

ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION



**REPORT OF THE SECRETARY-GENERAL ON THE WORK OF THE
ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION**

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REPORT OF THE SECRETARY-GENERAL ON THE WORK OF THE ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION

I. INTRODUCTION

1. In accordance with Rule 20 (7) of the Statutory Rules of the Asian-African Legal Consultative Organization (AALCO), it is an honour and privilege for Prof. Dr. Rahmat Mohamad, the Secretary-General to present a Report to the Member States on the administrative, organizational and substantive matters since the conclusion of the AALCO's Fiftieth Annual Session held at Colombo, Democratic Socialist Republic of Sri Lanka, from 27 June to 1 July 2011. This Report covers activities until 25 May 2012. An update for the remaining period shall be presented at the forthcoming Abuja Session.

2. To begin with, the Secretary-General expresses his sincere gratitude to the current President of AALCO, His Excellency Mr. Rauff Hakeem, Minister for Justice of the Democratic Socialist Republic of Sri Lanka for his guidance and support to the AALCO Secretariat in all its activities. The Secretary-General expresses profound thanks to Her Excellency Mrs. Ifeyinwa Rita Njokanma, Vice-President of the Fiftieth Annual Session of AALCO and Director, International Law Department, Federal Ministry of Justice, Federal Republic of Nigeria for discharging the duties as Vice-President of the Fiftieth Annual Session of AALCO.

3. The Secretary-General also take this opportunity to express his gratitude to all Member Governments, their Ambassadors/High Commissioners and the Liaison Officers, for their valuable inputs in dealing with the substantive and organizational matters and for the kind support, which has helped him in discharging his duties and functions in a smooth manner.

4. The year 2012 marks another milestone in the journey of AALCO. Last year the Organization witnessed a very fruitful Fiftieth Annual Session, which was held in Colombo, where some of the most progressive new initiatives like the AALCO Eminent Persons Group, had its first meeting. The outcome of that meeting *inter alia* paved the ground rules and measures that the Organization would take for building upon its present glorious edifice in the field of rendering valuable advisory services to its Member States, in the field of international law, on some of the most important and pressing common concerns.

5. It may be recalled that the First Annual Session of AALCO was held, in New Delhi, India, from 18 to 27 April 1957. Thus, the Fifty-First Annual Session is an important occasion to reflect upon the past achievements, for example the steering role that the Organization played during the negotiations on the United Nations Convention on the Law of the Sea (UNCLOS) and also the present day challenges in international law. It would also provide an opportunity to carve out the path for the next phase of development for the Organization. The Secretary-General profoundly thanks the Government of the Federal Republic of Nigeria for agreeing to organize this Annual Session.

6. At the invitation of the Government of the Federal Republic of Nigeria the Fifty-First Annual Session of the Organization is being held in Abuja from 18 to 22 June 2012. It may be recalled that Nigeria; joined the Organization in 1970, and takes significant interest in promoting the work of AALCO. It is for the third time in the annals of AALCO that the Government of the Federal Republic of Nigeria is hosting the Annual Session of AALCO. It had hosted the Thirteenth and Forty-First Annual Sessions of AALCO in Lagos and Abuja, in 1972, and 2002 respectively. In this regard, the Secretary-General takes this opportunity to express his gratitude to the Government of Nigeria for responding to his request for hosting the Fifty-First Annual Session with utmost speed and efficiency. As it was the turn of the African continent to host the Annual Session, the Secretariat had been in correspondence with the Member States of Africa. On 1 February 2012, the Secretariat received a communication from the High Commission of the Federal Republic of Nigeria, in India stating that the Government of Nigeria had accepted to host the Fifty-First Annual Session of AALCO in Abuja in 2012.

7. The present Report is divided into seven sections, apart from a brief Introduction and Concluding Remarks, it contains: Steps taken to Revitalize and Strengthen the Asian-African Legal Consultative Organization; Consideration of Work Programme of AALCO at the Fifty-First Annual Session of AALCO; Activities undertaken since the Fiftieth Annual Session of AALCO; Strengthening the Cooperation with the United Nations, its Specialized Agencies and other International Organizations; and Plan of Action for the Coming Year.

II. STEPS TAKEN TO REVITALIZE AND STRENGTHEN THE ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION

8. Pursuant to the adoption of the Putrajaya Declaration, in 2009, various activities have been initiated on a regular basis, to make AALCO the main centre for harmonizing the action of Asian-African States in international legal matters. These include: Capacity Building Programmes; initiation of AALCO Lecture Series, and AALCO-Eminent Persons Group (EPG)¹.

1. Strengthening the Human Resources in the AALCO Secretariat

9. The Secretariat plays a crucial role in strengthening the work of the Organization. Presently, the Secretariat functions under severe constraints of human and financial resources. Yet the final products bear no witness to these handicaps and measure up to the quality and quantity of any important international conference and their outputs held anywhere in the world. In view of the decrease in legal staff strength and the increasing activities being undertaken by the Organization, it is proposed to recruit at least two new legal staff members in the Secretariat

¹ An overview of these measures will be given in the subsequent part of this report. Some of the details were also provided in the Secretary-General's Report of 2011 (AALCO/50/COLOMBO/2011/ORG 1).

in 2012-2013. Hence, AALCO needs to further strengthen the infrastructure and other facilities offered to the Secretariat Staff.

10. In the International Category Staff, presently, all officials are from Asian States, thus, in order to ensure that the African character of the AALCO is also visible; The Secretary-General requests the African States to second at least one senior official to the Secretariat as Deputy/Assistant Secretary-General. Likewise, he also requests the Arab Member States to consider deputing one senior official to the Secretariat for managing the affairs of the Arabic Section.

11. Furthermore, to give an international character to the Professional Category of the Secretariat Staff, it is felt that there is a need to ensure that the Secretariat should be in a position to attract and retain the best talent from the two regions. This entails offering remuneration and other terms and conditions of services at par with the other Inter-governmental Organization. Towards realizing this goal Member States are requested to nominate legal officers on deputation from their Legal Ministry, to assist in the legal research. However, the remuneration for these officials would be borne by the sponsoring State.

12. To encourage the assimilation of academic inputs into the work of AALCO, the Secretary-General proposes a Visiting Fellowship programme for senior academic and research assistant for postgraduate students from AALCO Member States.

2. Measures to Improve the Financial Situation of AALCO

13. It may be recalled that to improve the financial situation of AALCO, at the Putrajaya Session, a proposal was placed for consideration of the Heads of Delegations, it was in the form of a comprehensive approach that included the following four measures: (i) Revision of Assessed Scale of Contributions; (ii) Action Plan to Collect Arrears; (iii) Voluntary Contributions; and (iv) Replenishment of Reserve Fund. An update on each of these following measures is presented below.

(i) Adoption of Revised Scale of Contributions and Receipt of Annual Contributions from the Member States

14. In 2009 at the Forty-Eighth Annual Session held in Putrajaya, Malaysia, vide resolution AALCO/RES/48/ORG 2, the “revised scale of assessed contribution of Member States” was adopted. Pursuant to that decision and in response to AALCO/RES/50/ORG 2, until 25 May 2012, annual contribution from the following 34 Member States has been received, namely: (i) Bahrain; (ii) Botswana; (iii) Brunei Darussalam; (iv) People’s Republic of China; (v) Cyprus; (vi) Democratic People’s republic of Korea; (vii) Arab Republic of Egypt; (viii) Ghana; (ix) India; (x) Indonesia; (xi) Republic of Iraq; (xii) Japan; (xiii) Jordan; (xiv) State of Kuwait; (xv) Malaysia; (xvi) Mauritius; (xvii) Myanmar; (xviii) Nepal; (xix) Pakistan; (xx) Republic of Korea; (xxi) Kingdom of Saudi Arabia; (xxii) Singapore; (xxiii) Republic of South Africa; (xxiv) Democratic Socialist republic of Sri Lanka; (xxv) Thailand; (xxvi) Turkey; (xxvii)

United Arab Emirates; (xxviii) Uganda; (xxix) Republic of Yemen; (xxx) United republic of Tanzania; (xxxi) Sultanate of Oman; (xxxii) Kenya; (xxxiii) Qatar and (xxxiv) Bangladesh. The Secretary-General expresses his profound appreciation to these Member States for complying with their financial obligations.

15. Further, as regards, the remaining Member States, the Secretariat is, on a regular basis, informing them through their Diplomatic Missions and Liaison Officers in New Delhi, the importance of fulfilling their statutory and financial obligations to the Organization. The Secretary-General hopes that these efforts would yield results and by the end of this year, the annual contributions from these States would be received.

(ii) Action Plan to Collect Arrears

16. The Extraordinary Session held at the Headquarters on 1 December 2008, in order to tide over the precarious financial situation of AALCO had approved an “Action Plan”.² As per the Action Plan, the Member States in arrears have been divided under two heads: first, Member States which are in arrears for less than ten years; second, Member States in arrears for more than ten years. The Secretary-General was requested to take necessary follow-up action with these States. It may be recalled that AALCO had urged those Member States in arrears to expeditiously clear their arrears. Furthermore, vide resolution AALCO/RES/48/ORG 1 adopted on 20 August 2009, the Secretary-General was requested to implement this Action Plan, the same was also reiterated during the Forty-Ninth Annual Session.

17. Accordingly, the Secretary-General placed this onerous responsibility on the Deputy Secretary-General from Japan, who has been regularly meeting the Heads of Diplomatic Missions and Liaison Officers of these Member States in New Delhi, for materialising the action plan to collect arrears.

a. Status of Collection of Arrears

18. Since the Fiftieth Annual Session, the AALCO Secretariat is pleased to inform the Member States that the following nine Member States have either cleared or are in the process of clearing their accumulated arrears namely: Republic of Yemen; Republic of Iraq (it has paid its third instalment, pursuant to the MOU signed with AALCO); Botswana; Pakistan; Nepal; Uganda; Arab Republic of Egypt; Federal Republic of Nigeria; and State of Qatar.

19. Efforts are continuing with the following Member States in arrears for more than ten years i.e., Democratic People’s Republic of Korea, Mongolia, The Gambia, and the State of Palestine, through their Diplomatic Missions in New Delhi, to conclude MoUs.

² AALCO/ES (NEW DELHI)/2008/ORG. 1, from page numbers 7-9.

(iii) Voluntary Contributions

20. The Secretary-General is grateful to the Governments of Member States of the Sultanate of Oman, Malaysia (before Forty-Ninth Annual Session) and Turkey (after Forty-Ninth Annual Session) for their voluntary contributions and would like to propose that any voluntary contribution made by a Member State should not be added to the regular budget of the Organization. It would be utilized for project specific action for which the Member State has made such voluntary contribution.

(iv) Replenishment of Reserve Fund

21. Rule 27 (3) of the Statutory Rules of the Organization authorizes the Secretary-General to maintain a reserve fund. To strengthen and firmly put the Organization, on a firm financial footing, it is essential that an adequate Reserve Fund is maintained by the Organization. The amount kept in Reserve Fund should at least be enough so that it could meet the expenses of the Organization for at least a period of six months.

(v) Increasing the Membership of AALCO

22. 47 States are currently Member States of AALCO. 32 of these are Asian States and 15 are African States. In the informal regional grouping system that exists in the United Nations, both Asia and Africa account for 53 countries each. Therefore, both within the Asian and African continent, immense scope for widening the membership base of the AALCO exist. Building upon the efforts put in by the distinguished predecessors, the current President of AALCO, as well as the Deputy Secretaries-General, the Secretary-General has approached the Heads of Diplomatic Missions of several of these countries in New Delhi. The Secretariat has received some positive responses from some of these States and the matter of their joining AALCO is under the active consideration of their respective Governments. In case, these States become Member States of AALCO their prospective contributions would strengthen the financial stability of AALCO.

23. Last but certainly not the least, the Secretary-General would like to inform the Member States that continuous efforts are being made on optimizing the use of both the human and material resources available within the Secretariat. All efforts to minimize and curtail the operational costs are being made.

III. CONSIDERATION OF WORK PROGRAMME OF AALCO AT THE FIFTY-FIRST ANNUAL SESSION OF AALCO

24. The Work Programme of AALCO, comprises (i) follow-up of the work of the International Law Commission; (ii) topics that have been placed on the agenda on reference by a Member State; and (iii) topics placed on the *suo-moto* initiative of the Secretary-General. Currently, there are 15 items on the work programme of AALCO namely:

- Report on Matters Relating to the Work of the International Law Commission
- Law of the Sea
- The Status and Treatment of Refugees
- Deportation of Palestinians and Other Israeli Practices among them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949
- Legal Protection of Migrant Workers
- Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties
- International Terrorism
- Establishing Cooperation against Trafficking in Women and Children
- The International Criminal Court: Recent Developments
- Environment and Sustainable Development
- Challenges in Combating Corruption: The Role of United Nations Convention against Corruption
- Report on the Work of UNCITRAL and Other International Organizations in the Field of International Trade Law
- WTO as a Framework Agreement and Code of Conduct for World Trade
- Expressions of Folklore and its International Protection
- Managing Global Financial Crisis: Sharing of Experiences

25. It may be recalled that since the Forty-Second (Seoul, 2003) Annual Session, the Organization, has adopted a policy of rationalization of agenda items, and out of these 16 items, certain number of items, depending upon the current relevance of the topic are placed on the agenda of the Annual Session. In furtherance of this policy, for the Fifty-First Annual Session following agenda items are placed in the category of deliberated items:

- Deportation of Palestinians and Other Israeli Practices among them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949;
- Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties;
- The International Criminal Court: Recent Developments; and
- Environment and Sustainable Development;

26. In addition, three half-day special meetings on agenda items pertaining to the “Selected Items on the Agenda of the International law Commission”; “Law of the Sea – Responses to Piracy: International Legal Challenges” and “International terrorism” are also being convened in conjunction with the Fifty-First Annual Session.

