



ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION (AALCO)

EXPLANATORY MEMORANDUM

**SIXTY-SECOND ANNUAL SESSION,
BANGKOK, KINGDOM OF THAILAND**

**VENUE: BANGKOK MARRIOTT MARQUIS QUEEN'S PARK,
199 SUKHUMVIT ALLEY 22, KHLONG TAN, KHLONG TOEI,
BANGKOK 10110 THAILAND**

DATE: 9 SEPTEMBER TO 13 SEPTEMBER 2024

I. INTRODUCTION

1. The Provisional Agenda has been prepared following Rule 11(1) of the Statutory Rules. It may be recalled that until the Forty-First Annual Session of AALCO, held in Abuja, Nigeria (2002), all the substantive items on the Organization's agenda were deliberated in the Annual Sessions and the Secretariat prepared reports on all the agenda items. However, before the Forty-Second Annual Session held in Seoul, the Republic of Korea (2003), the Host Government of that Session proposed to the Secretary-General to divide all the items on the agenda into deliberated and non-deliberated items with a view to allocating more time for the exchange of views and experiences and intensive discussion on the deliberated items apart from discussion on organizational items. This approach was implemented for the first time during the Forty-Second Annual Session, held in Seoul (2003) and is being continuously followed since then.
2. Further, since the Forty-Ninth Annual Session held in Dar es Salaam, the United Republic of Tanzania (2010), the non-deliberated agenda items were being published in a single report and the same was also placed for consideration of the Member States. During the past several years, the Member States have recommended austerity measures to be adopted by the Organization, including cutting down costs on its publications. In compliance with this observation, since the Fifty-Third Annual Session held in Tehran, the Islamic Republic of Iran (2014), the Secretariat has not published the report on the non-deliberated agenda items.
3. Furthermore, since the Fifty-Fourth Annual Session held in Beijing, the People's Republic of China (2015), sub-themes for topics categorised as substantive matters have been introduced in an effort to have focused discussions among the Member States.

4. Furthermore, at the Sixty-First Annual Session, held in Bali, Republic of Indonesia (2023), the practice of constituting a Drafting Committee was revived. The Drafting Committee was an open ended committee and any Member Government desirous of participating in its work could become a part of it. It was chaired by a representative of the Host Government. The composition of this open-ended Drafting Committee would include representatives of the Host Government, the AALCO Secretariat and representatives of all interested AALCO Member States. The work mandate of the Drafting Committee included the preparation of the Summary Report of the meetings, Draft Resolutions, and other documents, including a message of Thanks to the Host Government, among others. The Open-ended Drafting Committee would meet either before or after the General Meetings or during the lunch breaks or post dinner. The work of the Drafting Committee was reported by the Chairperson to the plenary. This would facilitate the adoption of the Summary Report and the Resolutions as final documents by the Plenary Meeting, on the concluding day.
5. At the forthcoming Sixty-Second Annual Session, to be held in **Bangkok, the Kingdom of Thailand from 9 to 13 September 2024** apart from the consideration of items on Organizational matters, it is suggested that the deliberations focus on some of the important substantive items on AALCO's current agenda. These include: (i) Matters related to the Work of the International Law Commission (ILC); (ii) Violations of International Law in Palestine and Other Occupied Territories by Israel and Other International Legal Issues relating to the Question of Palestine; (iii) Environment and Sustainable Development; (iv) International Trade and Investment Law (v) Asset Recovery Expert Forum; (vi) Legal Issues in Outer Space. In addition, side events on the topics of (i) The Appeal of Private International law Through the lens of Apostille Convention; (ii) Protecting Civilians Against Digital Threats; (iii) Beyond the Adoption: Practical Ways Towards the Implementation of BBNJ Agreement; and (iv) ISDS Reform from the Perspective of Developing Countries.
6. The registration for the Session will begin on Sunday, 8 September 2024 from 10.00 AM to 6.00 PM (Bangkok Time) to be continued on Monday, 9 September 2024 from 8.00 AM to 10.00 AM (Bangkok Time), before the Inaugural Session.
7. The decisions on matters of substantive character will be adopted in the plenary meetings in the form of recommendations to be incorporated in a report for submission to the Member States. However, if a Member State is interested in having a resolution on a particular substantive matter, it may do so by proposing the same, as long as there is a consensus.
8. During the session, the following AALCO publications will be launched: (i) Yearbook of the Asian-African Legal Consultative Organization Volume XX (Year 2023); (ii) AALCO Journal of International Law; and (iii) Report of the AALCO's Constitution Day Seminar.

