in any freely convertible currency, in addition to the ACU mechanism.

8. Ineligible Payments

The following payments are not eligible to be settled through ACU –

- (a) payments between Nepal and India and Bhutan and India, exception being made in the case of goods imported from India by an importer resident in Nepal who has been permitted by the Nepal Rastra Bank to make payments in foreign exchange. Such payments may be settled through the ACU mechanism;
- (b) payments which are not on account of current international transactions as defined by the International Monetary Fund, except to the extent mutually agreed upon between Reserve Bank and the other participants; and
- (c) such other payments as may be declared by the ACU to be ineligible for being channelled through the clearing facility.

9. Rate of Exchange for U.S. Dollar and Euro

Under the revised procedure, the Reserve Bank will receive and pay U.S. Dollar and Euro from/to the AD Category- banks in respect of transactions described in paragraph 5 above and there will be no corresponding payment/receipt of Indian

rupees. **In other words, no exchange rates will be announced for the purpose of putting through the transactions relating to the ACU, as has been the policy since 1st January 1996.**

10. Hours of business

The hours for receiving applications for funding of ACU Dollar and ACU Euro accounts in overseas participant countries or surrendering of surplus liquidity in the ACU Dollar and ACU Euro accounts of their overseas correspondents maintained in India will be the regular business hours of the Reserve Bank. **No application will be received on Saturdays.**

11. Minimum and Multiple amounts for transactions with Reserve Bank

The minimum amounts and the multiples in which Reserve Bank will receive and pay U.S. Dollar/ Euro will continue to be U.S. \$ 25,000/ € 25,000 and U.S. \$ 1,000/ € 1,000, respectively.

12. Procedure for business with Reserve Bank

- (i) Reserve Bank's Department of External Investments & Operations (DEIO) at Mumbai will undertake ACU transactions.
- (ii) Requests from AD Category-I banks for funding of their ACU Dollar and ACU Euro accounts with commercial banks in participating countries should be made in duplicate in form ACU-1 to DEIO, Mumbai. The acceptance of the offer will be conveyed on the duplicate copy of the letter of offer. Such offers should be accompanied by confirmation that equivalent amount of US Dollar and Euro is being credited to Reserve Bank's account with Federal Reserve Bank of New York, New York and Deutsche Bundesbank, Frankfurt, respectively, on the value date. Reserve Bank will advise the Central Bank in the concerned participating country to deliver the contracted amount on the value date to the correspondent bank indicated by the AD Category-I bank. To obviate the possibility of delay in putting through the transaction, AD Category-I banks may inform their correspondents of the particulars of the transactions such as expected amount, value date, etc.

- (iii) AD Category-I banks may wish to repatriate the excess liquidity in their ACU Dollar and ACU Euro accounts maintained with their branches / correspondents in other participating countries. They will arrange through their branches/correspondents for surrendering of such liquidity to the participant Central Bank. Upon receipt of an advice from the participant Central Bank, DEIO, Mumbai will make available U.S. Dollar and Euro on the value date through the Federal Reserve Bank of New York, New York and Deutsche Bundesbank, Frankfurt.

13. Transactions between AD Category-I banks and Reserve Bank for Account of Correspondent Banks

- (i) Banks in the other participating countries may fund their accounts with AD Category-I banks in India by transfer of U.S. Dollars and Euros through their Central Banks. On receipt of transfer instructions from the concerned Central Bank, Reserve Bank will arrange to transfer the amount indicated in the transfer instruction from their account with Federal Reserve Bank of New York, New York and Deutsche Bundesbank, Frankfurt to the correspondent of the AD Category-I bank. The AD Category-I bank may then arrange to credit the ACU Dollar and ACU Euro account of its correspondent bank on the value date.
- (ii) Correspondent banks of AD Category-I banks may also request AD Category-I banks to transfer amounts from their ACU Dollar and ACU Euro accounts to Reserve Bank for account of the Central Bank in the participating country. Requests from AD Category-I banks for repatriation of these surplus funds should be made in duplicate in form ACU-2 to DEIO, Mumbai. The acceptance of the offer will be conveyed on the duplicate copy of the letter of offer. Such offers should also be accompanied by confirmation that equivalent amount of US Dollar and Euro is being credited to Reserve Bank account with Federal Reserve Bank of New York, New York and Deutsche Bundesbank, Frankfurt respectively, on the value date. Reserve Bank will advise the participant Central Bank to provide equivalent amount of US Dollars and Euros to the concerned bank in that country.