27. Concerning the non-deliberated agenda items the Secretariat has prepared an update of all these items. On the suggestion of some Member States, the Secretariat Reports on non-

deliberated items is brought out in a single compilation. The Member States are requested, to provide to the Secretariat, their written comments if any on these agenda items.

IV. ACTIVITIES UNDERTAKEN SINCE THE FIFTIETH ANNUAL SESSION OF AALCO

1. Secretary-General's participation at the Asia Pacific Regional Arbitration Group (APRAG) Conference (9 – 10 July 2011)

28. Asia Pacific Regional Arbitration Group (APRAG) Conference was convened from 9 to 10 July 2011 on the theme “**International Arbitration in a Challenging Region**” in Kuala Lumpur, Malaysia. The APRAG Committee during its General Meeting in Kuala Lumpur on 8th July 2011, appointed Mr. Sundra Rajoo, Director of the Kuala Lumpur Regional Centre for Arbitration (KLRCA) as the President of APRAG and KLRCA as its Secretariat for the period of 2011-2013. The objectives of the Conference were: (i) To foster a conducive environment for dialogue, knowledge sharing and to promote APRAG's outstanding contribution in raising the standards of transnational and regional arbitration practices, (ii) To provide a platform for sharing of best practices and innovative approaches in view of challenges arising in arbitration and other forms of alternative dispute resolution; and (iii) To position Malaysia as a preferred venue for alternative dispute resolution.

29. Seven sessions were held on the following important topics, namely: 1) Challenges Facing Arbitral Institutions in the Region, 2) Evolving Arbitration Rules in the Region, 3) Perspectives in Managing Arbitration in Different Jurisdictions, 4) Supervisory Jurisdiction of Courts in the Region, 5) Problems Encountered in Enforcement of Awards in the Asia Pacific Region, 6) Arbitrating Islamic Banking and Finance Disputes, and 7) Protecting Cross Border Investments.

30. The Secretary-General of AALCO chaired Session-6 on the topic “*Arbitrating Islamic Banking and Finance Disputes*” on 10 July 2011. The session focused on various aspects of Islamic Banking including an Overview of Islamic banking and finance in Asia Pacific, Islamic Finance Arbitrations Application and Enforcement: A Shariah Perspective, Arbitration-Consistent with the Spirit of Islamic Banking? The Benefits and Challenges of Arbitrating in Islamic Banking and Finance Disputes; and the Role of the Shariah Advisory Council in Arbitration – A friend or foe.

2. Address at the Sixty-Third Session of the International Law Commission (26 July 2011)

31. Prof. Dr. Rahmat Mohamad, the Secretary-General of AALCO addressed the Sixty-third Session of the International Law Commission (ILC) at the United Nations Offices in Geneva on 26 July 2011. The Verbatim record of the agenda item and the deliberations on “Report on Matters Relating to the Work of ILC at its Sixty-Second Session” at the Fiftieth Annual Session of AALCO held in Colombo, Sri Lanka from 27 June to 1 July 2011, was also circulated for discussion. With special reference to the matters relating to the work of the ILC, it was

informed that one of the significant achievements of the Session was the constitution of an Eminent Persons Group (EPG) with the aim to serve as an “Advisory Body” for the Secretary-General to steer the work of the Organization. There was an in-depth deliberation, followed by question and answer session.

3. Secretary-General’s Meetings with WIPO and UNCTAD Officials (27 July 2011)

32. The Secretary-General during his visit to Geneva on 27 July 2011, held a meeting with the officials of the WIPO and UNCTAD, Geneva and discussed about future cooperation and close working relationship with the two organizations. There were also suggestions to conduct joint programmes in the form of seminars/workshops/inter-sessional meetings with the support of Member States of AALCO which would be mutually beneficial to both the organizations.

4. AALCO Meeting and AALCO-ILC Meeting in New York (31 October 2011)

33. An AALCO Meeting and the AALCO-ILC Meeting were convened on 31 October 2011 in New York on the sidelines of the Sixty-Sixth Session of the United Nations General Assembly (UNGA). It is an annual event where the Legal Advisers of the AALCO Member States and non-Member States deliberate on some of the important issues of international law. The opening remarks were made by H. E. Mr. Rauff Hakeem, Minister of Justice of Sri Lanka and the President of the Fiftieth Annual Session of AALCO. Thereafter, presentations were made by Ms. Patricia O Brien, UN Under-Secretary-General for Legal Affairs and United Nations Counsel on the topic “Promoting International Law”; and Ambassador Christian Wenaweser, the President of the Assembly of States Parties of the ICC on the topic “Crime of Aggression”.

34. The Legal Advisers meeting was followed by the AALCO-ILC Meeting. Mr. Maurice Kamto, Chairman of the ILC, chaired the meeting. Following topics, namely; Expulsion of Aliens, Responsibility of International Organizations, and Protection of Persons in the Event of Disasters were presented by the respective Special Rapporteurs and Member of the ILC – Mr. Maurice Kamto, Mr. Giorgio Gaja, and Mr. Eduardo Valencia-Ospina. Mr. Mahmoud D. Hmoud and Dr. Rohan Perera, Members of the ILC were the discussants for the meeting.

5. Luncheon meetings in New York (28 October 2011 and 1 November 2011)

35. As a new feature to the 2011 AALCO-ILC Meeting, there were two Luncheon meetings held on 28 October 2011 and 1 November 2011 held in New York. At the first Luncheon Meeting, presentations were made by H.E. Mr. Hernán Salinas Burgos, Chairperson of the Sixth Committee of the UNGA on the topic “*Protecting Democracy in the Americas*” and by Prof. David Caron, President of the American Society of International Law on the topic “*Judicial Independence and Impartiality in International Law*”.

36. At the 1 November 2011 Luncheon Meeting, presentations were made on the topic of “Investment Law and Intellectual Property” by experts invited by Dr. Roy S. Lee, Permanent

Observer of AALCO to the United Nations, New York. A fruitful deliberation ensued after the presentations.

6. Fifty-fifth Constitution day celebrations of AALCO (11 November 2011)

37. In commemoration of the Fifty-Fifth Constitution Day of AALCO, on 11 November 2011, an Interactive Meeting with the Heads of Missions of Member States of AALCO was convened by the Secretary-General of AALCO, at Taj Palace Hotel in New Delhi. The Ambassadors/High Commissioners and Liaison Officers from 25 Member States of AALCO and 2 Non Member States participated in the meeting. The meeting was inaugurated by H.E. Mr. Prasad Kariyawasam, the High Commissioner of Sri Lanka to India, on behalf of H.E. Mr. Rauff Hakeem, the Minister of Justice of Sri Lanka and the current President of AALCO. After the inaugural address, the Secretary-General of AALCO in his presentation highlighted the outcome of the Fiftieth Annual Session and the Plan of Action for the year 2011-2012.

38. The Honourable High Commissioner of Sri Lanka to India, at that occasion released an AALCO publication titled “**Report of the Meeting of Legal Experts on the Rome Statute of the International Criminal Court: Issues and Challenges**” which was held in Putrajaya Malaysia from 19 to 20 July 2011.

39. After the Presentation made by the Secretary-General of AALCO, the Ambassadors/High Commissioners and senior officials from the following Member States presented their comments/suggestions: Republic of South Africa, Japan, State of Kuwait, Democratic Socialist Republic of Sri Lanka, Arab Republic of Egypt, Sultanate of Oman, Turkey, Malaysia, India, and Federal Republic of Nigeria. Dr. Xu Jie, the Deputy Secretary-General of AALCO proposed a vote of thanks to the distinguished audience.

7. Secretary-General’s visit to Australia (November 2011)

40. An international workshop entitled ‘**Institutional Supports For Strengthening The International Rule of Law**’ was convened in Brisbane from 21 to 22 November 2011 by the Institute for Ethics, Governance and Law (IEGL). At the invitation of the Institute for Ethics, Governance and Law (IEGL) Australia³, the Secretary-General of AALCO, Prof. Dr. Rahmat Mohamad presented a paper on “*International Criminal Court in the Development of international rule of law: a Reflection of Asian-African views*” on 21 November 2011.

41. On 25 November 2011, The Human Rights and Governance Colloquium, Queensland University of Technology, Brisbane, Australia organized an international conference on “Shifting Global Powers: Challenges and Opportunities for International Law”. At the invitation of the organizers, a keynote address was delivered by Prof. Dr. Rahmat Mohamad, on

³ A joint initiative of the United Nations University, Griffith University and QUT in association with ANU), The Centre for International Governance Innovation (CIGI) Waterloo, Canada, The United Nations University (UNU), Tokyo and the Australian Governance Research Network.

the topic “*The Role of the International Criminal Court and Rome Statute in International Criminal Justice Standard Setting: Some Reflections*”.

8. Deputy Secretary-General’s Participation at the 19th SATS (27 November 2011)

42. The 19th South Asia Teaching Session (SATS) on International Humanitarian Law (IHL) was jointly organized by the International Committee of the Red Cross (ICRC) and the National Law School of India University, Bengaluru from 27 November to 5 December 2011. Dr. Xu Jie, the Deputy Secretary-General of AALCO was invited to be the Distinguished Guest at the Inaugural Session of the SATS programme and he delivered a statement on behalf of AALCO. Prof. Dr. R. Venkata Rao, Professor of Law and Vice-Chancellor National Law School of India University, Bengaluru; Mr. Francois Stamm, Head of Regional Delegation for South Asia, ICRC, New Delhi; and Mr. Christopher Harland, Regional Legal Adviser, ICRC, New Delhi were the other speakers at the inaugural session of the SATS programme.

9. International Seminar on Institutional Arbitration and Online Dispute Resolution techniques organized by Construction Industry Arbitration Council (CIAC) with the support of AALCO and UNCITRAL (15 December 2011)

43. An international seminar was organized on 15 December 2011 in New Delhi on the topic “Institutional Arbitration and Online Dispute Resolution techniques” which was organized by Construction Industry Arbitration Council (CIAC), New Delhi with the support of AALCO and UNCITRAL. The themes for the seminar were: (i) The comparative advantages of Institutional arbitration and ad-hoc arbitration, (ii) UNCITRAL Rules: Yesterday, today and tomorrow; (iii) Proposed Amendments to the Arbitration Act, 1996, (iv) Post Award Delays, (v) Dispute Resolution Mechanism, (vi) Legal issues in context of online Dispute Resolution, and (vii) Online Dispute Resolution and its Significance for international commercial Arbitration.

10. Visit by Hon’ble Mr. Rauff Hakeem, the Minister of Justice of the Democratic Socialist Republic of Sri Lanka and the President of AALCO at the AALCO Headquarters (24 January 2012)

44. On 24 January 2012, Hon’ble Mr. Rauff Hakeem, the Minister of Justice of the Democratic Socialist Republic of Sri Lanka and the current President of AALCO visited the AALCO Headquarters. The Hon’ble Minister was accompanied by H. E. Prasad Kariyawasam, High Commissioner of Sri Lanka to India; Ms. Mahishini Colonne, Deputy High Commissioner of Sri Lanka to India and Liaison Officer of Sri Lanka to AALCO; Mr. Salman, Legal Secretary to the Hon’ble Minister of Justice; and Mr. S. P. W. Pathirana, Counsellor, High Commission of Sri Lanka to India. The President of AALCO had a meeting with the Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO; Dr. Xu Jie, Dr. Hassan Soleimani, and Dr. Yasukata Fukahori, the Deputy Secretaries-General of AALCO.

45. The President of AALCO during his visit to the AALCO Headquarters addressed the resumed 314th Meeting of the Liaison Officers of AALCO.

11. Lecture by Hon'ble Rauff Hakeem, the Minister of Justice of the Democratic Socialist Republic of Sri Lanka and President of AALCO at the Indian Council of World Affairs (ICWA), New Delhi (24 January 2012)

46. On 24 January 2012 in the evening, Hon'ble Mr. Rauff Hakeem delivered a Lecture on the topic **“Responsibility to Protect: Asian-African Perspectives”** at the Indian Council of World Affairs (ICWA), New Delhi. Welcome remarks were delivered by Mr. Sudhir T. Devare, Director-General of ICWA. Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO gave a brief introduction about AALCO at the occasion. Prof. Upendra Baxi, Professor Emeritus, University of Delhi and a well-known legal luminary in India chaired the Programme. Prof. Baxi requested the Hon'ble Minister to deliver the lecture and the Minister of Justice gave a detailed presentation on the topic which is highly relevant and contemporary as far as developing countries were concerned. The lecture was attended by many dignitaries, Liaison Officers of AALCO Member States, and some research scholars from the academic fraternity in New Delhi.

12. Joint Seminar on “Competition Law in Emerging Economies: Trends and Developments in India” with O.P. Jindal Global Law University at AALCO Headquarters (28 - 29 January 2012)

47. A Two-Day Conference was jointly organized by the Asian-African Legal Consultative Organization (AALCO) and O.P. Jindal Global University (JGU) with the support of Competition Promotion and Consumer Protection Directorate, Ministry of Commerce and Industries, Islamic Republic of Afghanistan, on 28 and 29 February 2012 on the topic **“Competition Law in Emerging Economies: Trends and Developments in India”** It is an upcoming area of interest to the developing countries, particularly in Asia and Africa. The Honourable Union Minister for Corporate Affairs, Government of India Dr. M. Veerappa Moily inaugurated the Conference. The Secretary-General of AALCO delivered the introductory remarks on the topic. The first day of the conference was held in AALCO Headquarters and topics that were discussed included (i) Early Days of Competition Commission of India, (ii) Cartels and Other Anti-competitive Agreements, and (iii) comparative perspectives on Sector Regulation. Some of the Liaison Officers also attended the Conference.