II. PROCEDURAL MATTERS

Chairing of the Session

9. Rule 3(1) of AALCO's Statutory Rules provides that the President of the previous Session shall preside until the Member States elect a new President for the current Session. Accordingly, **the President of the Sixty- First Annual Session (the Republic of Indonesia)**, shall preside over the Inaugural Session and the First Meeting of the Delegations of AALCO Member States during the Sixty-Second Annual Session.

Composition of Delegations and Credentials

10. Rule 12(1) provides that at the Annual Session of the Organization, the Delegation of each Member State shall be composed of the Head of Delegation (Member), Alternate Members and Advisers.
11. Rule 12(2) provides that the official communication addressed to the Secretary-General shall serve the purpose of credentials for the delegations and observers. The communication shall be authenticated by a competent authority in the Ministry of Foreign Affairs or by the Diplomatic Mission of the concerned Member State. For the same purpose, an official communication from the relevant Organization addressed to the Secretary-General would serve as credentials for the Organizations in the UN system, inter-governmental organizations and other international institutions.

Adoption of Agenda

12. Rule 11(3) provides that the provisional agenda shall be placed before the Meeting of the Heads of Delegations of the Member States for consideration. The Meeting may, at its discretion, delete any item included in the provisional agenda. A new item may be included at the proposal of one or more delegations, if the Meeting is of the opinion that the matter is one of urgency and there are sufficient reasons on account of which the item could not have been included in the provisional agenda. All decisions in this regard shall be taken by consensus. In the event that consensus cannot be reached after all efforts have been exhausted, a decision may be taken by two-thirds majority of those present and voting in secret ballot.
13. Rule 11(4) provides that the provisional agenda upon its approval by the Heads of Delegations of the Member States shall be adopted as the agenda of the Session.

Admission of New Members

14. Rule 4 provides that the Organization may by a decision supported by a two-thirds majority of the Member States admit the participation of an Asian or African State, if such a State by written communication addressed to the Secretary-General of the Organization intimates its desire to participate in the Organization and its acceptance of the Statutes and

the Rules framed thereunder. Such decision may be taken by means of a resolution adopted in any of its sessions or by circulation if the period between the date of such application for admission and the next Session exceeds two months. In the latter case, the responses of the Participating States should be given within six weeks. If no response is received from any Participating State within the stipulated period, it shall be assumed that the concerned Participating State has no objection to the admission of the Applicant State. The result will be communicated by the Secretary-General both to the Participating States and to the Applicant State.

Burkina Faso has been admitted as a Member State on March 6, 2024 in accordance with the provisions of the Statutes and Statutory Rules. At the Sixty-Second Session, Burkina Faso will be formally welcomed as the Forty-Eighth Member State of AALCO.

Admission of Observers

15. The admission of Observers is governed by Rule 18, and will be taken up by the Meeting of the Heads of Delegations of the Member States. According to the Organization's present practice, there are three categories of observers, namely: (i) observers representing non-member Asian-African States; (ii) observers representing States other than those in the Asian-African region; and (iii) observers representing the United Nations, its organs and specialized agencies, other inter-governmental organizations and other international institutions.
16. In addition to these three categories, in accordance with the decision taken at AALCO's Twenty-Second Annual Session held in Colombo (Democratic Socialist Republic of Sri Lanka, 1981), Australia and New Zealand enjoy Permanent Observer Status.
17. Observer delegations have the right to attend all meetings, except those which are declared closed meetings and attended exclusively by Delegations of the Member States, and do not have the right to vote.

Election of the President

18. Rule 3(1) provides that at each Annual Session, the Organization shall elect a President. It has been the practice that the President of the Organization is elected from among the dignitaries of the Member State hosting the Session.

Election of the Vice-President

19. Rule 3(3) concerning the election of the Vice-President provides that in the election of the President and Vice-President, regional representation will be taken into consideration to the extent possible. In accordance with the established practice, if the President is from the Asian region, the Vice-President may be elected, preferably from a Member State in the African region and vice versa.

III. ORGANIZATIONAL MATTERS

Report of the Secretary-General on the Work of the Asian-African Legal Consultative Organization at the Sixty-Second Annual Session of AALCO in 2024

20. Following Rule 20(7) of the Statutory Rules, the Secretary-General shall present an annual report to the Member States on the work of the Organization. The Report for the Sixty-Second Annual Session covers the activities of the Organization since its Sixty-First Annual Session, including the substantive, organizational, financial, and administrative matters.

