

**Statement of the Secretary-General at the Meeting of the Legal Advisers of AALCO
Member States, New York 10th November 2004**

Mr. Chairman, Excellencies, Distinguished Guests, and Members of the Diplomatic Missions, Ladies and Gentlemen. It is indeed an honour for me to welcome you all at the AALCO's Legal Advisers Meeting. Mr. Chairman, I am particularly grateful to you that the Republic of Indonesia in the capacity of President of AALCO is chairing today's meeting.

Mr. Chairman let me put on record that AALCO's 43rd Session held in Bali in June this year was a really historical session. First of all the former President of Indonesia Megawati Soekarnoputri inaugurated it. Number two, the rationalization of the agenda continued in this session after we started it in the Seoul Session. The subjects, on the basis of their contemporary relevance, as well as for ensuring focused discussion were divided into two categories, deliberated and non-deliberated and out of 16 items on the agenda we deliberated on 10 items. Number three, the summary report of the entire proceedings of the session was prepared by the Drafting Committee and was adopted by the Session. Number four, another milestone achieved in the Bali session was the adoption of the Revised Text of Statutes of AALCO, which was stagnant for 20 years and which is in consonance with other constituent instruments of other international organizations and brings it in par with them. As mandated in Bali the task of revision of the Statutory Rules has also begun in the Secretariat. South Africa became the 47th full member of the AALCO family, raising our number slowly but surely I am trying to bring the number to 60 before the end of my mandate.

Finally, Mr. Chairman, at the Bali Session, a decision was also taken to accept the kind invitation of the Government of Kenya to host AALCO's 44th Session either in Nairobi or Mombassa, we did not finalize it yet. The Minister of Justice and Constitutional Affairs, Kenya visited me in New Delhi and he extended to me to visit Kenya in January 2005 to finalize the work programme of the Kenya session. Kenya joined the Organization in 1970, and hosted the 28th Session of the Organization in 1989. The fact that it is desirous of hosting the Session of AALCO in Nairobi or Mombassa for the second time signifies the interest, which it takes in the work of the Organization.

Mr. Chairman and distinguished participants, for the last 20-years or more, AALCO's Legal Advisers Meeting in New York is held in conjunction with the Annual Session of the General Assembly. It is meant in fact, to direct the Secretariat and me about AALCO's activities. The timing of this meeting is also very convenient as, along with Legal Advisers; International Law Commission Members are also present during this time. You might recall that last year for the first time a joint meeting of the AALCO-ILC was convened in conjunction with this meeting to consider in detail a few of the items on ILC's agenda. That meeting was very successful, and following that practice this year also we will have a joint meeting with ILC Members, present in New York according to a joint decision between AALCO and ILC.

Mr. Chairman, against this backdrop, when we were preparing for today's meeting, the first question raised was the tentative issues for discussion and their relevance in the context of AALCO's current and future work programme. As regards the current agenda, there are as many as 16 items. Taking a clue from the outcome of the Bali Forty-Third Session, it is my presumption that at least 9-10 items will be taken up for in-depth consideration at AALCO's 44th Session.

As I have already mentioned the rationale behind dividing the subjects into the deliberated and non-deliberated categories, once we finalize both lists with the Liaison Officers and host country we shall inform Member States.

Nevertheless, I think we cannot let items like: (1) International Law Commission, (2) An Effective Legal Instrument Against Corruption (3) Expressions of Folklore and its International Protection (4) International Terrorism and (5) Environment and Sustainable Development, without being deliberated.

Mr. Chairman, it has now become customary for about eight years we have at the Annual Sessions of AALCO, a one-day Special Meeting is held on any topical subject of interest to our Member States. This year the chosen theme as suggested by the Republic of Indonesia was "Establishing Cooperation against Trafficking in Persons especially Women and Children". The meeting was organized with full cooperation of the host Government. Prominent panelists from UNODC, UNHCR, UNICEF, IOM and the Department of Justice and Human Rights as well as National Police Headquarters of Indonesia elaborated different dimensions of the threat. The Secretariat was directed to develop, in cooperation with Member States, a model law for criminalization of trafficking in persons as well as protection of victims of trafficking especially women and Children. Today we also have to approve the topic for the one-day special meeting during the Kenya session.

Mr. Chairman, today three topics have been chosen for discussion, which are on AALCO's agenda. These topics are (1) An Effective Legal Instrument Against Corruption, (2) WTO and (3) Environment and sustainable development: Kyoto Protocol: problems and Prospects. I will give a very brief introduction to the items so that our colleagues can deliberate on it.

Regarding the first topic of "combating corruption", it may be recalled that since the AALCO's Legal Advisers meeting held in New York in 2001, it has been under the consideration of AALCO. In 2002 in the Seoul session and in my capacity of Secretary-General I suggested to the Member States to include the topic to AALCO's agenda, the Member States approved it and we had extremely important deliberations out of it, in Bali session also in 2004.

It should be noted that combating corruption is one of the foremost problems in the national agenda of most of the Asian African Countries as it poses serious threat to the development of a country. Though attempts had been made at the national level, there was lack of international cooperation and framework to evolve on anti-corruption

strategy. In this regard, the UN Convention adopted by United Nations General Assembly and opened for signatures provides an effective mechanism for building such a cooperative setup. Two Member States only from AALCO have ratified the Convention (Sri Lanka and Kenya) despite the fact that 111 countries have signed it. Being a United Nations Convention it has a potentially universal scope of application different from other existing instruments.