- (iii) The AD Category-I banks must ensure that deliveries of U.S. Dollar and Euro amounts are duly made on the value date to the account of Reserve Bank with Federal Reserve Bank of New York, New York and Deutsche Bundesbank, Frankfurt respectively, in respect of transactions of funding their ACU Dollar / ACU Euro account or repatriation of excess liquidity from the ACU Dollar/ ACU Euro vostro accounts maintained with them. If the U.S. Dollar and Euro amount is not delivered on the due date, interest will be charged at the appropriate penal rate for the number of days of default.

NOTE

Requests from AD Category-I banks to fund their ACU Dollar and ACU Euro accounts with commercial banks in participating countries as well as to repatriate the excess liquidity in the ACU Dollar and ACU Euro accounts of their correspondent banks maintained with them would be accepted in ACU 1 and ACU 2 formats respectively, by DEIO, Mumbai on 'Tom' basis also, in addition to 'Spot' basis. AD Category-I banks desirous of availing the facility of booking transactions on 'Tom' basis, should submit their applications to the DEIO, Mumbai **before 4.00 P.M., a day prior to Value Date.**

ACU - 1
[Paragraph 12(ii) of ACM]

(To be submitted in duplicate)

The Chief General Manager,
Reserve Bank of India,
Department of External Investments & Operations,
Mumbai.

Dear Sir,

Asian Clearing Union

We, hereby undertake to deliver for the account of the

Reserve Bank of India with FRBNY/ Deutsche Bundesbank, Frankfurt with U.S.\$/
Euro(.....) for * Spot/Tom delivery on
..... (in words)
(value date)

Kindly arrange to credit the foreign currency amount to our account No.
.....with.....
.....(Name of correspondent bank and its Bank Identifier Code (BIC))
through
.....
(Name of participant Central Bank and office)

Yours faithfully,

Manager

strike out whichever is not necessary.

ACU – 2
[Paragraph 13(ii) of ACM]

(To be submitted in duplicate)

The Chief General Manager,
Reserve Bank of India,
Department of External Investments & Operations,
Mumbai.

Dear Sir,

Asian Clearing Union

Please arrange to pay U.S. \$/ Euro(.....) to
.....
participating (in words) (Name of

..... through the Asian Clearing Union for
Central Bank and office)

account of on
(commercial bank in participating country and its BIC) (value
date)

being excess amount repatriated.

2. We undertake to deliver U.S. \$/ Euro (in words) to your
account with FRBNY/ Deutsche Bundesbank, Frankfurt through our
correspondents on the value date.

Yours faithfully,

Manager

AGREEMENT ESTABLISHING THE ASIAN CLEARING UNION

(As amended by the Board of Directors during various meetings up to June 2008)

The central banks and monetary authorities of regional members and associate members of the UNITED NATIONS ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC (ESCAP),

DESIRING to establish a facility to settle payments for current international transactions within the ESCAP region on a multilateral basis,

RECOGNIZING that such a facility would contribute to the expansion of trade and the promotion of monetary co-operation among their countries,

RECOGNIZING further that a facility designed to promote the use of the participants' currencies would reduce the use of extra-regional currencies to settle current international transactions within the region and thereby effect economies in the use of foreign exchange and reduce the cost of making payments for such current international transactions,

REALIZING that the region-wide clearing facility could co-exist and function in co-operation with sub-regional or less than regional arrangements in Asia and the Pacific,

CONVINCED that the regional clearing facility must be established and operated in a manner that will not prejudice the principles of multilateral trade and payments,

ON WHOSE BEHALF this AGREEMENT has been signed, HAVE AGREED AS FOLLOWS:

CHAPTER 1

GENERAL PROVISIONS

Article I – Asian Clearing Union

The central banks and other monetary authorities on whose behalf the present Agreement is signed, hereinafter referred to as “participants”, agree to establish a system for clearing payments among their respective countries on a multilateral basis, hereinafter referred to as the “Asian Clearing Union”, which shall be governed by the provisions of this Agreement and by the rules, regulations and decisions agreed within its framework.

Article II – Purposes

The purposes of this Agreement are :-

- (a) To provide a facility to settle, on a multilateral basis, payments for current international transactions among the territories of participants;
- (b) To promote the use of participants' currencies in current transactions between their respective territories and thereby effect economies in the use of the participants' exchange reserves;
- (c) To promote monetary co-operation among the participants and closer relations among the banking systems in their territories and thereby contribute to the expansion of trade and economic activity among the countries of the ESCAP region; and
- (d) To provide for currency swap arrangement among the participants so as to make Asian Monetary Units available to them temporarily.

Article III – Participation

SECTION 1 - Eligibility to participate

- (a) Participation in the Asian Clearing Union shall be open to the central bank or monetary authority of each regional member or associate member of ESCAP.
- (b) Participation in another clearing group or arrangement is not precluded by participation in the Asian Clearing Union.