48. The Second day of the Conference was held at the O.P. Jindal Global University (JGU). The topics were very relevant and the eminent speakers provided a detailed analysis of relevant market determination, abuse of dominance position of companies, and merger control regulation in India. Two of the sessions during the Conference were chaired by our Deputy Secretaries-General Dr. Xu Jie and Dr. Yasukata Fukahori. Dr. Xu Jie delivered the vote of thanks on behalf of the Secretary-General at the valedictory session. The Conference was well represented by some of the Liaison Officers of AALCO Member States and students of the JGU.

13. Workshop on “Trade Law as a Means to Promote Economic Growth” organized by Office of the Permanent Observer of the AALCO, New York (7 February 2012)

49. The Office of the Permanent Observer of the Asian-African Legal Consultative Organization, New York conducted a workshop on the topic **“Trade Law as a Means to Promote**

Economic Growth” on 7 February 2012 in New York. Ms. Patricia O’Brien, UN Under-Secretary-General for Legal Affairs and United Nations Counsel introduced the subject matter identifying some of the challenges and possibilities. Mr. Salim Moollan, Chair of the UNCITRAL Working Group on Arbitration and Conciliation and a practicing Barrister in London deal with other issues. Mr. Renaud Sorieul, Secretary of UNCITRAL presented the current status of trade law instruments. This workshop was organized at the initiative of Dr. Roy. S. Lee, Permanent Observer of the AALCO in New York.

14. Secretary-General’s participation at the Eighth International Conference organised by the India Society of International Law (23 - 25 February 2012)

50. The Indian Society of International Law (ISIL), New Delhi held its Eighth International Conference on **Emerging Concerns in Public International Law** on 23 and 24 February 2012 at the ISIL premises. The Conference saw the participation of Judges, Advocates, practitioners and academics in the field of international law and students from various universities. The Inaugural Address was delivered by Justice Jasti Chelameswar, Judge, Supreme Court of India. The Conference had four Working Sessions devoted to exploring four different areas of international law that included; *Intervention and International Law, International Criminal Court and The Crime of Aggression, Prohibition of Torture and Enforced Disappearances and Nagoya Protocol and Access to Benefit Sharing of Genetic Resources*. For the Session that focused on International Criminal Court and the Crime of Aggression, the Secretary-General of AALCO Prof. Dr. Rahmat Mohamad delivered the keynote address, which was greatly appreciated by all the panelists and participants.

15. Training Programme for the Diplomats and officials from Kingdom of Saudi Arabia on the “Working of AALCO” (12 - 13 March 2012)

51. A two day Training Programme on the Working of AALCO was convened at the AALCO Headquarters from 12 to 13 March 2012. The programme was specially arranged for Officials of the Ministry of Foreign Affairs and Interior from the Kingdom of Saudi Arabia. A London based Public International law firm *Volterra Fietta* had arranged for these officials to visit the AALCO Headquarters. In the two days of the Training Programme, officials were given a detailed overview on the working of AALCO both in its Organizational and Substantive spheres. AALCO's cooperation with the International Law Commission (ILC) and United Nations (UN) as well as other international organizations were also explained. The Training Programme was attended by more than 20 diplomats and officials from the concerned Ministry of Kingdom of Saudi Arabia. At the end of the event, certificates and some publications of AALCO were distributed to the participants by H.E. Prof. Dr. Rahmat Mohamad, Secretary-General.

16. Informative Discussion on Commercial Arbitration, New York (26 March 2012)

52. An Informative Discussion on the topic “State to State, Investor to State and Commercial Arbitration: Procedures and Implications” was organized by the Office of the Permanent Observer of the Asian-African Legal Consultative Organization, New York on 26

March 2012 in New York. The eminent speakers addressed key issues connected to the initiation of arbitration: choice of arbitrators, costs, applicable law and enforcement of decisions. Mr. Veijo Heiskanen of Lalive LLP (Switzerland) focused his presentation on European Practice and Ms. Bing Yan of White & Case LLP (USA) focused on Asian Practice. The discussion was followed by exchange of views.

17. 2nd Meeting of the AALCO-EPG held at AALCO Secretariat, New Delhi (9 April 2012)

53. The 2nd Meeting of the AALCO-EPG was held at AALCO Secretariat, New Delhi on 9 April 2012. Dr. A Rohan Perera, Chairman of the Eminent Persons Group (EPG) chaired the meeting. The Report will be presented by the Chairman, at the Fifty-First Annual Session, the same is also annexed to this document as Annex III.

54. The following members of the EPG attended the meeting. Mr. Narinder Singh, Member of ILC, India; Prof. Shinya Murase, Member of ILC, Japan; Prof. Githu Muigai, Member of ILC, Kenya; Mr. Feng Quingh, Counselor, Department of Treaty and Law, Ministry of Treaty and Law, People 's Republic of China (Representing Mr. Huang Huikang, Member of ILC, PR China); Mr. Mohd. Razi Harun, Deputy Head of International Affairs, Attorney General's Chambers, Malaysia (Representing Tan Sri Abdul Gani Patail, Attorney general of Malaysia); and H.E. Sheikh H. Ali Sultan Al-Maani, Ambassador of Sultanate of Oman in India (Representing H.E. Dr. Abdullah Said Al Saidi, Minister of Justice). As observers, the following members were present during the meeting. H.E. Prof. Festus Kaberia, High Commissioner of Kenya to India; Mr. Eliphas M. Barine, Deputy Head of Mission, H.C. of Kenya in India; H.E. Dato Tan Seng Sung, High Commissioner of Malaysia in India; Dr. Intan M. Ramli, International Affairs Division, AG's Chambers, Malaysia; Mr. Saifulrijal Azhari, International Affairs Division, AG's Chambers, Malaysia; Mr. Salim H. Al-Battashi, Minister, Embassy of the Sultanate of Oman, New Delhi. The AALCO Secretariat Officials present at the meeting were: Prof. Dr. Rahmat Mohamad, Secretary-General; Dr. Xu Jie, Dr. Hassan Soleimani, Dr. Yasukata Fukahori, Deputy Secretaries-General; Mrs. Anuradha Bakshi, Assistant Principal Legal Officer; Ms. Shannu Narayan and Mr. S. Pandiaraj, Legal Officers.

55. The meeting focused on two major themes: Session I was on Organizational Matters. This session witnessed deliberations on (i) Financial Issues related to AALCO, (ii) AALCO Profile and Image, and (iii) Enlarging the Membership of the Organization. Session II was on Substantive Matters, (i) ILC Matters, (ii) AALCO Agenda Items, and (iii) Restructuring of Methodology of the Annual Sessions. The Chairman while dealing with the agenda items for the meeting and initiating deliberations and suggestions from the esteemed Members of the EPG on Organizational and Substantive Matters relating to AALCO; thanked the He also thanked Amb. Dr. Kriangsak Kittichaisaree (Thailand), Member of ILC, Thailand and Dr. Roy Lee, Permanent Observer of AALCO to UN, for their very useful and constructive suggestions in response to the issues paper.

18. Inter-Sessional Meeting of Legal Experts to discuss Matters relating to the ILC at the AALCO Secretariat, New Delhi (10 April 2012)

56. Following the mandate given by its Member States at the Fiftieth Annual Session of AALCO held in Colombo, Democratic Socialist Republic of Sri Lanka in 2011, the AALCO Secretariat convened an **Inter-Sessional Meeting of Legal Experts to discuss Matters relating to the ILC at the AALCO Secretariat, New Delhi** on 10 April 2012. The Lead Discussants for the Inter-Sessional Meeting were Dr. A. Rohan Perera, Former Member of the ILC, and Prof. Shinya Murase, Member of the ILC. Welcome remarks were made by the Secretary-General of AALCO. He also made a lucid presentation on “Appraisal of the Present and Future work of the ILC”.

57. Dr. A. Rohan Perera, Former Member of the ILC from Sri Lanka was the Lead Discussant on two important Agenda Items of the ILC; (i) Protection of Persons in the Event of Disasters; and (ii) Immunity of State Officials from Foreign Criminal Jurisdiction. The detailed presentation on these two Agenda Items of the ILC was followed by question and answer session and deliberations. Prof. Shinya Murase, Member of the ILC from Japan made presentations Proposed New Topics of the ILC which were on (i) Protection of the Atmosphere, (ii) The Fair and Equitable Treatment Standard in International Investment Law; and (iii) Other New Topics on the Long-Term programme of work of the ILC. Exchange of views and observations of Member States followed after the presentation. The closing remarks and follow-up was dealt by the Secretary-General of AALCO and Dr. Xu Jie, Deputy Secretary-General of AALCO proposed a vote of thanks on behalf of the AALCO Secretariat for legal experts who attended the Inter-Sessional Meeting.

58. Member States of AALCO participated at the Meeting; namely, (i) Democratic Socialist Republic of Sri Lanka, (ii) People’s Republic of China, (iii) India, (iv) Indonesia, (v) Islamic Republic of Iran, (vi) Japan, (vii) Kenya, (viii) Malaysia, (ix) Myanmar, (x) Kingdom of Saudi Arabia, (xi) Sultanate of Oman, (xii) State of Palestine, (xiii) State of Qatar, (xiv) Sudan, (xv) Syrian Arab Republic, (xvi) Uganda, and (xvii) Republic of Yemen. The legal staff members of the AALCO Secretariat also attended this meeting.

19. Secretary-General’s Visit to the Federal Republic of Nigeria (25 - 28 April 2012)

59. Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO visited the Federal Republic of Nigeria on 27 April 2012 and had a meeting with H. E. Mohammed Bello Adoke, Attorney General of the Federation and Minister of Justice of Federal Republic of Nigeria; Mrs. Ifeyinwa Rita Njokanma, Director, International Law Department, Federal Ministry of Justice, Nigeria, the Vice-President of the Fiftieth Annual Session of AALCO; and other high-ranking officials in the Ministry of Justice, Federal Republic of Nigeria. The meeting discussed in detail the logistics, administrative, and security arrangements done by Federal Republic of Nigeria ahead of the Fifty-First Annual Session of AALCO which would be held from 18 to 22 June 2012 in Abuja, Federal Republic of Nigeria. The meeting was very fruitful.

20. Training Programme on Trade and Development Issues organised in cooperation with the WTO Headquarters at the AALCO Secretariat, New Delhi (21 - 25 May 2012)

60. For the third consecutive year now, AALCO has jointly held a five-day workshop in cooperation with the WTO. The five-day Training Programme is jointly organized by AALCO with the Institute for Training and Technical Cooperation (ITTC), World Trade Organization (WTO); and the Centre for WTO Studies, Indian Institute of Foreign Trade (IIFT), New Delhi. The theme for this year was “Trade and Development issues”. At the Inaugural Session, a welcome remark was delivered by the Secretary-General of AALCO. Prof. Dr. Biswajit Dhar, Director-General of Research and Information Systems (RIS), New Delhi was the Keynote Speaker. Dr. Xu Jie, Deputy Secretary-General of AALCO proposed a vote of thanks on behalf of AALCO.

61. The resource persons for the 5-day Training Programme were: Mr. Shishir Priyadarshi, Director of the Development Division, WTO; Prof. Abhijit Das, Head, Centre for WTO Studies, IIFT; Prof. Madhukar Sinha, Prof. Sajal Mathur, and Prof. Shashank Priya, Professors, Centre for WTO Studies, IIFT. Important issues would be taken up during the programme. (i) Trade and its Linkages with Development; (ii) Role of South-South Cooperation in Trade and development; (iii) Special and Differential Treatment in GATT and WTO; (iv) An overview of the development dimension of the WTO Doha Round Negotiations; (v) Important development issues in NAMA Negotiations, including Duty Free Quota Free Scheme; (vi) Important Development Issues in Agriculture Negotiations; (vii) Important Development Issues in Services Negotiations; (viii) Important Development Issues in TRIPS Negotiations; (ix) Issues of Concern for Least Developed Countries and Small and Vulnerable Economies; and (x) Aid for Trade. Diplomats from Seven Member States of AALCO and few students of law participated at the Training Programme.

21. Seminar on “Maritime Baselines” to commemorate the 30th Anniversary of UNCLOS at New York (30 May 2012)

62. On 30 May 2012, Dr. Roy S. Lee, Permanent Observer of the AALCO to the UN Headquarters, New York had convened a workshop in New York jointly with the Legal Office of the United Nations to celebrate the 30th anniversary of the United Nations Convention on the Law of the Sea (UNCLOS). Law of the Sea has been an important subject for AALCO as during the negotiations AALCO had made significant contribution to the concept and provisions of territorial sea, innocent passage, Straits, EEZ and fisheries. The theme of the Workshop was “Maritime Baselines”.

22. Publications

63. The AALCO, since its inception, has regularly been bringing out publications such as Reports and Verbatim Record of the Annual Sessions, Special Reports on various topics of international law, Proceedings and Reports of various Meetings and Seminars held by AALCO, and Commemorative Volumes of Essays in International Law etc.

64. The serials brought out by the Secretariat are: Yearbook of the Asian-African Legal Consultative Organization, AALCO Quarterly Bulletin, and Newsletter: Asian-African Legal Consultative Organization which reflects on the current activities of the Organization.