That's why Mr. Chairman, AALCO feels that awareness has to be built among AALCO States to ratify and implement the Convention as soon as possible so that an International framework could be established which would facilitate in effectively combating international corruption. In this context AALCO intends to propose that the one day Special Meeting topic to be held in conjunction with the AALCO's 44th Annual Session to be held in Kenya, 2005 could be on the topic of "Regional Cooperation among AALCO Member States, within the international framework to Combat Corruption" for the purpose of dissemination of information regarding the legal implications and implementation of the Convention. Moreover Mr. Chairman we felt through consultations that the Government of Kenya supports and approves this suggestion.

The second item on our agenda today is the World Trade Organization. It may be recalled that AALCO has been monitoring the developments related to the code of conduct for the world trade, particularly the relevant legal aspects of dispute settlement mechanism, since its 34th Session in 1995. At the fifth WTO Ministerial Conference, which was expected to assess the progress in the trade negotiations, ended without adopting a Ministerial Declaration primarily due to acute difference in interests dividing developed and developing countries. The only significant and positive development witnessed at the Conference was the consolidation of the position taken by a group of developing countries (called Group 21+ led by Brazil, China, India and South Africa), which joined hand to defend the interests of developing countries.

The post Cancun Conference saw efforts by WTO Members to put the negotiation and the rest of the Work Programme back on track. The WTO General Council, 31 July 2004 decision, only provides a roadmap for yet more negotiations and contains enough gray areas. The conclusion of the round was delayed at least till December 2005. As regards Special and differential (S&D) treatment and the core development elements in the Doha Declaration which is of great importance to developing countries, the Decision instructs Members to continue the work that has been underway since 2002. No action was taken on the 27 S&D recommendations that were agreed 'in principle' by Member States and the deadline on outstanding issues was extended till July 2005. In this regard, Mr. Chairman I request the AALCO Member states to consolidate their position and work towards the successful completion of the Doha Development Roadmap. Mr. Chairman the third and final topic on today's agenda is Impending Entry into force of the Kyoto Protocol to the Climate Change Convention: Problems and Prospects

Climate Change is considered one of the most serious threats to environment, with negative impacts expected on human health, food security, economic activity, water and other natural resources, and other physical infrastructure. The response of international

community to this problem is contained in the United Nations Framework Convention on Climate Change (UNFCCC, 1992), which has near universal ratification. The 1997 Kyoto Protocol provides the operational details determining how countries will cut emissions and other measures to implement their commitments. To enter into force, the Protocol must be ratified by 55 Parties to the UNFCCC, and by Annex I Parties representing at least 55% of the total carbon emissions for 1990. Till 23 September 2004, 125 Parties have ratified the Protocol, including 32 Annex I Parties, representing 44.2 % of the emissions. Out of 47 AALCO Member States, 22 have ratified the Protocol. Most of the oil-producing countries are not Parties to the Protocol.

Unfortunately, the United States of America accounting for 36% of the Green House Gas (GHG) emissions has refused to ratify the Protocol on the ground that it effects American lifestyle and does not provide for meaningful participation of developing countries like China, India and Brazil. The Russian Federation with 17% emissions could be the pivot for the entry into force of the Kyoto Protocol.

After its entry into force the developed countries are required to undertake necessary and immediate steps to implement the legally binding commitments contained in the Protocol, particularly through domestic action, once the Protocol enters into force. How to achieve the attainment of these mechanisms and issues pertaining to the implementation of the Kyoto Protocol are expected to be the dominant theme in the negotiating process of the COP-10 of the UNFCCC scheduled to take place in Buenos Aires, Argentina from 6 to 17 December 2004.

Finally, Mr. Chairman, I take this opportunity to seek guidance of the Legal Advisers of our Member States on the course of work of the Organization after the impending entry into force of the Kyoto Protocol.

Mr. Chairman, with a view to facilitating discussion at this meeting, the AALCO Secretariat has prepared a document entitled “ Notes and Comments on Selected Items before the 59th Session of the General Assembly” (Doc. No. AALCO/Notes and Comments/UNGA/59/2004), and as I have understood it has been distributed to all Member States.

Before concluding I would like to draw your attention to the rather modest budget of AALCO and while thanking Member States who have paid their contribution, urge those who have not so far made their contributions, to do so in time to facilitate the work of the Secretariat. I would also urge those Member States who have not cleared their arrears to do so for the same reasons.

Finally, Mr. Chairman during Bali session we had a proposal from Japan to present in Kenya session a budget for two years 2005-2006 for the first time so we can always have one year ahead in our budget. The purpose of this suggestion by Japan was that unfortunately, we hold our meetings most probably in June or July of each year. It is a long way to wait for the approved budget. Since the only forum to approve the annual budget is the session. Therefore, if we have one-year ahead budget approved by the Member States it will facilitate very much the work of the Secretariat. That is because

most of the Member States do not send their contributions unless the budget is approved by the Member States in the annual session. So if we have one year ahead the Secretariat can work smoothly. Thank you Mr. Chairman.