Document: AALCO/62/BANGKOK/2024/ORG 1

Financial Report and Proposed Budget for the Year 2025

21. In accordance with Rule 24(4) of the Statutory Rules, the budgetary papers setting out the estimated expenditures likely to be incurred under appropriate budget heads and sub-heads for the year 2025 was presented during the Meeting of the Liaison Officers held on 13 December 2023. Further, the draft budget was discussed at the Liaison Officers Meeting held on 15 February 2024 and adopted. The budgetary proposals are now being submitted to the Member States at the Sixty-Second Annual Session of AALCO for final approval.

Document: AALCO/62/BANGKOK /2024/ORG 2

Report on the AALCO's Regional Centres for Arbitration

22. A report on the activities of the AALCO's Regional Arbitration Centres located in Kuala Lumpur, Cairo, Lagos, Tehran, Nairobi and Hong Kong (SAR) respectively is to be submitted for consideration at the Sixty-Second Annual Session.

Document: AALCO/62/BANGKOK/2024/ORG 3

Report of AALCO's Sub Committee on Revision of Statutory Rules

23. Report of the Sub Committee on Revision of Statutory Rules is to be submitted for consideration at the Sixty-Second Annual Session.

Document: AALCO/62/BANGKOK/2024/ORG 4

Report of AALCO's Sub Committee on Scale of Assessed Contributions

24. Report of the Sub Committee on Scale of Assessed Contributions is to be submitted for consideration at the Sixty-Second Annual Session.

Document: AALCO/62/BANGKOK/2024/ORG 5

IV. GENERAL DEBATE

25. At this Sixty-Second Annual Session, the First and Second General Meetings are meant for the General Statements to be delivered by the Hon'ble Ministers and Heads of the Delegations of the Member States and Observers. ***Heads of Delegations are requested to kindly consider limiting their speech to 10 minutes due to paucity of time, so that the general statements could finish within the stipulated time.*** However, if they wish to give a longer statement, the same could be handed over to the Secretariat for reproduction in the Verbatim Record of the Session.

Submission of Statements

26. ***The Delegations wishing to make statements (General statements, and Statements on organizational and substantive matters) are kindly requested to read the statement at a reasonable speed and to hand over three copies of their statement well in advance to the Secretariat.*** This would enable the interpreters (Arabic and English) to provide quality interpretation and ensure that the impact of the statements of the delegations is equally clear in all languages. **It would be highly appreciated if soft copies of the statements could also be made available to the Secretariat.**
27. For the accurate and speedy preparation of the Verbatim Record of the Annual Session, it would be highly appreciated if the Arab Member States could provide an English version of their General Statements during the Annual Session.

Venue of the Sixty-Third Annual Session

28. According to sub-rule (1) of Rule 10 of the Statutory Rules, the regular Annual Session of the Organization shall, in accordance with Article 4 of the Statutes of AALCO, be held once in a year and such meetings shall, to the extent possible, be held in one of the Member States by geographical rotation. Those Member States interested in hosting the next Annual Session are encouraged to inform the Secretariat at the earliest.

- V. **SUBSTANTIVE MATTERS:** The following topics will be discussed during the Sixty-Second Annual Session, namely:

Report on the Work of the International Law Commission at its Seventy-Fifth Session

29. AALCO is statutorily mandated to examine subject-matters that are under consideration of the United Nations International Law Commission (ILC) and forward the views of the Organization to the ILC. In its quest to fulfill this statutory mandate over the years, AALCO has forged and nurtured a close relationship with the ILC. It has also become customary for AALCO and the ILC to be represented during each other's sessions. AALCO has, therefore, facilitated and continues to facilitate contribution of the Asian and African Member States to the work of the ILC, and has proven the worth of Asian-African views

in ILC's work, so that the Commission may be able to fulfill its stature as a globally representative organization.