(i) Yearbook of the Asian-African Legal Consultative Organization

65. The annual report of the Organization re-named as the “Yearbook of the Asian-African Legal Consultative Organization”, is being published by the Secretariat since 2003 (Volume I) and is in the Ninth year of publication. The Yearbook provides comprehensive information about AALCO, its activities, and Secretariat studies prepared on the agenda items during the year, summary of deliberations and the resolutions adopted at the Annual Session. In addition, it contains statements delivered by the Secretary-General and the Deputy Secretaries-General. In the last nine years, the Yearbook has established its place firmly among the publications of this stature. It has been well received by the Member States, international organizations, international lawyers and academics.

(ii) AALCO Quarterly Bulletin

66. For wider dissemination of information, on the practice and developments relating to different subjects of International Law, AALCO, has been publishing, ‘Quarterly Bulletin’ since 1976 (Volume 1). In the year 1997 its name and periodicity were changed to ‘AALCO Bulletin’ brought out bi-annually, till 2001 (Volume 25). The Secretariat felt the need to re-structure the format and mode of this publication and after careful discussions and study, a totally overhauled publication bearing a new title, i.e; ‘AALCO Quarterly Bulletin’ was launched by beginning once again with Volume 1, Issue No. 1 dated January-March, 2005 and is being published regularly.

67. The present AALCO Quarterly Bulletin (Vol.7, No. 1-4 (2010)) contains well-researched articles on international law; write-ups on selected current developments; and selected documents of relevance to the Asian and African States. The publication provides appropriate information to scholars and academics who are keen to obtain insights to the Organizations’ work in promoting research in international law matters. In this respect, it is requested that the Member States support this publication by way of encouraging their international law scholars, law faculty, research scholars to contribute articles for this publication, especially reflecting the international law issues in the Asian and African regions.

(iii) Newsletter of AALCO

68. In order to cover the recent meetings and other diversified activities of AALCO and to reflect upon the growing stature of the Organization, the Secretariat commenced publishing “Newsletter” from September 2004. The present Newsletter contains the most current news of AALCO and it keeps the Member States abreast with the latest developments.

(iv) **Special Studies published**

69. The Centre in pursuance of its mandate to conduct an in-depth research on topics of international law published, “Essays on Contemporary Issues in International Law” (2009); Golden Jubilee volume titled “Commemorative Essays in International Law” (2007) and four Special Studies namely: “The Concept of International Terrorism” (2006); “Rights and Obligations under United Nations Convention against Corruption” (2006); “Combating Corruption: A Legal Analysis” (2005) and “Special and Differential Treatment under WTO Agreements” (2003).

22. “Report of the Meeting of Legal Experts on the Rome Statute of the International Criminal Court: Issues and Challenges”, 19-20 July 2011, Putrajaya, Malaysia

70. The International Criminal Court (ICC) has ushered in a new era to put an end to impunity for the most serious crimes that threaten the peace, security and well-being of the world, namely genocide, crimes against humanity, war crimes and aggression. It also aims to promote the rule of law. However, the Court acts only when national justice systems are unwilling or unable to do so and is thus termed by many as “the Court of last resort”. Presently 121 countries have ratified the Rome Statute of the International Criminal Court.

71. The ICC is a crucial element of the international legal system established by States to regulate relations among its constituents and to secure the foundations of justice and peace which can provide redress to victims and hope for a better future. As consideration of developments pertaining to the International Criminal Court, constitutes an important element of the work programme of the Asian-African Legal Consultative Organization, pursuant to the mandate received from the Forty-Ninth Session of AALCO, held in Dar es Salam, United Republic of Tanzania, 2010, and based upon the positive response received from the Government of Malaysia, and the International Criminal Court, the Government of Malaysia, the ICC Secretariat and the AALCO Secretariat, jointly organized a “*Meeting of Legal Experts on the Rome Statute of the International Criminal Court: Issues and Challenges*” on 19th and 20th July 2011, in Putrajaya, Malaysia.

72. This meeting was aimed at providing the Legal Experts from the Member States of AALCO, a forum to explicitly discuss the issues and challenges relating to the Rome Statute, as well as ponder over reasons as to why some States, particularly from the Asian region, were hesitant to ratify the Rome Statute. Besides this the meeting also intended to look at the implementation and practical issues pertaining to the Rome Statute as well as to enhance understanding of the issues concerned.

73. The Meeting of Legal Experts was inaugurated by Honourable Tan Sri Abdul Gani Patail, the Attorney General of Malaysia. It was followed by, a very lucid and enlightening keynote Address by H.E. Judge Sang-Hyun Song, the President of the ICC. The discussions in the meeting were centered on the themes: (i) Preconditions for the Exercise of Jurisdiction; (ii) Bilateral Immunity Agreements (BIA’s); (iii) Principle of Complementarity; (iv) Criteria for

the Selection of Situations and Opening of Investigations: (v) Relationship between Peace and Justice; (vi) Post Kampala Review Conference: An Update; and (vii) Implications of Ratification of the Rome Statute.

74. The views expressed by the participating States revealed many concerns, in a nutshell they are as follows: the Principle of Complementarity remained a grave concern, as the term itself was not defined in the Rome Statute. The relationship between the ICC and the United Nations Security Council, in light of the referral of situations by the UNSC to the ICC, particularly in view of the fact that a few Permanent Members of United Nations Security Council were not members of ICC was also keenly debated. Concerns were also expressed about the interpretation of Article 98 of the ICC relating to the BIAs and that it was an issue that required careful interpretation. The powers of the ICC Prosecutor were also discussed at length. Some of the Member States also spelled out their reasons for not acceding to the Rome Statute which included additional financial burden on their Governments and the difficulties of internalizing the provisions of the Rome Statute into their domestic legislations. The issue of States with constitutional monarchies or presidential immunities facing difficulty accepting the Rome Statute was also highlighted. Many delegates also noted that their countries were not a Party to the Rome Statute for both legal and political reasons the primary one being the sovereignty of the nation. The interactions during the meeting were very focused and elicited intense interest among the participants. It brought out their concerns and was useful not only for the AALCO Member States but also a reciprocal opportunity for the ICC to understand the concerns of non-State Parties. The report brought together the proceedings of the meeting as well as the following debate.

75. The Secretary-General thanked the Government of Malaysia for its constant support and encouragement in furtherance of the activities undertaken by AALCO to promote cooperation and better understanding of legal issues of common concern for its Member States.

76. He also thanked the President of the ICC for agreeing to jointly co-host this event and for sparing his valuable time to deliver the Keynote Address, as well as the Secretariat of the ICC for nominating Mr. David Koller, Legal Officer, ICC Appeals Chamber and Mr. Rod Rastan, Legal Advisor, ICC Office of the Prosecutor, the two key discussants for the meeting. Special thanks are also due to Judge Motoo Noguchi, a Judge of the Supreme Court Chamber, the Extraordinary Chambers in the Courts of Cambodia (ECCC), for having most ably chaired two of the Working Sessions. A very special thanks to the Member States of AALCO for nominating their Legal Experts to attend the meeting, without their active participation this report would not have been possible. The Secretary-General also deeply acknowledged the subsequent interest of the Legal Experts from the Member States as well as from the ICC, who spared their valuable time in going through the Summary report of the meeting and providing their valuable input towards improving it further.

77. Last but not the least, the Secretary-General placed on record his appreciation to all his colleagues in the AALCO Secretariat, especially the Deputy Secretaries-General of AALCO, Dr. Xu Jie and Dr. Hassan Soleimani, for their tireless efforts in making this meeting an overall success. He also thanked Mrs. Anuradha Bakshi, Assistant Principal Legal Officer for her

efforts in preparing for the Meeting of Legal Experts and the publication of the Report of the proceedings.

23. The Secretariat

78. Apart from the Secretary-General (Malaysia), three Member Governments, namely, the People's Republic of China, Islamic Republic of Iran and Japan have offered assistance to AALCO by deputing their senior officials to the Secretariat on secondment. Deputy Secretaries-General, Dr. Xu Jie (People's Republic of China), Dr. Hassan Soleimani (Islamic Republic of Iran) and Dr. Yashukata Fukahori (Japan) have been rendering exemplary services to the Secretariat. The Secretary-General wishes to place on record his gratitude to these Member Governments for rendering such valuable assistance, and also wishes to express deep appreciation for the dedicated services of these officials deputed to the AALCO.

79. The number of the locally recruited staff (permanent category) in the Secretariat is as of 15 May 2012, is 13. The Legal Staff comprises of one Assistant Principal Legal Officer, Mrs. Anuradha Bakshi and two Legal Officers, Ms. Shannu Narayan and Mr. S. Pandiaraj. The remaining staffs are in the administrative and supporting category.

80. Mr. Mohammad Hussain K.S., Senior Legal Officer, after working in AALCO for more than seven years and Mr. Senthil Kumar, Legal Officer, after working in AALCO for six years, resigned from the Secretariat to join as Legal Officers in the Legal and Treaties Division, Ministry of External Affairs, Government of India. The Secretary-General wishes to place on record appreciation of their useful services to the Secretariat. As of now, these positions remain vacant and no fresh appointments have been made.

81. With the objective of enhancing the skills of the Legal Staff of the Secretariat, as also give them an opportunity to broaden their understanding on international law matters and promote capacity building within the Secretariat, the Secretary-General has been encouraging them to participate in such programmes. During the period under review the Legal Staff participated in the below mentioned activities. Mrs. Anuradha Bakshi, Assistant Principal Legal Officer, attended the two days Meeting of Legal Experts on the Rome Statute of the ICC: Issues and Challenges, held in Putrajaya, Malaysia on 19-20 July 2012. Mrs. Bakshi assisted in the organization of the Meeting, as well in preparing the extensive report of the meeting, which was subsequently released by the High Commissioner of the Democratic Socialist Republic of Sri Lanka, on the occasion of the 55th Constitution Day of AALCO, in November 2011. Mrs. Anuradha Bakshi, Mr. Mohammed Hussain K.S., Senior Legal Officers, Ms. Shannu Narayan and Mr. S. Pandiaraj, Legal Officers judged the Eleventh Henry Dunant Memorial Moot Court Competition, jointly organized by the Indian Society of International Law and ICRC from 22 to 25 September 2011 in New Delhi.

(i) Welfare Measures for the Secretariat Staff

82. Arrears of salary arising from the implementation of the Sixth Pay Commission's recommendation (2006) by the AALCO Secretariat are due to be disbursed to the locally-recruited staff. The Secretary-General takes this opportunity to thank the Staff for their patience and understanding in this matter. The disbursement of arrears would be done in three instalments, the first to be given in August 2012.

(ii) Retiral benefits to the AALCO Employees

83. The AALCO Secretariat in terms of payments of salary and retiral benefits to its employees closely follows the scheme followed by the Government of India. The Government of India in 2006 raised the ceiling limit for gratuity payable to its employees on cessation of employment to a sum of Rs. 10, 00,000/- (Ten lakhs). The same ceiling was also proposed for employees working in private sector. The AALCO does not pay any pension to its retired employees. In view of this, the ceiling of the gratuity amount payable to employees on the cessation of their employment was enhanced and the ceiling limit was brought at par with the Government of India.

84. In this regard it is pertinent to mention that Chapter X of the Administrative, Financial and Staff Regulations, adopted by AALCO in 1990 under Article 10.3 (iii) deals with Retiral benefits defining the formula for computation of Gratuity Award. At the Forty-Third Session in 2004, vide Resolution RES/43/ORG 10 dated 25 June 2004, formula for computing the Gratuity award was revised. Subsequently, at the Forty-Ninth Annual Session of AALCO, held in Dar es Salaam, 2010, the above mentioned resolution was recalled and it also requested the Secretary-General to follow the legal provisions of the Host Government, i.e., the Government of India, for payment of gratuity to the locally recruited staff of the Organization. On the basis of the 2010 session, the Secretary-General has implemented the ceiling limit of the 6th Pay Commission of Government of India upto Rs.10, 00,000/-. Building upon the above mentioned resolutions and keeping in mind the welfare of the locally recruited staff, it has been decided to follow the below mentioned formula for computation of the terminal gratuity award upto a ceiling limit of Rs. 10,00,000/-⁴. This formula shall be retrospectively applied and implemented in AALCO from the year 2006⁵. The formula is as follows⁶:

“10.3 Gratuity Scheme

(i) *There shall be a Terminal Gratuity Scheme for the locally recruited staff members of the Secretariat.*

⁴ The ceiling limit of the terminal gratuity award would be in consonance with the then prevailing ceiling limit as adopted by the Government of India.

⁵ The 6th Pay Commission was implemented by the Government of India on 1-1-2006.

⁶ Chapter X “Retiral Benefits” in the “Administrative, Financial and Staff Regulations” of the Asian-African Legal Consultative Organization shall accordingly be amended.