SECTION 2 – Original participants

Original participants shall be those central banks or monetary authorities that are eligible to participate in and which sign this Agreement not later than three months from the date this Agreement has been signed by the duly authorized representatives of five such central banks or authorities. Each shall become a participant on the date this Agreement enters into force.

SECTION 3 - Other participants

A central bank or monetary authority that is eligible to participate and is not an original participant may apply to the Board of Directors to become a participant and be admitted as a participant if the Board so decides by a two-third vote of all the Directors and upon such central bank or monetary authority signing this Agreement and accepting the rules, regulations and decisions of the Board of Directors. The Chairman of the Board shall determine the date on which the payments and transfers with respect to such a participant shall be included in the clearing facility.

CHAPTER II

OPERATIONS

Article IV – Unit of Account

(a) The accounts of the Asian Clearing Union shall be kept in "Asian Monetary Units" (viz. ACU Dollar and ACU Euro) which may be referred to in the abbreviated form as "AMUs".

(b) The Asian Monetary Units shall, with effect from 01.01.2009, and until such time as it is changed by the Board of Directors in terms of sub-clause (c) of the Article, be denominated as 'ACU Dollar' and 'ACU Euro' which shall be equivalent in value to one US Dollar and one Euro, respectively.

(c) The Board of Directors may change the denomination and/or the value of the Asian Monetary Units at any time by a unanimous vote of all the Directors.

(d) In the event of a change in the denomination and/or the value of the Asian Monetary Units by the Board of Directors, the outstanding net debtor and creditor positions as of the date of this change including accrued interest shall be settled on the basis of the denomination and the value of the Asian Monetary Units preceding such change.

Article V – Clearing of Individual Payments and Transfers

SECTION 1 – Rules for individual payments and transfers

(i) The Board of Directors, after consultation with participants, shall prescribe by appropriate rules consistent with this Agreement the procedures to effect the financial settlement of eligible payments and transfers through the clearing facility. In particular, these rules and regulations shall specify the procedures to be followed by persons, commercial banks, and central banks or monetary authorities. The Board shall prescribe the information to be supplied to the Secretary General for the operation of the clearing facility.

(ii) Each participant, in so far as its monetary and exchange system permits, shall take all steps necessary to put into effect in its territories the procedures prescribed by the Board of Directors and to supply the information required by the Board for the operation of the clearing facility.

SECTION 2 – Eligible payments and transfers

(a) The payments that are eligible to be made through clearing facility are payments:

- (i) from a resident in the territory of one participant to a resident in the territory of another participant;

- (ii) for current international transactions as defined by the Articles of Agreement of the International Monetary Fund;
- (iii) permitted by the country in which the payer resides; and
- (iv) not declared ineligible under (b) or (c) below.

(b) The Board of Directors may declare specified payments to be ineligible to be channelled through the clearing facility and may terminate such ineligibility.

(c) A participant, at the time it signs this Agreement, may declare that payments for specified transactions are ineligible to be made by and to residents in its territories through the clearing facility. The participant shall consult with the Board of Directors with a view to the relaxation and eventual removal of this ineligibility as soon as circumstances permit.

SECTION 3 – Duty to complete payment

Each participant undertakes that all eligible payments made through the clearing facility to residents in its territory will be accepted and completed.

SECTION 4 – Use of the clearing facility

(a) A participant may require residents to make payments through the clearing facility, but such a requirement shall not be enforced in a manner that will restrict or delay the making of payments for current international transactions or create a discriminatory currency arrangement.

(b) Except to the extent that a participant requires its residents to make payments through clearing facility in accordance with (a) above, the use of the clearing facility shall be optional.

(c) In order to promote the use of the clearing facility, participants may adopt measures designed to provide incentives to make payments for individual transactions through the clearing facility, provided such measures shall be consistent with the participant's undertakings under the Articles of Agreement of the International Monetary Fund. Thus, for this purpose, participants may allow the conversion of their currencies into Asian Monetary Units (ACU Dollar and ACU Euro) or into those of other participants in respect of payment receipts at rates which are more favorable than those for dealings outside the clearing facility.

SECTION 5 – Instruments of payment

The Board of Directors shall specify in its rules and regulations the types of instrument of payment that may be used and how each is to be used to make payment through the facility. Only instruments of payment denominated in Asian Monetary Units (ACU Dollar and ACU Euro) may be used to make payment through the clearing facility. A participant, after consultation with the Board may prohibit the use of particular instruments of payment by its residents for making

payments through the clearing facility, but shall notify the Secretary General of such prohibition who shall notify all other participants.

Article VI – Settlement of Balances among Participants

Section 1 – Periodical settlement

(a) Settlement shall be made of net positions and accrued interest at the end of each two monthly settlement period. Settlements shall be made in accordance with section 3 of this article.