30. The Asian-African States continue to play an important role in the work of the Sixth Committee of the UN General Assembly, which is central to ILC's work. The countries in the two regions are playing an active role in ensuring that the development of international law reflects their major concerns and legitimate interests. AALCO's document on the ILC for a given Annual Session, which captures deliberations on the topic at the previous Annual Session of AALCO and the comments and observations of the AALCO Secretariat, reports on the work of the ILC on the substantive topics that are placed on its agenda at the corresponding session of the ILC.
31. The document AALCO/62/BANGKOK/2024/SD/S1 **Reports the work of the Commission on the following substantive topics that were placed on the agenda of its Seventy-Fifth Session (2024):**
- Immunity of State Officials from foreign criminal jurisdiction
 - Succession of States in respect of State responsibility
 - Sea-level rise in relation to international law
 - Settlement of disputes to which international organizations are parties
 - Prevention and repression of piracy and armed robbery at sea
 - Subsidiary means for the determination of rules of international law
 - Non-legally binding international agreements

Document: AALCO/62/BANGKOK/2024/SD/S1

Violations of International Law in Palestine and other Occupied Territories by Israel and other International Legal Issues Related to the Question of Palestine

33. At the initiative of the Government of the Islamic Republic of Iran, the item "Deportation of Palestinians in Violation of International Law particularly the Fourth Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in Occupied Territories" was taken up at AALCO's Twenty-Seventh Session, held in Singapore (1988).
34. At the Fifty-Fourth Annual Session in Beijing, the People's Republic of China (2015), AALCO/RES/54/S4 was adopted changing the title of the agenda item to "Violations of International Law in Palestine and Other Occupied Territories by Israel and other International Legal Issues related to the Question of Palestine."
35. At the Sixty-First Annual Session of AALCO held in Bali, the Republic of Indonesia, the agenda item "Violations of International Law in Palestine and Other Occupied Territories by Israel and other International Legal Issues related to the Question of Palestine" was discussed at the fourth general meeting on 18 October 2023. In addition to issues relating to grave violations of International Humanitarian Law and International Human Rights Law committed in recent armed conflict in Gaza were at the forefront of deliberations. The delegations condemned the grave violations of international law and called for a permanent ceasefire and the cessation of all actions that undermine the two-state solution.

36. The present report identifies the key developments in the occupied territories of Palestine on the basis of the findings of international reports on violations of international human rights law and international humanitarian law in the recent past for deliberation at the Sixty-Second Annual Session of AALCO. The report also covers developments and provides information in relation to the case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel) on the docket of the ICJ.

Document: AALCO/62/BANGKOK/2024/SD/S4

Environment and Sustainable Development

37. The proposal to consider the topic of development of international law relating to human environment was placed on the Organization's agenda by the Government of India at the Fifteenth Annual Session, which took place in 1974 in Tokyo, Japan. Since then it has been deliberated under heads such as Environmental Law, Transboundary Movement of Hazardous Wastes, Preparation for the United Nations Conference on Environment and Development (UNCED), UNCED: Follow-up and Environment and Sustainable Development (2003 onwards). The topic has been last deliberated upon at the Sixty First Annual Session (Bali, Republic of Indonesia) in 2024.
38. The Secretariat Report on "Environment and Sustainable Development" is divided into two parts. Part A deals with the negotiation process of the international legally binding instrument on plastic pollution while Part B focusses upon the recent developments in the climate change regime.
39. The negotiation process for the international legally binding instrument on plastic pollution, including in the marine environment, represents a concerted global effort to address a pressing environmental challenge. Initiated by the adoption of the United Nations Environment Assembly resolution 5/14 on 2 March 2022, the process has been marked by extensive participation and collaboration. Part A of the brief reports the deliberations of the third and fourth sessions of the Intergovernmental Negotiating Committee (INC) constituted to develop and adopt a legally binding instrument on plastic pollution.
40. Part B of the Secretariat Report focusses upon the recent developments in the United Nations Framework Convention on Climate Change, 1992 and related instruments. It contains an overview of the 2023 Dubai Climate Change Conference (UNFCCC COP 28 and Related Meetings) 30 November – 13 December 2023, Dubai, United Arab Emirates.