- (ii) *The criteria for eligibility of the terminal gratuity benefits shall be as follows:*
- (a) *An employee shall be eligible for a terminal gratuity award subject to a minimum qualifying period of five⁷ years continuous service with the Organization, and*
 - (b) *The terminal gratuity award shall be payable on retirement at the stipulated age: or on health grounds; or redundancy or other justified grounds; or in the event of death during employment.*
- (iii) *The terminal gratuity award shall be payable at the following rates:*
- (a) *For services of 20 years or above with the Organization, a full month's salary for each completed year of service upto a maximum period of 16 ½ years or alternatively, a monetary ceiling of Rs. 10,00,000/- (Rs. Ten lakhs), whichever is less, and*
 - (b) *For services under 20 years with the Organization, 85% of the monthly salary for each completed year of service upto a maximum period of 16 ½ years, or alternatively, a monetary ceiling of Rs. 10, 00,000/- (Rs. Ten lakhs) whichever is less.*
- For the purposes of calculation, 'monthly salary' shall mean the Basic Pay plus the Dearness Allowance (Basic Pay + DA) which a staff member shall be receiving immediately before his/her retirement or cessation of service. Any 'period' above six months shall be rounded off to a year and any period of less than six months, shall be ignored.*
- (iv) *In the event of an employee's death during employment, the benefits shall be payable to the mandated heir(s) or dependents of the employee.*
 - (v) *Gratuity shall not be awarded in case of dismissal for gross misconduct, misdemeanor, or behavior likely to bring the Organization into disrepute."*

24. Report of the Permanent Observer Mission of AALCO at the United Nations Offices

85. It may be recalled that vide AALCO/RES/48/ORG. 1, dated 20 August 2009, adopted at the Forty-Eighth Annual Session of AALCO had endorsed the Secretary-General's proposals pertaining to the "Strengthening of Permanent Observer Missions of AALCO at the United Nations Offices in New York, Geneva and Vienna".

⁷ Previously the qualifying period for entitlement to gratuity in AALCO Secretariat was two years, which has now been revised to five years, to bring it at par with the Government of India. This five year period will also include the probation period.

86. Dr. Roy S. Lee was appointed as the Permanent Observer of AALCO at the United Nations Headquarters in New York in 2009. However, the Permanent Observer of AALCO to the United Nations Offices in Geneva could not be accomplished last year due to some logistic issues. It is the considered opinion of the Secretary-General that AALCO's presence in Geneva also needs to be strongly felt as it is the seat of the International Law Commission, several UN Offices and the World Trade Organization. Therefore, for activating the Permanent Observer Mission at the UN Office in Geneva, adoption of some new measures are required.

87. In this regard, the AALCO Secretariat appreciates the initiatives of Dr. Roy S. Lee, Permanent Observer of AALCO at the United Nations Headquarters in New York in conducting seminars, workshops and AALCO-ILC Joint Meetings in New York. Notable activities were:

- (i) AALCO Meeting for Legal Advisers and the AALCO-ILC Meeting were convened on 31 October 2011 in New York;
- (ii) Workshop on the topic "Trade Law as a Means to Promote Economic Growth" on 7 February 2012 in New York;
- (iii) An Informative Discussion on the topic "State to State, Investor to State and Commercial Arbitration: Procedures and Implications" on 26 March 2012 in New York; and
- (iv) Workshop jointly with the Legal Office of the United Nations to celebrate the 30th anniversary of the United Nations Convention on the Law of the Sea (UNCLOS) on the topic "Maritime Baselines" on 30 May 2012 in New York.

88. Concerning the Permanent Observer Mission of AALCO at Offices in Vienna and UNIDO, Mrs. Christine J. Nemoto has been continuing her work. In future, the possibility of establishing a Permanent Observer Mission of AALCO at the United Nations Offices in Nairobi can also be explored.

89. The Secretary-General has been endeavouring to ensure a close working relationship between the AALCO Secretariat and these Permanent Observer Missions at various UN Offices. In this regard, subject to availability of financial resources, he also propose deputing Legal Officers from the AALCO Secretariat to these Missions, particularly during the Annual Session of International Law Commission at Geneva to render assistance to Asian-African Members of the Commission, as well as during the Annual Session of UN General Assembly in New York.

25. Report on the Functioning of the Centre for Research and Training

90. The "Data Collection Unit", which had been set up in the Secretariat in 1992, was renamed as the "Centre for Research and Training (CRT)" following a decision taken at AALCO's Fortieth Annual Session in 2001. The Centre has been engaged in activities to strengthen its research programme and disseminate information on AALCO, inter alia, by organizing training programmes/seminars for Member States officials, bringing out special studies on the issues of international law of common concern, strengthening its website and

electronic communication facilities. AALCO's website is being constantly updated. Besides this the CRT conducts the various seminars and workshops, in collaboration with the other International Organizations, Universities or other relevant partners. In addition it also plays a proactive role in providing valuable training to law students from within and outside India, by way of its Internship programmes.

91. The activities of the CRT need to be further strengthened and in this regard, The Secretary-General requests that Member States may consider providing voluntary contributions, in addition to their regular annual contribution for steering its activities. Such contributions would be earmarked in a separate fund and utilized only for the work of CRT. A detailed report of the Centre for Research and Training is available in the document No: AALCO/51/ABUJA/2012/ORG 4, Report on the Centre for Research and Training of the AALCO.

26. AALCO's Draft Budget for the year 2013

92. The Draft Budget for the year 2013 has been prepared on the basis of the Revised Scale of Assessed Contributions adopted by the Member States of the AALCO at the Forty-Eighth Annual Session, held in Putrajaya, Malaysia from 17 to 20 August 2009. The proposed Draft Budget for the Year 2013 was circulated to all the Liaison Officers during the Resumed 314th Meeting held on 24 January 2012. It was adopted at the 315th Meeting of the Liaison Officers held on 7 March 2012. In accordance with Rule 24 (4) of the Statutory Rules of AALCO it has to be finally approved by the Leaders of Delegations at the Annual Session.

27. Membership

93. Presently 47 States are Members of AALCO. As regards, increasing the membership base of AALCO, the Secretary-General would like to express his gratitude to His Excellency Mr. Rauff Hakeem, the Minister of Justice, Democratic Socialist Republic of Sri Lanka and the President of the Fiftieth Annual Session of AALCO for his efforts in requesting his counterparts in the Governments within the region for becoming Members of AALCO. Within the Secretariat the Secretary-General and the Deputy Secretaries-General are also making earnest efforts to enhance the membership of the Organization.

94. In relation to Membership of the Organization, the Secretary-General would once again invite the kind attention of Member States towards the membership of Lebanon. Although, it is the understanding of the Secretariat that Lebanon is a Member State of AALCO since 1999, a communication received in 2009 from the Government of Lebanon states that Lebanon is not a Member State of AALCO. On a positive note, the same communication states that the Embassy of Lebanon was looking towards a future cooperation with AALCO. Accordingly, the Secretariat has been working with the present Charge d' Affairs of Lebanon in New Delhi to ensure that Lebanon remains the Member State of AALCO. It is hoped that such efforts would bear positive results at the earliest.

V. STRENGTHENING THE COOPERATION WITH THE UNITED NATIONS, ITS SPECIALIZED AGENCIES AND OTHER INTERNATIONAL ORGANIZATIONS

1. Cooperation between the United Nations and the Asian-African Legal Consultative Organization

95. It may be recalled that the United Nations General Assembly vide its Resolution 35/2 of 13 October 1980, had requested the AALCO to participate in its sessions and work in the capacity of observer. Since then AALCO has been actively participating as an Observer in the work of the UN General Assembly. Following the adoption of new pattern by the General Assembly, the item pertaining to the Cooperation between the Asian-African Legal Consultative Organization and the United Nations is considered on a biennial basis. Dr. Roy S. Lee, Permanent Observer of AALCO to the United Nations Offices in New York, represented the Organization and updated the sixty-sixth session of the United Nations General Assembly on AALCO's activities and work progress.

96. It also decided to place the item for the consideration of its sixty-seventh Session in 2012. Accordingly, the item would be considered at the forthcoming Annual Session of the UN General Assembly. The AALCO would be represented during the consideration of the item and Member States are urged to participate during the deliberations on this item in the UN General Assembly.

2. Strengthening the Cooperation with Specialized Agencies and other International Organizations

97. Since the very beginning, it has been a privilege for AALCO to work in cooperation with the United Nations, its Specialized Agencies and other International Organizations. As envisaged in its Statutes, such co-operation began with the International Law Commission. Subsequently, on matters concerning Status and Treatment of Refugees, AALCO and UNHCR established close relations. With its involvement in International Trade Law matters, AALCO initiated its cooperative arrangements with UNCITRAL, UNCTAD, UNIDO and other Inter-governmental Organizations, such as the UNIDROIT and the Hague Conference on Private International Law. However, a great impetus was given to such cooperative arrangements with the according of Permanent Observer Status to AALCO by the United Nations in 1980. As a follow-up, Agreements were concluded with the United Nations, IMO, IAEA, UNIDO, UNEP, and UNITAR. AALCO also concluded similar co-operation agreements with International Organizations, which include, Council of Europe, Commonwealth Secretariat, League of Arab States and the African Union (formerly Organization of African Unity).

98. In August 2000, a Cooperation Agreement was signed between AALCO and WIPO. In 2001, Memorandums of Understanding (MoUs) were signed with International Organization for Migration (IOM), Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations University (UNU). In 2002, similar MoUs were concluded with the UNHCR and ICRC. The Cooperation Agreement with the ICRC entered into force in

July 2003. In September 2004, administrative arrangements for cooperation between the International Tribunal for the Law of the Sea and AALCO were formalized. At the Nairobi Session (2005), a revised and revitalized Memorandum of Understanding with the United Nations Environment Programme (UNEP) was signed. In February 2008, a Memorandum of Understanding between the AALCO and the International Criminal Court (ICC) was concluded.

99. In October 2009, a Memorandum of Understanding was concluded between the Secretariat of AALCO and the Institute of International Law of Wuhan University of the People's Republic of China. During the Forty-Ninth Annual Session of AALCO at Dar es Salaam, United Republic of Tanzania in 2010, a MoU was concluded with the International Council of Environmental Law (ICEL).

100. Other Organizations with whom process may be initiated include the World Trade Organization (WTO), Organization for Islamic Conference (OIC), Non-Aligned Movement (NAM), the Association of South East Asian Nations (ASEAN), the Asia Pacific Economic Cooperation (APEC) and other regional groupings of North and Latin American countries.

101. It needs to be emphasized that these cooperation agreements provide very useful basis for organizing joint meetings and seminars on topics of mutual interest with these Organizations. These Organizations provide funds for the participation of resource persons and experts, which enrich the deliberations in the AALCO meetings. AALCO's financial commitments are minimum. This is a very practical way to enhance AALCO's activities and broaden its base of research activities.

VI. PLAN OF ACTION FOR THE COMING YEAR

102. On the completion of his first term, and on the threshold of re-appointment, the Secretary-General seeks this opportunity to reiterate his gratitude to the Member States for the kind support and confidence they have reposed in him. He would do his best to keep alive the Bandung spirit of friendship, cooperation and solidarity amongst Asian-African States. As a strong votary for enhancing the participation of Afro-Asian countries in the progressive development and codification of international law, he would work strenuously to increase the influence of Asian-African States in the international legislative process.

103. The task entrusted upon the Secretary-General is a challenging one. It would be his constant endeavour to meet the growing expectations of the Member States and re-orient AALCO's activities in such a way so that it could provide more beneficial and useful services to them. Some of the steps proposed to be undertaken in the coming year include:

1. Establishing Collaboration with Educational Institutions/Universities

104. With the aim of further expanding the research activities in AALCO, it is envisaged that collaboration with Educational Institutions/Universities within and outside India is further enhanced. In furtherance of this proposal, within India, two institutes with whom plans are currently underway on research projects are O. P. Jindal Global Law University, Sonapat,

Haryana; and Gujarat National Law University, Gandhinagar, Gujarat. Moreover, with the same objective Deans/Directors of various law schools in Malaysia have also been approached.

2. Expanding Internship Projects in AALCO

105. This has been one of the very good initiatives taken at the AALCO Secretariat. Many students from India and abroad have benefited from the Internship that they received at the AALCO. In order to expand this venture, the Secretary-General would like to also engage staffs of various educational institutions/universities in this venture. It is hoped that staff members from various prestigious universities could also join hands with AALCO in research projects in future.

3. Improving the website of AALCO

106. It is essential to note that AALCO's website (www.aalco.int) has been regularly updated and reviewed to match the standards of other international organizations. Towards this end, all the recent activities and programmes undertaken within AALCO and documents pertaining to them have been uploaded on the website at the earliest. In this regard, to facilitate the Arabic speaking Member States of AALCO and utilising the Arabic Fund, an Arabic interpreter/translator has been appointed to update the website in Arabic language.

4. Preparation of the Studies on the Items on the Agenda of AALCO

107. As regards, the preparation of the Studies on the Items on the Agenda of AALCO, the preparation of these would be in accordance with the mandate received from the Fiftieth Annual Session of AALCO.

5. Preparation of Studies on Selected Items on the Agenda of the Sixty-seventh Session of the United Nations General Assembly

108. Following the established practice, with a view to assisting Member States in their participation at the Sixty-seventh Session of the General Assembly, in particular the Sixth Committee, the Secretariat would prepare studies on selected items on the agenda of the Sixty-seventh Session of the General Assembly.

6. Participation in International Meetings

109. Representation of AALCO and ILC at each other's Annual Session has now become a customary practice. Following that the Secretary-General would be attending the Sixty-fourth Session of the International Law Commission and would present an overview of the discussions held at the Fifty-First Annual Session of AALCO. In addition, he would also represent the Organization at the Sixty-seventh Session of the UN General Assembly. Another meeting, which would be convened is the AALCO's Legal Advisers' and AALCO-ILC joint meeting on the sidelines of the Sixty-seventh Session of the UN General Assembly in New York. Subject to

availability of funds AALCO might be represented at one or two other international meetings where its participation would be useful.

7. Capacity Building Programmes

110. Buoyed by the success of the “Training Workshop on the World Trade Organization” that took place at the AALCO Secretariat in New Delhi from 28 March to 1 April 2011 and the “Basic Course on the World Trade Organization”, that took place at the Secretariat in New Delhi in 2010, for the third year in succession a successful training programme on the theme “Trade and Development” was co-organized by the AALCO, in collaboration with the Institute for Training and Technical Cooperation (ITTC) WTO and Centre for WTO Studies, Indian Institute of Foreign Trade (IIFT), from 21-25 May 2012. The International Committee of Red Cross (ICRC) has also evinced continued interest in holding a programme on International Humanitarian Law next year also.