(b) The Board of Directors may change the length of the settlement period by a decision taken by a unanimous vote of all the Directors.

SECTION 2 - Interest

a) Interest shall be paid by net debtors and transferred to net creditors on daily balances outstanding between settlement dates. The accrued interest shall be included in the calculation of the net amounts to be paid and received at the end of each settlement period and shall be notified at the end of each settlement period along with the net position of each participant.

b) The Board of Directors shall determine, from time to time, the rate of interest, which shall be the same for both net creditor and net debtor positions, on the basis of the return on balances held on similar availability in major financial centres.

SECTION 3 – Notifications and Payments

(a) The Secretary General shall notify each participant of its net position, including accrued interest and of the amounts it shall pay to, or receive from, other participants at the end of each settlement period.

(b) Each debtor participant, within four working days of the receipt from the Secretary General, of the notice of the amounts to be paid, shall make the payments in international reserve assets specified by the Board of Directors for the purpose. Payments may also be made in the currency of the creditor subject to its specific consent.

Article VII – Maintenance of Value And Non-Settlement of Balances

SECTION 1 – Value of payments and transfers

The value of any instrument of payment or transfer of a currency for the purpose of the amount to be settled through the clearing facility shall be the amount in the respective Asian Monetary Unit (ACU Dollar or ACU Euro), as well as in the case of a transfer of currency, be equivalent in the respective Asian Monetary Unit (ACU Dollar or ACU Euro) determined as of the date the transfer is considered to be made under the rules prescribed by the Board of Directors. The values of payments and transfers made and received with respect to participants

and the resulting positions of participants shall be recorded by the Secretary General in the respective Asian Monetary Units (ACU Dollar and ACU Euro).

SECTION 2 - Delayed payments

If a participant fails to make any payment notified to it by the Secretary General under Article VI within the time required, interest shall be payable by the participant on the amount due at such rate as may be determined by the Board of Directors.

SECTION 3 - Default

(a) In the event the payment referred to in Section 2 above remains unpaid after fifteen days from the date on which it was due in terms of Article VI Section 3(b), the participant shall be deemed to have defaulted and the Secretary General shall immediately notify the Directors and all participants. Thereafter no payments with respect to residents in the territory of the defaulting participant can be made through the clearing facility until the default has been fully discharged and the participant restored to full participation in accordance with (c) below.

(b) Unless the defaulting participant, within seven days of the date of default agrees with the participants to which it is obliged to make any payments due under Article VI on arrangements to make the payments, with interest, its participation in the Asian Clearing Union shall be suspended.

(c) After the default has been fully discharged, the Board of Directors may restore the defaulting participant to full participation in the Asian Clearing Union subject to any special terms and conditions that the Board may deem appropriate, or may require the defaulting participant to withdraw from participation. If the defaulting participant does not agree to continue participation on the terms and conditions specified by the Board within thirty days of the decision of the Board on this matter, it shall be deemed to have withdrawn. The special terms and conditions may be revoked at any time by the Board.

(d) In addition, the Board of Directors shall consider, in consultation with participants, other means by which the amount of the default may be recovered and participants shall take such further measures as the Board deems appropriate in order to recover the amount of the default in the shortest possible time.

Article VII A – Currency Swap Arrangement

The Board of Directors may provide for a currency swap arrangement among the participants and specify in the rules the eligibility criteria, the terms including the rate of interest and the period for which the facility should be extended, the manner in which the participants should contribute and such other relevant conditions and procedures as are considered necessary.

CHAPTER III

ORGANIZATION AND ADMINISTRATION

Article VIII - Organization

SECTION 1 – Joint action

Representatives of the participants shall meet from time to time for the purpose of giving effect to those provisions of this Agreement which involve joint action and, generally, with a view to facilitating the operation and furthering the objectives of this Agreement. Whenever reference is made in this Agreement to the participants acting jointly, they are designated as the Board of Directors.

SECTION 2 – The Board of Directors

(a) Each participant shall appoint one Director and one Alternate Director to represent it on the Board of Directors. Each Director and Alternate Director shall be appointed for a term of two years, may be re-appointed, and may be replaced at any time during the term of his appointment. Each Director shall have one vote. An Alternate Director may attend the meetings but may vote only when his principal is not present or when his principal is acting as the Chairman. The Board shall elect a Chairman from among its members to serve for a period of one year, and a Vice-Chairman to serve in the absence or inability of the Chairman during the same period.

(b) The Board of Directors shall meet at least once in a calendar year. In addition, meetings of the Board shall be called by the Chairman when requested by two Directors or when the Chairman considers a meeting necessary.