Document: AALCO/62/BANGKOK/2024/SD/S10

International Trade and Investment Law

41. The legal regimes on WTO Law and International Investment Law share commonalities and exhibit overlaps. The agenda item International Trade and Investment Law has been an integral part of the work programme of AALCO since 2018, and combines previous topics on the agenda of AALCO.
42. The topic ‘WTO as a Framework Agreement and Code of Conduct for World Trade’ has continuously been on the agenda since the Thirty-Fourth Annual Session of AALCO in 1995. Developments relating to the WTO and its agreements particularly the legal aspects of the dispute settlement mechanism have been monitored and reported by the AALCO Secretariat. Post the Fifty-Fifth Annual Session of AALCO (2016), the Secretariat has acted upon the mandate received to organize seminars, workshops and other capacity-building programmes to facilitate the exchange of views by Member States on issues of contemporary relevance to the international trade law regime.
43. Under the wider topic of Economic and Trade Law Matters, International Investment Law and Agreements were first examined under the ambit of Regional Cooperation in the Context of the New International Economic Order. At the Twenty-First Annual Session (1980) held in Jakarta, the Republic of Indonesia a report on matters pertaining to bilateral investment treaties, investment guarantees, and petroleum export was placed before the Trade Law Sub-Committee. At that session, preparations were made for the Ministerial Meeting which was held later that year as a result of which the Secretariat was directed to prepare Model Investment Agreements based on the study of the provisions in existing Bilateral Investment Treaties. After examination by an Expert Group of the divergent agreements and State practice in the area the agreements which had three options were finally adopted and transmitted to the Member States at the Twenty-Fourth Annual Session held in 1985 at Kathmandu, Nepal.
44. Renewed interest was shown in the topic when International Investment Agreements were discussed under the agenda item ‘Report on the Work of UNCITRAL and other International Organizations in the field of International Trade Law.’ While discussion on issues relating to the reform of the Investor-State Arbitration were underway at the UNCITRAL Working Group III, reform proposal addressing key concerns such as transparency in arbitration, rising costs and duration of arbitration, lack of expertise and shrinking policy of host nations have been at the forefront of discussions since the Fifty-Fourth Annual Session of AALCO held in Beijing, the People’s Republic of China in 2015.
45. More recently issues relating to the legislative instrument adopted by the UNCITRAL Working Group III such as the code of conduct for arbitrators and judges have been discussed under the agenda item International Trade and Investment Law at the Sixty-First Annual Session held in Bali, the Republic of Indonesia in 2023. The present brief continues to identify and place in context the issues for deliberation on the latest developments in the World Trade Organizations in the context of International Trade Law and the report on the work of the UNCITRAL, the World Investment Report, 2024 released by the UNCTAD as

well as a provides brief overview of recent developments in the work of UNIDROIT and the HCCH.

Document: AALCO/62/BANGKOK/2024/SD/S13

Asset Recovery Expert Forum

46. The topic of “Asset Recovery Expert Forum” was introduced by the Republic of Indonesia through an Explanatory Memorandum dated 15 September 2023 (No.AHU.UM.01.01-733), in the provisional agenda of the Sixty-First Annual Session of AALCO held in Bali, Indonesia, from 16 to 20 October 2023.
47. The new item was included in the agenda of the session. After deliberations, Member States requested the AALCO Secretariat to provide more details on the modalities of the Asset Recovery Expert Forum and to suggest a way forward for the Expert Group.
48. In pursuance of that mandate, Government of the Republic of Indonesia and the AALCO Secretariat organised an Inter-Sessional Meeting titled “Best Practices of Recovering Stolen Asset from Asian and African Country” on 21 June 2024 to hold consultations with the Member States on the way forward for the creation of an Asset Recovery Expert Forum and to prepare the Member States for further consultations on the same at the Sixty-Second Annual Session.
49. The document AALCO/62/BANGKOK/2024/SD/S19 contains the Explanatory Memorandum shared by the Republic of Indonesia and a Report of the Inter-Sessional Meeting on Asset Recovery Expert Forum. It also contains a note on the existing International law and Asset Recovery bodies to facilitate fruitful discussion.

Document: AALCO/62/BANGKOK/2024/SD/S19

Legal Issues in Outer Space

50. The agenda item “Legal Issues in Outer Space” was taken up at the initiative of the Government of the Republic of India at AALCO’s Sixty-First Annual Session held in Bali, Republic of Indonesia, in 2023. The present Secretariat Report contains key developments with respect to the Legal Issues in Outer Space, including the peaceful uses of outer space, space sustainability and space debris, space utilisation, international cooperation, and capacity building in space law. The Report also places for consideration fundamental concepts in Space Law, such as the Principles of the Outer Space Treaty (OST) and current developments in Space Law, including UN Space Debris Mitigation Guidelines and IADC guidelines. It will also focus on the possible contributions of AALCO in promoting space law and strategies for facilitating cooperation and capacity-building amongst AALCO member states.

Document: AALCO/62/BANGKOK/2024/SD/S20