111. E-commerce is an emerging field of international law, which can be very useful to our Member States. The Secretariat proposes to strengthen its cooperation with the UNCITRAL and UNCTAD and other International Organizations dealing with International Trade Law. It is proposed that seminars or workshops could be held in cooperation with these Organizations on topics such as cyber law.

8. Strengthening the Library

112. Library is the backbone for research activities of any Organization. Fortunately, in the new Headquarters building one full floor has been devoted to the Library. It is equipped with adequate stacks and cupboards and work is in progress to scientifically organize, catalogue and place properly all the available resources. Subject to the availability of funds, online legal database, such as *Lexis Nexis*, *Westlaw* or *Hein Online* could be subscribed. Plans are also afoot to make a Digital Library.

9. Publications

113. Publications of an organization are its face to the outside world. In order to ensure wider and periodic dissemination about the various activities of AALCO, the Organization has re-oriented its existing publications and provided them a new and more reader friendly look, apart from enhancing the quality and content of the publication. The advantages of digital revolution have to be ushered into the AALCO’s publication policy and in this regard, it is proposed and to some extent has been implement, for the past two years, that most of the Secretariat publications are brought out in electronic format, this has resulted in sending lesser number of hard copies to the Member States, which in turn saves some financial resources of the Organization. Furthermore, plans are ongoing to bring out some studies on topics of relevance to our Member States.

VII. CONCLUDING REMARKS

114. AALCO's contribution towards progressive development and codification of international law and rule of law in international affairs has been very significant. While stepping into another era in the history of AALCO, at its Fifty-First Annual Session, it is imperative to rekindle the Bandung Spirit of solidarity amongst the Asian-African States and work towards the betterment of peoples of the two regions and at larger level to contribute to the well-being of humanity and humankind. In the year 2013, the AALCO would enter into the fifty-seventh year of its effective functioning towards achieving its objectives and mission of establishment. The Organization is holding its Fifty-First Annual Session, in Nigeria, in the African continent. One can say that during this long period, AALCO's journey has not been smooth, but for the immense support by its Member States, the Organization has witnessed tremendous progress. This in itself is demonstrative of the continued ideological relevance of the Organization. The voice of the people of the Afro-Asian region which is host to the largest part of the humanity needs to be echoed in various international fora. In this regard, towards enhancing the work of AALCO, the Secretary-General is convinced that Member States of AALCO would encourage and contribute towards its future activities, besides promising to place AALCO on a sound financial footing.

ANNEX I

SECRETARIAT'S DRAFT
AALCO/RES/DFT/51/ORG 1
22 JUNE 2012

REPORT OF THE SECRETARY-GENERAL ON ORGANIZATIONAL, ADMINISTRATIVE AND FINANCIAL MATTERS

The Asian-African Legal Consultative Organization at its Fifty-First Session,

Recalling the functions and purposes of the Organization as stipulated in Article 1 of the Statutes of AALCO;

Having considered the Report of the Secretary-General on Organizational, Administrative and Financial Matters pursuant to Rule 20 (7) of Statutory Rules as contained in Document No. AALCO/51/ABUJA/2012/ORG 1;

Having heard with appreciation the introductory statement of the Secretary-General on the Report of the Secretary-General on Organizational, Administrative and Financial Matters;

Also having heard with keen interest and appreciation the statements of the Heads of Delegations of AALCO Member States on the Report of the Secretary-General;

Appreciating the efforts of the Secretary-General to enhance the activities of the Organization and to implement its work programme as approved at its Fiftieth Annual Session held in Colombo, Democratic Socialist Republic of Sri Lanka, from 27 June – 1 July 2011;

Also appreciating the continued practice towards the rationalization of its work programme, including consideration of the agenda items during its annual sessions;

Taking note of the Putrajaya Declaration on Revitalizing and Strengthening the Asian-African Legal Consultative Organization; and the Action Plan as explained in Document No. AALCO/ES (NEW DELHI)/2008/ORG.1 adopted by the Extraordinary Session of AALCO Member States held on 1 December 2008, in New Delhi (Headquarters), India;

Welcoming the efforts by the Secretary-General for Revitalizing and Strengthening the AALCO;

Appreciating the Report of the Chairman on the Second Meeting of the AALCO EPG Eminent Persons Group (EPG) held on 9th April 2012, at the AALCO Headquarters in New Delhi, and also taking note of the proposals made by Member States during that Meeting;

Taking note of the Report of the Chairman of the Sub-Committee of Liaison Officers of AALCO Member States on the AALCO Secretariat's Human Resources and Financial Matters;

Noting with satisfaction the increased co-operation between the Organization and the United Nations and its Specialized Agencies, other international organizations and academic institutions:

1. **Approves** the work programme of the Organization as set out in the Report of the Secretary-General and urges Member States to extend their full support to the implementation of that programme;
2. **Requests** the Secretary-General to continue his efforts and explore the ways and means to enlarge the Membership of the Organization in Asia and Africa, in particular, to increase the representation from the African States and Central Asian States;
3. **Endorses** the continuation of the AALCO-EPG and urges it to initiate the necessary follow-up action according to the proposals made at the above mentioned meeting held at the AALCO Headquarters in April 2012;
4. **Further** extends the mandate of the Sub-Committee of Liaison Officers of Member States on the AALCO Secretariat's Human Resources and Financial Matters;
5. **Encourages** the Member States to actively participate in the Sub-Committee of Liaison Officers of Member States on the AALCO Secretariat's Human Resources and Financial Matters so as to enable it to place its Report at the Fifty-Second Session of the Organization;
6. **Encourages** Member States to make voluntary contributions to support the capacity building activities under the approved work programme of the Organization; and
7. **Further requests** the Secretary-General to report on the activities of the Organization at its Fifty-Second Annual Session.

ANNEX II

SECRETARIAT'S DRAFT
AALCO/RES/DFT/51/ORG 1 A
22 JUNE 2012

REVISION OF AALCO'S GRATUITY SCHEME FOR THE LOCALLY RECRUITED STAFF

The Asian-African Legal Consultative Organization at its Fifty-First Session,

Mindful of the Administrative, Financial and Staff Regulations of the Organization adopted in 1990;

Having considered the views of the Secretary-General on the rationale for the welfare of the Staff and upward revision of the amount of terminal gratuity payable to the locally recruited staff;

Noting that the salary structure and other staff amenities applicable to the locally recruited staff closely follows that of the Host Government of AALCO, that is, the Government of India;

Recalling its previous resolutions on this subject matter RES/43/ORG 10 (adopted on 25 June 2004, Bali, Indonesia) and RES/49/ORG 1 (8 August 2010, Dar es Salaam, United Republic of Tanzania), with a view to build upon them and simplify them;

Welcoming the initiative of the Secretary-General to revise the gratuity scheme for the locally recruited staff;

Revising Rule 10.3 of Chapter X on "Retiral Benefits" under the Administrative, Financial and Staff Regulations of the Organization, 1990 which shall be implemented retrospectively in the AALCO Secretariat from 1st January 2006;

1. **Approves** the proposal of the Secretary-General to revise the gratuity scheme and the formula for computation of gratuity applied to the locally recruited AALCO Secretariat Staff to be adopted, as follows;

"10.3: Gratuity Scheme

- (i) *There shall be a Terminal Gratuity Scheme for the locally recruited staff members of the Secretariat.*
- (ii) *The criteria for eligibility of the terminal gratuity benefits shall be as follows:*

- (a) *An employee shall be eligible for a terminal gratuity award subject to a minimum qualifying period of five years continuous service with the Organization, and*
 - (b) *The terminal gratuity award shall be payable on retirement at the stipulated age; or on health grounds; or redundancy or other justified grounds; or in the event of death during employment.*
- (iii) *The terminal gratuity award shall be payable at the following rates:*
- (a) *For services of 20 years or above with the Organization, a full month's salary for each completed year of service upto a maximum period of 16 ½ years or alternatively, a monetary ceiling of Rs. 10,00,000/- (Rs. Ten lakhs), whichever is less, and*
 - (b) *For services under 20 years with the Organization, 85% of the monthly salary for each completed year of service upto a maximum period of 16 ½ years, or alternatively, a monetary ceiling of Rs. 10, 00,000/- (Rs. Ten lakhs) whichever is less.*

For the purposes of calculation, 'monthly salary' shall mean the Basic Pay plus the Dearness Allowance (Basic Pay + DA) which a staff member shall be receiving immediately before his/her retirement or cessation of service. Any 'period' above six months shall be rounded off to a year and any period of less than six months, shall be ignored.

- (iv) *In the event of an employee's death during employment, the benefits shall be payable to the mandated heir(s) or dependents of the employee.*
 - (v) *Gratuity shall not be awarded in case of dismissal for gross misconduct, misdemeanor, or behavior likely to bring the Organization into disrepute."*
2. **Gratuity Ceiling:** The ceiling limit of the terminal gratuity award shall be in consonance with the then prevailing ceiling limit as and when adopted by the Government of India;
3. **Requests** the Secretary-General to amend the existing gratuity scheme and implement the same in accordance with the new scheme enumerated above.

ANNEX III



Draft Report of the Chairman on the Second Meeting of the AALCO-Eminent Persons Group (EPG)

1. The Second meeting of the AALCO-EPG was convened on Monday, 9th April 2012, at the Headquarters of AALCO in New Delhi. Present at the meeting were:

Mr. Rohan Perera	Chairman of the EPG, Former Member of ILC, Sri Lanka
Mr. Narinder Singh	Member of ILC, India
Prof. Shinya Murase	Member of ILC, Japan
Prof. Githu Muigai	Member of ILC, and Attorney-General of Kenya
Mr. Feng Quingh	Counselor, Department of Treaty and Law, Ministry of Treaty and Law, People 's Republic of China (Representing Mr. Huang Huikang, Member of ILC, PR China)
Mr. Mohd. Razi Harun	Head of International Affairs, Attorney General's Chambers, Malaysia (Representing Tan Sri Abdul Gani Patail, Attorney General of Malaysia)
H.E. Sheikh H. Ali Sultan Al-Maani	Ambassador of Sultanate of Oman in India (Representing H.E. Dr. Abdullah Said Al Saidi, Minister of Justice)
Prof. Dr. Rahmat Mohamad	Secretary-General
Dr. Xu Jie	Deputy Secretary-General
Dr. Hassan Soleimeni	Deputy Secretary-General
Dr. Yasukata Fukahori	Deputy Secretary-General ⁸

⁸ Besides the names of Members and their representatives mentioned above, the following persons were also present at the meeting as Observers: H.E. Prof. Festus Kaberia, High Commissioner of Kenya to India; Mr. Eliphaz M. Barine, Deputy Head of Mission, H.C. of Kenya in India; H.E. Dato Tan Seng Sung, High Commissioner of Malaysia in India; Dr. Intan M. Ramli, International Affairs Division, AG's Chambers, Malaysia; Mr. Saifulrijal Azhari, International Affairs Division, AG's Chambers, Malaysia; Mr. Salim H. Al-Battashi, Minister, Embassy of the Sultanate of Oman,

2. In his welcome remarks, **Mr. Rohan Perera, the Chairman of the EPG** welcomed all the fellow EPG members, who had travelled long distances to be present for the Second Meeting of the EPG, as well as the other distinguished dignitaries who had shown keen interest in its work. He recalled that the rationale for constituting the EPG was that after over 50 years of establishment of the AALCO, time had come to take stock of its past, present work and to give it a direction for its future work. He realized that the EPG had a very onerous responsibility to discharge. Having said that, he thanked the Secretariat for the useful background work, as well as for the issues paper circulated by the Secretary-General in advance, which would be a very useful starting point for the deliberations⁹. He also thanked Amb. Dr. Kriangsak Kittichaisaree (Thailand), Member of ILC, Thailand and Dr. Roy Lee, Permanent Observer of AALCO to UN, for their very useful and constructive suggestions in response to the issues paper. Thereafter, the Chairman placed the agenda for the Second Meeting of the EPG for consideration and adoption.

There being no comments, the **agenda** for the meeting was adopted as follows:

- | | |
|---------------------|--|
| 9.00 AM – 9.15AM | Welcome remarks by Prof. Dr. Rahmat Mohamad,
Secretary-General, AALCO |
| | -Adoption of the Agenda. |
| 9.15 AM – 9.30 AM | Welcome remarks by Mr. Rohan Perera, Chairperson of the
AALCO-EPG |
| 9.30 AM – 10.00 AM | Briefing by Prof. Dr. Rahmat Mohamad on AALCO's
Development and Programmes for 2012 |
| 10.30 AM – 12.30 PM | Session I – Organizational Matters |
| | (i) Financial Issues related to AALCO |
| | (ii) AALCO Profile and Image |
| | (iii) Enlarging the Membership of the Organization |
| 2.00 PM – 4.00 PM | Session II – Substantive Matters |
| | -ILC Matters |
| | -AALCO Agenda Items |
| | -Restructuring of Methodology of the Annual Sessions |

New Delhi. The AALCO Secretariat Officials present at the meeting were: Mrs. Anuradha Bakshi, Assistant Principal Legal Officer; Ms. Shannu Narayan and Mr. S. Pandiaraj, Legal Officers who assisted the EPG.