(c) A quorum for any meeting of the Board of Directors shall be the Chairman or Vice-Chairman and two-thirds of the Directors.

(d) All decisions of the Board of Directors shall be taken by a majority of the votes of all the Directors unless a special majority is required by this Agreement. The votes of "all of the Directors" means the votes of all the Directors and not merely of those present and voting. When both a Director and his Alternate are not present at a meeting of the Board, the Director, in accordance with rules established by the Board, may authorise another Director to present his views and to cast his vote. The Chairman shall have no vote, except in the case of an equal division when he shall cast the deciding vote.

(e) The Board of Directors may establish a procedure whereby the Chairman may obtain the votes of the Directors on a specific question without calling a meeting of the Board.

(f) The Board of Directors may adopt such rules and regulations as are necessary for the organization and operation of the Asian Clearing Union.

(g) The remuneration and expenses of a Director and Alternate Director shall be borne by the participant appointing them.

SECTION 3 – Secretary General and Staff

(a) The Board of Directors, by a two-thirds majority of all of the Directors, shall select and appoint the Secretary General, who shall not be a Director, for a term of three years. The Board shall establish the remuneration and other terms of the contract of service of the Secretary General. The Secretary General may be re-appointed and shall cease to hold office when the Board so decides by a two-thirds vote of all of the Directors.

(b) The Secretary General, under the direction of the Board of Directors shall conduct the ordinary business of the Asian Clearing Union. He shall be the head of the staff and, subject to the general rules of the Board, organize, appoint and dismiss members of the staff. He shall exercise such other powers as are assigned to him by the Board.

(c) The Secretary General shall prepare and submit to the Board the documents necessary for its work, particularly the financial statements, the proposed annual budget and the draft annual report.

(d) The Secretary General shall act as the representative of the Board of Directors within the limits prescribed by the Board.

(e) The Secretary General and the staff members, in the discharge of their official functions, shall owe their duty entirely to the Board of Directors and to no other authority. Each participant in the Asian Clearing Union shall respect the international charter of this duty and shall refrain from all attempts to influence any of the staff in the discharge of his functions.

Article IX – Agent

The Board of Directors may make arrangements with a Central Bank or monetary authority of a participant or with the Asian Reserve Bank when it is established to provide the necessary services and facilities for the operation of the clearing facility. The agreement establishing these arrangements with an Agent must be approved by a vote of two-thirds of all of the Directors.

Article X – Relations With Other Organizations and Clearing Arrangements

The Board of Directors may make arrangements to co-operate with other general, regional or sub-regional international organizations, or other clearing arrangements among countries within or outside the ESCAP region. Any such arrangements shall not apply to a participant which does not consent.

Article XI – Interpretation

(a) Any question of interpretation of this Agreement or of any rules, regulations or decisions of the Board of Directors arising between the Secretary General and a

participant or between participants shall be decided by the Board whose decision shall be final.

(b) Should any dispute, out of or in connection with the Agreement Establishing the Asian Clearing Union and Procedure Rules, arise between the participants or between the Participants and the Board, and if efforts to settle the controversy by negotiating fail, such dispute shall be submitted to arbitration by a tribunal of three arbitrators, the first and second appointed by the parties to the dispute, and the third designated by the first two arbitrators. If they fail to reach agreement, the third arbitrator shall be appointed by the Executive Secretary of ESCAP. The third arbitrator shall be empowered to decide all matters of procedure whenever the other two arbitrators disagree with respect to such a question. The place of arbitration shall be decided by the parties to the dispute. The language of arbitration shall be English. Every effort shall be made to settle the controversy within a period of six months after service of a written request to the arbitration.

Article XII – Reports and Assessments

SECTION 1 - Reports

The Board of Directors shall publish an annual report on its activities and the operations of the Asian Clearing Union. The report shall contain an audited statement of accounts and of the clearing operations. The Board may publish such other reports as it deems desirable.

SECTION 2 - Operating expenses

(a) The Board of Directors shall approve the annual budget and determine the formula under which expenses shall be apportioned among participants, on the basis of the actual use made of the Asian Clearing Union and of the services rendered to them.

(b) The Board shall specify the currencies or other means in which the assessments shall be paid by members as well as the schedule of payments for each fiscal year.

(c) The Board of Directors may request the Agent to make an advance to the Asian Clearing Union on behalf of the participants when such action becomes necessary to meet expenses, but the Board shall promptly make an assessment to meet the amount borrowed.

(d) All the decisions taken by the Board of Directors in accordance with this section shall require the affirmative vote of two-thirds of all the Directors.

CHAPTER IV

MISCELLANEOUS PROVISIONS

Article XIII – Withdrawal from Participation

SECTION 1 – Voluntary withdrawal

Any participant may withdraw from this Agreement at any time by transmitting a notice in writing to the Secretary General. Withdrawal shall become effective three business days from the date such written notice is received by Secretary General unless a later date is indicated by the participant in the notice. The Secretary General shall notify all other participants as promptly as possible.

SECTION 2 – Compulsory withdrawal

If a participant fails to fulfil any of its obligations under this Agreement, and if, after consultations between the Board of Directors and the participant concerned, the participant fails to correct the situation, the Board may require such participant to withdraw from participation. The participant shall be deemed to have withdrawn on the date of the decision of the Board or such later date as the Board may specify.

SECTION 3 – Settlement of accounts

(a) A participant shall remain liable for and shall meet all its obligations to other participants arising from its participation under the Agreement until the final settlement of accounts with it has taken place.

(b) Only instruments of payments for the settlement of transactions involving residents in the territory of the withdrawing participant issued on or before the date of its withdrawal shall be settled thereafter through the clearing facility. Settlements shall normally be made at the regular settlement dates until all outstanding instruments of payments have been cleared. The Board of Directors shall determine any further procedures needed to effect the final settlement of accounts with the withdrawing participant.

Article XIV – Amendment

(a) This Agreement may be amended by a decision of the Board of Directors taken by a vote of two-thirds of all the Directors.

(b) Notwithstanding the provisions of the preceding paragraph, the affirmative vote of each Director on the Board shall be required to approve an amendment to modify the provisions of :

- (i) Article III on participation;
- (ii) Article IV(c) on the modification of the denomination and/or the value of the Asian Monetary Units;

- (iii) Article V, Section 2(b) on specified ineligible payments;
- (iv) Article VI, Section 1(b) on the change of the settlement period;
- (v) Article VII, Section 1 on the value of payments and transfers;
- (vi) Article XII, Section 2(a) on the formula under which expenses shall be apportioned among participants;
- (vii) Article XIII, Section I on the right of a member to withdraw voluntarily from this Agreement at any time; and
- (viii) Article XIV on the amendment of this Agreement.

The absence or abstention of a Director shall be considered to be a negative vote.

(c) Any proposal to amend this Agreement shall be communicated to the Chairman of the Board of Directors who shall place the proposal before the Board for discussion. When an amendment has been adopted by the Board, the Chairman shall so certify in an official notice addressed to all participants and to the Executive Secretary of ESCAP. Amendments shall enter into force one month after the date of dispatch of the official communication unless the Board specifies a different date.

Article XV – Suspension and Liquidation

(a) The Board of Directors may suspend operations by a decision of the Board taken by a vote of two-thirds of all of the Directors. All participants shall be notified immediately and no instrument of payment issued after the date of notice shall be settled through the clearing facility.

(b) After a decision under sub-section (a), if the Board of Directors does not decide to resume operations within six months, all operations and other activities shall be suspended, except those necessary for the orderly liquidation and the final settlement of accounts among participants as determined by the Board.

CHAPTER V

FINAL PROVISIONS

Article XVI – Signature and Custody

(a) The Executive Secretary of ESCAP shall be the depository of this Agreement and shall send certified copies of this Agreement and any amendments to it, to all regional members and associate members of ESCAP. Any amendments to this Agreement, as certified by the Chairman of the Board of Directors under the provisions of Article XIV(c), shall be appended to its text.

(b) This Agreement shall be open for acceptance by signature by duly authorized representatives of Central Banks or monetary authorities of regional members or associate members of ESCAP at the United Nations Economic and Social Commission for Asia and the Pacific. Each Central Bank or Monetary authority on whose behalf this Agreement is signed shall deposit with the Executive Secretary, before signature, an instrument setting forth that it has full legal authority to accept this Agreement and to carry out all its obligations under it.

Article XVII – Entry into force

This Agreement shall enter into force when it has been signed and the instruments provided in Article XVI(b) have been deposited by duly authorized representatives of at least five Central Banks or monetary authorities of regional members or associate members of ESCAP but not before the date determined by Article III, Section 2.

Article XVIII – Commencement of operations

(a) As soon as this Agreement enters into force, each participant shall appoint a Director and Alternate Director, and the Executive Secretary of ESCAP shall call the inaugural meeting of the Board of Directors.

(b) At its inaugural meeting, the Board shall :

(i) elect the Chairman and Vice-Chairman; and

(ii) make arrangements to proceed with the preparatory work necessary to commence operations of the clearing facility.

(c) The Chairman of the Board shall notify the participants of the date of the commencement of operation of the clearing facility.

Article XIX – Notification

The Executive Secretary of ESCAP shall notify signatories and all regional members and associate members of ESCAP of :

- (i) all signatures to this Agreement, and
- (ii) the date on which this Agreement enters into force

Done in a single copy in the English language.