3. **Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO** briefed the 2nd AALCO-Eminent Persons Group (EPG) Meeting on “AALCO’s Development and Programmes for 2012”. The Secretary-General commenced his presentation with Organizational Matters and divided it into three important issues, namely (i) Measures to improve and normalize the financial situation of AALCO, (ii) Maintenance and repairs of the Secretariat, and (iii) Staff Welfare. These issues were raised during the 55th Constitution Day Celebrations in November 2011 wherein many Ambassadors of Member States of AALCO to India were present. The Organizations’ financial target was based on annual contributions from Member States of AALCO. However, most Member States (except 10) pays their annual contribution to AALCO regularly. Collection of arrears still remains a challenge but defaulting Member States are beginning to respond and negotiate. For example, Iraq has started paying their arrears. Libya has come forward to negotiate in relation to payment of their longstanding arrears.

The Secretary-General also informed that the Democratic People’s Republic of Korea had started paying their annual contribution since last year, which was a very positive step. He mentioned that it was really appreciable that Dr. Inouye and Dr. Fukahori, Deputy Secretaries-General of AALCO were making efforts to meet the Liaison Officers and the Ambassadors of the Missions of Member States in New Delhi in terms of collections of arrears. Unfortunately, as Somalia had been waived from paying their annual contributions, many of the Member States of AALCO are also requesting for the same, which cannot be regarded a good precedent. The Secretary-General appraised that voluntary contributions also need to be intensified. For example, if a particular Member State wishes to take up certain issues, they could host such Meetings as Malaysia had done, in successfully hosting Meetings and Workshops on Trafficking in Human Beings, especially Woman and Children; and also International Criminal Court (ICC). On Replenishment of Reserved Fund, it was mentioned that financial situation of AALCO was improving when compared to 2008 and slowly the Organization is on the road to recovery.

The Secretary-General addressed the issue of the Secretariat, and said that presently the professional category was under staffed, as there were only three professional legal officers, as recently some of them had left for better options. The salaries and other perks given to AALCO staff were not attractive enough to attract young local talent. The pertinent question was how to attract the best brains to work at AALCO. Recruiting new officials had to be immediately done in order to fulfill the mandates given by Member States. Indeed a proposal was made to invite Member States to send officials/experts to AALCO on pay roll of Member States that would be very helpful for AALCO.

The substantive targets that need to be attained were also highlighted by the Secretary-General in his presentation. The real outcomes of AALCO were Reports, Model laws and guidelines. The issue was how much of these documents had been to the benefit of Member States. For example, the Secretariat had circulated the reports on the ILC and tried to solicit response as to how much the Member States had benefitted from such an initiative. Feedback in that regard was not forthcoming. The next query posed was the present methodology/process which could be considered as appropriate or not. The Organization wishes to take more-proactive measures in ILC Matters, however, it was essential to know whether they were ever taken seriously by the Member States and how much attention was given to the substantive work prepared by

AALCO. The issue of piracy was a very important issue. Further, the issue was raised whether it was feasible to reduce certain agenda items and instead focus on contemporary issues of international law. Items on the ILC and Sixth Committee agenda and other topics of current interest need to be addressed. For example, Nuclear Safety Issues, wherein it was important that for the benefit of AALCO Member States, the legal aspects of such issues could be looked at. The Secretariat has been inviting the names of legal experts for creating a database, but the response has been very minimal.

On enhancing the profile of AALCO, it was essential to note as to where does one benchmark AALCO among other regional and international organizations. Macedonia was very much aware of AALCO but very little efforts have been made to make them one of the Members of AALCO. On those lines, it was essential to prioritize AALCO agenda items, intensify AALCO publications, effectively utilize AALCO Legal Advisers Meetings, creative generation of income for AALCO, enlargement of Membership; and raising the profile and stature of AALCO. It was also informed that at the Legal Adviser's meeting in New York, Dr. Roy Lee, Permanent Observer to AALCO at the United Nations, in New York mentioned that it was difficult to conduct the AALCO meeting in UN Building as the meeting would have to be open for other Member States of UN as well. However, even when the meeting was held last year in one of the Permanent Mission's in New York, there was less participation from AALCO Member States.

The Secretary-General recalled the proposal of forming an AALCO Foundation to look for ways and means to generate income for AALCO. He mentioned that creative income could be generated through corporate bodies or non-state entities like in the United Nations. One of the proposals put forward by a private company in India was that they would maintain the AALCO Secretariat by absorbing some contract staff and in return they would utilize some space in the Secretariat. He said that he would consult the Indian government before entering into any such agreement with private company. The saved amount on maintenance of the building could be utilized for training staff and diplomats from AALCO Member States.

On enlarging the Membership of AALCO, the Secretary-General mentioned that countries like Congo and Mozambique and the CIS countries were interested. The other members of the ASEAN could also be requested to join AALCO and through ASEAN such information could be intimated to capitals. These efforts could also raise the profile of AALCO.

4. After hearing the detailed Report of the Secretary-General on AALCO's Development and Programmes, the **Chairman** began the proceedings by taking up the **Organizational Matters** on the agenda. While commenting on the financial situation of the Organization he expressed satisfaction and appreciated the efforts of the Secretariat officials in collecting outstanding arrears and minimizing the operational costs of the Secretariat. He added that even though at present the financial situation of the Organization had stabilized, it should be remembered that it had pulled back from the brink of a crisis in 2008. Therefore, there was a need to exert continuous efforts to ensure that a sound financial basis is maintained, as that alone would ensure the smooth working of the Organization. He stressed on the need to devise creative ways of generating income; collection of outstanding arrears; voluntary contributions and devising programmes which could be sponsored by States.

5. **Prof. Shinya Murase, Member of ILC from Japan** recalled that he had attended the Forty-Ninth Annual Session of AALCO, which was held in Dar es Salaam (United Republic of Tanzania) in 2009, during that Session it was revealed that in the 1970's and 1980's the AALCC's (as it was then) profile was at the pinnacle, due to its path breaking contributions in international law, particularly in the UNCLOS negotiations and the introduction of the Exclusive Economic Zone, Archipelagic States etc. As compared to that at present its profile had somewhat declined, he wondered what could be the reasons for this?

6. **Mr. Mohd. Razi Harun, the Representative of the Attorney-General of Malaysia** stated that the issues raised by the Secretary-General were real issues that needed careful examination. He recalled that during the 2009 Forty-Eighth Annual Session of the Organization, which was held in Putrajaya, Malaysia, recognized the importance of revitalizing and strengthening AALCO whereby the Member States had adopted the *“Putrajaya Declaration on Revitalizing and Strengthening the Asian-African Legal Consultative Organization”*. The operative paragraph 8 of that Declaration stated *“we recognize that it is the responsibility of all Member States of AALCO to work together to alleviate the financial hardship faced by the Organization”*. Operative paragraph 9 it stated that *“we emphasize the importance of fulfilling the statutory and financial obligations by all Member States of AALCO and urge those Member States in arrears to expeditiously clear their arrears”*.

Mr. Radzi further stated that the Organization was facing a severe financial crisis and thanked the Secretary-General and his team at the AALCO Secretariat for their continuous efforts to deal with the situation. However, to ensure that the Organization maintains its financial stability it was important that the EPG consider and propose to the Annual Session several “assertive and practical measures” in dealing with the arrears from the non-paying Member States. He recalled that some years ago, a Member States had put up a proposal to deal with non-payment of annual fees by AALCO Member States. The proposal included progressive measures to be taken against non-paying Member States with the first step of not allowing such Member States to make statements at Annual Sessions. If the Member States continues to be in arrears, the said Member State will not be allowed to vote at the following Annual Session. If the arrears continue, that State will be barred from participating at Annual Sessions. Finally, that State will be subjected to expulsion. He is of the view that the Secretariat could study this proposal carefully and could be placed for consideration before the forthcoming Abuja Session.

7. **Mr. Narinder Singh, Member of ILC, India** thanked the Secretary-General for his comprehensive report and expressed satisfaction on the improved financial situation of the Organization. He noted that it was also encouraging that more Member States were now paying their annual contributions; he hoped that this trend would stabilize and further improve the financial situation of the Organization. Having said that, he inquired about the details regarding the proposal of the Secretary-General on a private company that was willing to maintain the AALCO Headquarters and in turn wanted to rent out floor in the AALCO Premises, Mr. Singh maintained that after receiving the proposal it would have to be very carefully examined. He emphasized that the primary source of funding for AALCO would be the annual contributions from its Member States, however project based funding from States was a proposal that could be examined.

Thereafter, **Mr. Singh** agreed with Prof. Murase that AALCO's profile was very high during the 1970's and 1980's and in comparison it had seen a decline during the 1990's and 2000. The reason for this was that during that period the negotiations in the Law of the Sea were common to almost all the Member States and were a bonding and binding factor. However, currently, there was no international law issue which was challenging in common to all the Member States. Another reason which could be attributed to this situation was that the situation in the UN 6th Committee was also similar and the 6th Committee of the UN was no longer as active as it used to be. The reasons for such decline in interest were laid down by the International Law Commission when it did its research on fragmentation of international law. It had been clearly pointed out that the manner and method of rule making had undergone drastic changes. In the 1970's and 1980's the Foreign Ministries were in charge of AALCO affairs, but when the role of the Foreign Ministries got diluted, this in turn affected the representation and work in AALCO.

Therefore, the need of the hour was to look beyond the topics taken up by the UN 6th Committee, and take up issues that were of common concern to Member States of AALCO for instance issues in the WTO and Environment. These were basically legal issues that had been handled at the political level, and the lack of legal input was showing up in the WTO and Environment negotiations. Therefore, it was these areas that had to be taken up seriously by AALCO.

8. The **Chairman** mentioned that another important point linked to increasing the finances of the Organization was enlarging its membership. The Secretary-General in his issues paper had stated that he realized that AALCO could get the Central Asian States and countries like Afghanistan into its fold, however, it remained to be seen how that subject could be broached with those countries, visiting them could be one option, but with the limited resources available with the Organization, funding was an impediment. In this matter constructive written suggestions had been provided by Dr. Roy Lee according to whom:

- a. Special campaign by the SG should be explored. Financing the travel costs could be an issue.
- b. The SG's visit to the General Assembly in the fall and his trip to visit ILC in Geneva may provide opportunities for him to visit selected Missions and to request their Governments to join AALCO. Missions are bound to report to their Governments of such request.
- c. The SG may also wish to visit countries maintaining Embassies in Delhi which are not yet members of AALCO. All the above may be taken in conjunction.
- d. The effort to recruit new members may be enhanced if AALCO adopts a resolution requesting the SG to campaign for new members.
- e. The host country of the next annual meeting may be urged to initiate such a resolution.

9. Amb. Kriangsak had suggested that AALCO should recruit new members and observers from those countries eager to raise their international profiles, such as Kazakhstan which is running for election to the UN Security Council.

When AALCO's profile and image have increased thanks to the activities suggested above, AALCO should be able to attract new Members, including those with financial means and willingness to pay membership fees on time.

10. Therefore, the **Chairman** suggested that a combination of the aforementioned suggestions and concerted efforts could provide the way forward in enlarging the membership of the Organization. As a starting point, the Secretary-General along with the current Chair of AALCO (or his representative) could visit Diplomatic Missions in New Delhi. A concrete recommendation in the form of a Resolution adopted during the forthcoming Annual Session of AALCO could strengthen the initiative. A formal request could also be forwarded to Regional organizations and bodies.

11. **H.E. Dato Tan Seng Sung, the High Commissioner for Malaysia to India** in his comprehensive response to all the relevant issues discussed, suggested that New Delhi was a very important city where communication could be established with many regional groups, initially through a letter which could be written to the ASEAN group through the Singapore High Commission, the Arab League and the African Union. However, he cautioned that increase in membership of francophone countries would also simultaneously increase some expenses for the Organization, for instance French translation would have to be provided. Secondly, he was also of the view that certain complications could arise if the Central Asian States were encouraged to join the Organization. On the question of non-paying states, he said that a precedent already existed in how the UN dealt with such States and that guidance could be taken from the existing UN Guidelines. Commenting on the profile of the Organization, the High Commissioner opined, that any Organization would be as important as its Member States want it to be. He supported the logic put forward by Mr. Narinder Singh that as the nodal ministry for AALCO affairs in the capitals was the Foreign Ministry; Member States would have to relook into that issue.

12. **H.E. Sheikh H. Ali Sultan Al-Maani, the Ambassador of the Sultanate of Oman to India** at the outset stated that the Hon. Minister of Justice of the Sultanate of Oman had to cancel his visit at the last moment due to other exigencies of work. He also agreed with his counterpart from Malaysia that what AALCO could achieve to a large extent depends on its Member States. For that it was essential that the agenda of the Organization should be stimulating and contemporary. Besides this there was an urgent need to put forward concrete recommendations for prioritizing the work of AALCO, and once that is done the Organization could regain its past glory.

13. **Prof. Murase** suggested that small island states of the South Pacific, for instance the Republic of Palau, could be encouraged to join AALCO, as that small island state was playing a very significant role in the UNGA on issues relating to Climate Change. On the issue of non-paying Member States, he recalled that this issue was also discussed at the Fiftieth Annual Session (Colombo, 2011) and measures taken against such States could be (i) suspending their right to vote; or (ii) bar on making statements, while expulsion of such members should be the last resort.

14. In response the **Secretary-General** said that he had contacted the Embassies of some small island countries in New Delhi, and even though they were willing to join AALCO, they

had expressed their inability to pay the annual contributions. Therefore, he had suggested to them to begin by being Observers, and if they were further inclined they could explore the option of full membership which would of course entail financial obligations.