ASIAN CLEARING UNION (PROCEDURE) RULES

(As amended by the Board of Directors during various meetings up to June 2008)

1. These rules have been adopted by the Board of Directors of the Asian Clearing Union in terms of Article VIII Section 2(f) of the Agreement establishing the Asian Clearing Union and shall be called the Asian Clearing Union (Procedure) Rules.

2. These rules shall come into force on such date as may be notified by the Board of Directors of the Asian Clearing Union.

3. **Definitions** – In these rules, unless there is anything repugnant in the subject or context:

(a) 'Agent' means the participant central bank or monetary authority with whom the Board has arranged to provide the necessary services and facilities for the operation of the clearing facility;

(b) 'Agreement' means the Agreement establishing the Asian Clearing Union;

(c) 'Asian Monetary Units' (AMUs) mean the units of accounts of the Clearing Union referred to in Article IV of the Agreement;

(d) 'Board' means the Board of Directors of the Asian Clearing Union referred to in Article VIII Section I of the Agreement.

(e) 'Clearing Union' means the Asian Clearing Union;

(f) 'Secretary General' includes the officer who is designated by the Agent to perform the functions of the Secretary General for the time being;

(g) 'Participant' means any central bank or monetary authority which is a signatory to the Agreement and

(h) 'Currency Swap' arrangement means an arrangement among the participants under which a participant becomes eligible to draw Asian Monetary Units from other participants in specified proportion and in specified circumstances for settling imbalances in clearing.

4. **Ineligible payments** - The following payments shall not be eligible to be made through the clearing facility:

(i) payments between Nepal & India; and Bhutan & India

(ii) payments which are not current international transactions as defined by the Articles of Agreement of the International Monetary Fund, except to the extent mutually agreed upon between two or more participants.

Participants have agreed that payments arising on account of import/export transactions on deferred payment terms will not be considered as ineligible payments.

5. Eligible instruments of payment and the currency in which they are to be denominated – All instruments of payment denominated in AMUs (ACU Dollar and ACU Euro), may be used to effect payment through the clearing facility. Settlement of such instruments will be made by the commercial banks through operations of the accounts referred to in Rule 6.

6. Clearing Operations –

- (a) The participants will permit the banks in their respective countries to maintain ACU Dollar and ACU Euro accounts with their correspondent banks in the other participating countries. All payments other than ineligible payments will be settled by the banks concerned through these accounts. The operations on these accounts shall be governed by the prevailing Exchange Control Regulations and such other directions, rules, regulations or guidelines as the participants may issue or specify from time to time.
- (b) When a commercial bank desires to fund its ACU Dollar or ACU Euro account with its correspondent bank in another participating country, it may purchase the required amount of ACU Dollar or ACU Euro either from a local commercial bank having a surplus in that participating country or from its central bank. In the latter case, it will surrender equivalent amount of US Dollars or euros or, at the option of the Central Bank, the equivalent in the local currency to its own Central Bank for remittance through the ACU mechanism. The participant receiving the amount will advise the participant in the country concerned to make available the amount in US Dollars or euros to the concerned bank in that country. After making the payment, the second participant will advise the Secretary General of the ACU to credit its account by debit to the first participant's account.
- (c) When a commercial bank desires to repatriate funds from its ACU Dollar or ACU Euro account with its correspondent bank in another participating country, it may sell the desired amount of ACU Dollar or ACU Euro either to a local commercial bank which desires to fund its ACU Dollar or ACU Euro account in that participating country, or to its central bank. In the latter case, it will request that bank to effect the remittance through the ACU mechanism. The correspondent bank will surrender equivalent amount of US Dollars or euros to its own Central Bank for remittance. The participant receiving the amount will advise the participant in the country concerned to make available the equivalent amount to the concerned bank in that country. The Central Bank may, at its option, make the payment in US Dollar or Euro or in local currency. After making the payment the second participant will advise the Secretary General of the ACU to credit its account by debit to the first participant's account.
- (d) On receipt of the advices referred to in sub-rules (b) and (c) above, the Clearing Union shall effect the necessary transfers under advice to both the participants.

7. Exchange Rate

The SDR cross-rates which are quoted by the International Monetary Fund on a daily basis shall be applied as a reference rate. In the event that the International Monetary Fund does not quote the rates, the last available rate will apply until such rates become available. However, the Board may decide upon a substitute rate if necessary.

8. Currency Swap arrangement

A participant desirous of availing of the swap facility as defined in Rule 3(h) should request the Secretary General in such format as he prescribes. The nature and scope of swap arrangement will be as described hereunder:

(a) Eligibility

Subject to sub-rule (d) of this Rule, any participant in net deficit (ACU Dollar and ACU Euro accounts collectively) at the end of a settlement period shall be eligible to avail of the facility. Participants whose countries have special payment arrangements between themselves will not be eligible to avail of this facility from each other.

(b) Entitlement

At the end of each calendar year, the Secretary General shall advise each participant by swift or telex or cable of its entitlement in ACU Dollar using the exchange rate referred to in Rule 7. Every eligible participant shall be entitled to the facility from every other participant up to 20% of the average gross payments (ACU Dollar and ACU Euro accounts collectively) made by it through the ACU mechanism to other participants during the three previous calendar years. A participant shall not, however, draw more than its net deficit (ACU Dollar and ACU Euro accounts collectively) at the end of a settlement period. The drawal by each participant from each other participant shall be in the same proportion as its net deficit (ACU Dollar and ACU Euro accounts collectively) bears to its maximum entitlement. The drawal may be effected in a currency (US Dollar or Euro) decided by mutual agreement.

(c) Rate of Interest

The rate of interest chargeable on each drawal would be equal to US Dollar or Euro LIMEAN derived from the respective two months LIBOR declared by the British Bankers' Association, applicable for the concerned value date. If the rate is not available from British Bankers' Association, the Secretary General shall ascertain it from any other London clearing bank at his discretion and if it is not available from any such bank, the rate of British Bankers' Association applicable for the immediately preceding value date will apply.

(d) Other conditions

A participant may draw under the swap arrangement for a period of two months at a time. Such a participant shall not be entitled to draw under the arrangement at the time of the next following settlement.

9. Accounts kept by the Clearing Union

The Clearing Union shall maintain two accounts (ACU Dollar and ACU Euro accounts) for each participant to which the payments advised by the participants will be debited or credited. Interest will be payable by the participants on the net debit balances and receivable on the net credit balances, calculated at the interest rate referred to in Rule 10, on the daily balances outstanding.

10. Interest

(a) Interest on the net debit and net credit balance will be calculated by the Clearing Union on the daily outstanding by the product method, taking a year as comprising 360 days and shall be debited or credited to the participants' accounts at the end of each settlement period. The rate of interest applicable for a settlement period will be the closing rate on the first working day of the last week of the previous calendar month offered by the Bank for International Settlements for one month US Dollar and Euro deposits. In the event that the Bank for International Settlements does not quote rates for such deposits, the last available rate will apply until such rates become available. However, the Board may decide upon a substitute rate if necessary.

(b) In the case of delayed payments referred to in Article VII Section 2 of the Agreement and default referred to in Section 3 of the same Article, interest for the period of delay or default shall be calculated by the Clearing Union at:

(1) One per cent per annum over the rate for the relevant settlement period or periods under sub-rule (a), or

(2) One per cent per annum over the rate applicable on the day of default under sub-rule (a), whichever is higher.

11. Notification of net position at the end of settlement period

At the end of each settlement period, the Secretary General shall notify each participant by swift or telex or cable of its net position and accrued interest, and of the amounts it shall pay or receive from other participants for ACU Dollar and ACU Euro accounts separately.

12. Settlement of balances –

(a) Each debtor participant, within four working days of the receipt from the Secretary General of the notice of the amounts to be paid, shall

make the payment in US Dollar or Euro or in any other mutually acceptable currency, under swift or telex or cable intimation to the Secretary General.

- (b) If settlement is desired to be effected in a currency other than US Dollar or Euro, the participants shall, by mutual agreement, decide on the exchange rate to be made applicable for such settlement.

13. Obligation to accept net position advised by the Secretary General -

The net position at the end of the settlement period, as notified by the Secretary General shall be accepted by every participant as correct and settlement shall be made accordingly. The participants shall, however, have the right to bring any discrepancy detected in such position to the notice of the Secretary General as soon as possible thereafter for eventual rectification and further settlement, if necessary. Such rectification shall be made at the same rate of exchange at which the original settlement was made.

14. Default

In the event that a participant fails to make any payment notified to it by the Secretary General under Rule 11 within the time specified, the provisions of Article VII section 3 of the Agreement shall apply.

15. Accounts kept by Commercial Banks

The member central banks shall issue circulars to the commercial banks to consider payment of interest, at their discretion, on ACU Dollar and ACU Euro accounts maintained by the commercial banks of other ACU member countries as per mutually agreed terms and conditions.

16. Publications

The Secretary General shall use US Dollar as a base currency for the ACU financial reporting and publications. The ACU Euro accounts are converted to US Dollars using the exchange rate referred to in Rule 7.

17. Amendment - Unless otherwise provided in the Agreement, these rules may be amended by a decision of the Board taken by a majority of the votes of all the Directors.