15. **Mr. Mohd Radzi Harun** stated that enlargement of the membership should not be the top priority of the Organization at the moment. Instead it should focus on works that could benefit existing members, collection of arrears and enhancing AALCO's international visibility. If there are countries from the Asia and Africa region showing interest to join AALCO, such States could initially become Observers. What is more important is to find ways to ensure AALCO could regain its previous position as a legal International Organization to be reckoned with. For this, it is important to rebrand the Organization by taking measures such as focusing deliberations on contemporary and relevant issues and undertaking legal research that would benefit its Member States. Its programme must be able to attract the attention of the Member States. When AALCO is a highly reputable Organization, it could also solve the issue of non-payment, and it could attract the best legal talents as highlighted by the Secretary-General.

16. **Prof. Murase** recalled that the AALCO Legal Advisers Meeting last year, in New York, was hosted in the Permanent Mission of India to the UN, only 6 Legal Advisers attended that meeting, he wondered what could be the reason for that dismal attendance and revealed that some African Member States had at a point of time suggested that AALCO should in fact be Afro-Asian Legal Consultative Organization.

17. **H.E. Prof. Githu Muigai, Member of ILC and Attorney-General of Kenya**, stated that in his interaction with the East African countries, the name AALCO as it stood was not a substantive issue, the need of the hour according to him was to look into issues of common concern or issues of contemporary relevance. He agreed with the Secretary-General that the working of the International Criminal Court (ICC) was a serious issue, especially for African States, as the ICC currently seemed to be targeting them. He suggested that the Organization could take up some topics like oil and gas; rights of domestic populations especially indigenous population etc.

18. The **Chairman** while summing up the discussion on the Organizational issues stated that, (i) there was general endorsement for the efforts of the Secretary-General towards stabilizing the financial situation of the Organization and that it was suggested that the Secretariat should carry on with its efforts in collecting arrears of contributions. On measures to be taken against non paying Member States, it was suggested that the practice of other International Organizations could be studied; however suspension of membership should be the last option. (ii) Member States could sponsor research on certain specific topics; this could be a creative way of generating income. (iii) Private sector participation could be looked at closely and carefully; and (iv) Increase of membership could be a way forward for additional funds, for this the Secretary-General should optimize New Delhi as a base for such an exercise, coupled with the active involvement of the current Chair of AALCO or his Representative. A letter of request should also be addressed to Regional Groups.

19. **Substantive Issues:** The **Chairman** reiterated that AALCO had played a significant role in the "Golden Age" of international law, when the Vienna Convention on Diplomatic Relations and United Nations Convention on Law of the Sea were adopted. However, as rightly

pointed out by Mr. Narinder Singh presently international law was witnessing a natural lowering of profile which had partly resulted from fragmentation of international law and international organizations. The Chairman once again drew attention to the issue paper circulated by the Secretary-General which had *inter alia* aptly raised issues of prioritizing the agenda of AALCO; the enhancement of the role of Legal Advisers; and optimum utilization of the Annual Session, among others.

20. At this juncture the **Secretary-General** raised the issue of the importance of proper communication with the focal points as a prerequisite and beginning point for the success of any event or programme organized by the Organization and mentioned that the Secretariat faced difficulties in communicating with the focal points which were not appropriately communicated.

21. **Mr. Narinder Singh** suggested that communication with Member States could be done through email, so that material could reach them fast and at no cost to the Secretariat. For this, the Secretariat could create the database of email addresses which would be available with the Embassies in New Delhi. **Mr. Mohd. Radzi** added that the Secretariat could begin with identifying the focal points in each country whether it was the Foreign Ministry/Ministry of Justice or the Attorney General's Chambers and after doing that get their email addresses.

22. **Prof. Murase** suggested that investment laws were becoming important to Member States and AALCO could do a project based research on this topic. He added that currently the discretionary powers of the ICC Prosecutor were a subject of much debate. He suggested that in 1990 the UN had drafted Guidelines on the Role of Prosecutors; AALCO could take upon itself the task of updating these guidelines which in turn could be used by its Member States. The **Secretary-General** added that he was of the view that there was need for training of Judges and Prosecutors from Member States of AALCO in light of the need to domesticate the provisions of the Rome Statute of the ICC. **Mr. Mohd. Radzi** inquired under which head the AALCO could discuss the discretionary powers of the Prosecutor of the ICC. **Prof. Murase** responded that the discretionary powers of the ICC Prosecutor could be a topic which AALCO could also look into. As far as the ILC was concerned that issue could be taken up under the current topic "Criminal responsibility of State Officials".

23. **Mr. Narinder Singh** concurred with Prof. Murase's suggestion that AALCO could take on its agenda Investment Law once again. Citing the example of India, he mentioned that India had signed 180 investment agreements. The need of the hour was to move beyond investment treaties and to address the real issues of implementation of the investment agreements, disputes arising there from and other related issues.

24. The **Chairman** suggested that AALCO could analyze the recent jurisprudence, scope and application of the Most Favoured Nation Clause (MFN) Clause. An issue based approach could be followed with the end result being in the form of guidelines or commentaries, which take into account the emerging jurisprudence from arbitral awards. This study could in turn be helpful for the investors as well as the host countries who are confronted with numerous problems which arise from inconsistent Arbitral Awards. In this regard, the work of the Study Group on the MFN Clause, in the ILC should be closely followed.

25. **Prof. Murase** suggested that AALCO could undertake a comprehensive study on the issue of Piracy. He mentioned that Amb. Kriangsak had done extensive research on that topic. He suggested that a working group could be established and a Special Rapporteur appointed, he added that the study would be a time bound project and the working group would give its outcome in a time bound framework of say about 2 years. **Mr. Radzi** also suggested that a time limit should be set out for completion of work on a particular topic. This could be a progressive step towards rationalizing the agenda of AALCO.

26. The **Chairman** suggested that dividing the topics into deliberated and non-deliberated categories was a safe device, by which some topics could lie dormant on the agenda. The EPG could make a recommendation to the Annual Session and get an endorsement as to the desirability of specific non-deliberated topics continuing on the Agenda. This recommendation could suggest topics which could be off loaded from the agenda and simultaneously propose new topics that could be included; this would be a practical approach.

27. While discussing the methodology of AALCO Annual Sessions, the **Chairman** recalled that in the past an annual session was divided into different working groups, which met simultaneously and reported to the Plenary. However, that pattern changed and the current Annual Session replicates the method adopted in the United Nations General Assembly. As a result there is less interactive discussion among the Member States and more reading out of country positions. The High Commissioner of Malaysia suggested that in order to make the Annual Session more fruitful it would be useful to cut down on speech making.

28. **Dr. H. Soleimani, Deputy Secretary-General, AALCO** maintained that AALCO was an important inter regional Organization, and the choice of subjects on its agenda had to be carefully drawn out. He was also of the view that resolutions adopted during an annual session, both on deliberated and non-deliberated agenda items were an important source of customary law, as they reflected the stance of Asian-African countries. Therefore, careful thought should be given before taking off any item from the agenda of AALCO. The **Chairman** agreed that the EPG would not take any decision on removing any agenda item; it would be the sole prerogative of the Member States.

29. Recalling his long association with AALCO and its functioning, **Mr. Narinder Singh** was of the view that the list of the agenda items had continued to grow over the past few years. As there was limited time allocated for any annual session it was not possible to discuss all the agenda items. As rightly pointed out by the Chairman in the past the annual sessions were divided into working groups which gave their reports to the plenary. Resolutions adopted at the annual sessions was a recent phenomena, and in his view the policy of adopting resolutions was not in consonance with the role and function of AALCO which was primarily a legal consultative body. The purpose of annual sessions was to have useful discussions on certain important issues. He also did not agree with the formation of the Drafting Committee which resulted in late night meetings. On how a topic came on the agenda, he mentioned that one mode was that a Member State referred a topic. According to him it should be the discretion of the Organization, and not the sponsoring state, when to take the item off the agenda. The **High Commissioner of Malaysia** agreed with the suggestion made by Mr. Singh that AALCO

should not adopt resolutions. The **Chairman** was also of the view that resolutions were a recent trend, as earlier AALCO would only make recommendations.

30. Dr. H. Soleimani agreed that while the primary aim of the Organization was not to adopt resolutions, presently resolutions adopted at an annual session are a tangible outcome which reflects the ideas and views of AALCO Member States. According to him, this was one practical way through which Member States feel connected with AALCO, and was a good practice.

31. Pursuant to the discussions above, **Mr. Radzi** referred the Meeting to Rule 13 (12) of the Statutes and Statutory Rules of AALCO which provides that “*The decisions of the Committee (now Organization) on matters of a substantive character on the subjects placed on the agenda shall be adopted in the plenary meetings in the form of recommendations to be incorporated in a report, interim or final, for submission to the Participating States. All decisions on procedural matters shall be effective when adopted at a plenary meeting*”. The **Chairman** concurred that this indeed was the past practice. **Mr. Radzi** suggested that perhaps this matter could be discussed at the forthcoming Abuja Session, for that it was necessary that the report of this meeting be forwarded in advance of the annual session, so that the annual session could give the mandate to the Secretary-General.

32. The **Chairman** was of the opinion that the report of the EPG had to be formally presented and endorsed at the annual session before discussing the issues at hand.

33. Mr. Narinder Singh said that for the past few years the annual session of AALCO was held in June. This timing was not suitable to many Member States, because many meetings of the UN coincided. This affected the level of attendance at the AALCO Session. He maintained that the past practice of AALCO when the annual session was convened in January or February was a suitable timing as it did not clash with other international meetings and views of Member States on ILC matters could be communicated to the ILC well in advance of the ILC session. The **Chairman** agreed with this line of thought and suggested that the Secretary-General could time the annual session keeping in view the calendar of events of other major international organizations, however, he also appreciated that the timing of the annual session was at the convenience of the host state.

34. The next issue discussed by the EPG was raising the stature and profile of AALCO. The **Chairman** in this regard referred to the suggestion made by Dr. Roy Lee that:

- a. The best way to raise AALCO's stature and profile is through substance.
- b. This year celebrates the 30th anniversary of the Law of the Sea Convention. AALCO made special contribution to the creation of EEZ, archipelagos, delimitation rules etc. UNCLOS Presidents had also been Asian members. AALCO should adopt a resolution to celebrate these and other contributions and achievements and communicate the resolution to the UN GA. AALCO could also organize seminars and workshops on specific topics.
- c. The Office of the Permanent Observer in NY intends to organize a seminar to discuss the important of baselines in the context of climate change and sea-level rise.

35. **Prof. Githu Muigai** maintained that nostalgia alone would not help; the work of AALCO would have to be linked to the future, in order to raise its profile.

36. **Mr. Radzi** was of the view that apart from the topics on the agenda of its Annual Session, AALCO should consider working on treaties or agreements on specific subjects which could be useful and practical to Member States and implementable by Asian and African States. For instance, AALCO should start work on “Asia-Africa Mutual Legal Assistance Treaty”.

37. Following on the suggestions made by the Permanent Observer, Mr. Roy Lee, the **Chairman** suggested that it would be opportune to organize a Special Lecture on “The Contribution of AALCO to the Development on the Law of the Sea at UNCLOS III” by an expert in this area, at the Annual Session of the Organization this year”.

38. **Mr. Narinder Singh** suggested that in the area of law of the sea AALCO could focus on the sea bed resources, and in that study try to focus on what the future holds. **Dr. Soleimani** also suggested that one of the current challenges in the law of the sea related to biological resources.

39. **Mr. Radzi** also suggested that the EPG should evolve a methodology or formula through which it could suggest ways on how to assist Member States to understand certain important topics on the Agenda of the Annual Session. As an example he highlighted that many Member States had difficulties in understanding some of the topics being discussed at the ILC. For instance the topic on “Reservations to Treaties”. ILC Members from AALCO Member States could assist by guiding Member States to understand the complex proposals, provisions of the draft articles and deliberations by ILC Members on this topic due to importance. **Mr. Singh** agreed that this was a very pertinent issue and he suggested that here the AALCO Secretariat could play a more proactive role. AALCO could sponsor one of its legal Officers to attend the ILC session, that officer could assist a special rapporteur and in his report also brief the Member States of the developments. He also informed that the ILC sponsors Legal Officers from Member States annually to attend an International Law Seminar that is convened on the sidelines of the ILC Session. Member States could nominate a candidate to attend it.

40. The **Chairman** said that even though the Secretary-General annually visited the ILC tasking a legal officer would be a progressive step forward. The **Secretary-General** added that it was very important that the ILC members from Asia and Africa regularly attend the ILC sessions. The Chairman also suggested that the time had come for AALCO to allow academics to attend its annual sessions. Interaction between the practitioners and academia would doubly benefit AALCO.

41. In response the **Secretary-General** mentioned that he had started encouraging such participation and looked forward to a second track working group where academicians would also work on the AALCO agenda. Holding of a Young Jurists Conference was also one of his cherished desires, and he was of the view that such a think tank would be a good resource for the Organization in the years to come.

42. Thereafter, the list of agenda items was circulated and discussed (Annexed herewith). **Prof. Murase** was of the view that the human rights issues could be clubbed, and the scope of the topic Extraterritorial Application of National Legislation: Sanctions Imposed against Third parties” could be enlarged. The **High Commissioner of Malaysia** suggested that legal protection of Migrant Workers and Establishing Cooperation against Trafficking in Women and Children be taken off the agenda. However, the EPG Members decided to forward the list for the consideration of the Member States.

43. After this extensive discussion, the **Chairman** concluded the meeting which in his view was very constructive and had provided food for thought for all the participants and the Organization as to the way forward on both organizational and substantive matters. He thanked all the Members of the EPG for their very valuable suggestions.