

**III. SUMMARY RECORD OF
THE INAUGURAL SESSION OF
THE FORTY-SIXTH SESSION
HELD ON MONDAY, 2ND JULY
2007 AT 10: 00 AM**

**H. E. Mr. Narinder Singh, President
of the Forty-Fifth Session of the
AALCO in the Chair.**

President: I call to order the Forty-Sixth Session of AALCO and to start with I invite the Secretary-General Amb. Dr. Wafik Zaher Kamil to deliver the Welcome Address.

**(i) Welcome Address by His
Excellency Amb. Dr. Wafik
Zaher Kamil, Secretary-
General of AALCO**

Her Excellency Mrs. Brigitte Sylvia Mabandla, Minister for Justice and Constitutional Development, Republic of South Africa,

His Excellency Mr. Narinder Singh, Joint Secretary and Legal Adviser, Ministry of External Affairs, Government of India, the President of the Forty-Fifth Session of AALCO, and Member of the International Law Commission,

Hon'ble Mr. S. Amos Wako, Attorney-General of the Republic of Kenya, the President of the Forty-Fourth Session of AALCO, and Member of the International Law Commission,

Hon'ble Ministers, Excellencies, Distinguished Delegates,

Ladies and Gentlemen,

On behalf of the Organization and on my own behalf, I respectfully extend my very warm welcome to this very distinguished gathering to the Forty-Sixth Annual Session of the

Asian-African Legal Consultative Organization.

At the outset, I would like to express on behalf of the Organization and its Member States our profound gratitude to His Excellency Mr. Thabo Mbeki, the President of the Republic of South Africa, to Your Excellency and to your Government and the people of Republic of South Africa for hosting the Forty-Sixth Session of AALCO in this beautiful city of Cape Town.

Four centuries ago, Sir Francis Drake the first Englishman to circumnavigate the world described it as "the fairest Cape in all the world"; a title that still stands tall. Ever since we have landed in here we are fascinated by the breath-taking beauty of Cape Town, as well as the rich cultural heritage and the warmth and hospitality of the South African people.

Excellency, indeed we are privileged to have our Annual Session being inaugurated by a leader of your stature. Under the visionary leadership of President Thabo Mbeki and his illustrious predecessor and former President of South Africa, Mr. Nelson Mandela, since 1994, the multi-racial South African society has collectively joined hands to evolve into a "rainbow nation", which is steadfastly moving ahead on the path of lasting peace, prosperity and development for all, and a vibrant democracy.

Excellencies, distinguished delegates, Ladies and Gentlemen,

AALCO as an Organization represents the collective endeavour of the peoples of Asia and Africa to make a contribution to the goal of adapting international law to the new needs and interests of the international

community. Enthused by the Bandung's spirit, way back in 1956, seven newly independent States of our two regions came together to fight against the colonial powers hegemony in international-law making and to assert themselves on a global stage outside the sphere of western influence. Excellency, today we are strong 47 countries. The founding fathers were guided by the vision of democratizing the progressive development and codification of international law so that it is reflective of the hopes and aspirations of the teeming millions of Africa and Asia. Time and again, in its fifty-one years of existence, AALCO has repeatedly demonstrated the achievement of the vision of its founding fathers.

Excellency, South Africa joined the Organization in 2004 and within this short span of time has amply demonstrated its commitment to the furtherance of the aims and objectives of AALCO, as also the leadership role it can play in promoting and protecting the interests of the developing countries. Despite a very short notice, your Government responded to my request and stepped in and took upon itself the task of organizing the Session. The spirit of perpetual optimism and the "can-do" attitude of the South African people had created many success stories. The very successful convening of this Session in Cape Town would be another addition to it. We take this opportunity to convey to Your Excellency our sincere admiration and profound thanks for giving us an opportunity to meet in your great country: the cradle of humanity.

Excellencies, Distinguished Delegates, Ladies and Gentleman, in our fifty-one years of existence, we have considered, in addition to

examining the matters before International Law Commission, items such as: Diplomatic Immunities and Privileges; State Immunities in respect of Commercial Transactions; Extradition; Status of Aliens; Dual Nationality; Vienna Convention on the Law of Treaties; Oceans and Law of the Sea; International Trade Law; International Environmental Law; Private International Law; International Criminal Court, An Effective International Legal Instrument Against Corruption; International Terrorism; Legal Protection of Migrant Workers etc. The AALCO has made useful recommendations on many of these topics. Collectively, we have been able to achieve the rightful place of Afro-Asian nations in the international law-making on these topics. However, much remains to be done.

Today, AALCO as an Organization has come to stay on the international horizon. To further strengthen its base in the African continent is one of the important tasks remaining before it. The Cape Town Session, I am confident, Excellency, would certainly give us an opportunity to explore ways and means to increase participation in the Organization from Africa. For this Excellency, we rely totally on your help.

With the support, cooperation and guidance of the Member States, I have also been rendering my best efforts to secure for AALCO a place of pride in the family of inter-governmental organizations. I am convinced that Organization's stature and eminence would keep on growing and it would be of service to two of the most populous continents of the world.

Your Excellency, in the coming five days the Session will be

deliberating upon various topics of contemporary relevance in international law, which reflect the concern of our Member States and will cover the most important subjects on the international community's agenda. In addition, as it is customary for AALCO to hold Special Meetings on topics of special interest to its Member States, therefore we have two half-day Special Meetings on the topics of "International Investment, Trade and Development", and "International Cooperation in Countering Terrorism".

I request the delegates to avail this unique opportunity and make known the concern of their governments/countries regarding the deliberated topics in the Session and to share their experiences with and among AALCO Member States, as in my view it is one of the fundamental aims of our annual meeting.

Mr. President, together with the Host Government Organizing Committee, we the AALCO Secretariat have done our utmost to make all the necessary arrangements for the success of the Forty-Sixth Session.

Excellency, your Inaugural Address, today would set in motion a "Renaissance" in AALCO and this I believe would certainly lead to a new era in AALCO activities that is more reflective of the several new challenges facing our two continents.

I once again welcome you all to the Forty-Sixth Session of AALCO and to this beautiful and majestic city of Cape Town. I request the delegates to actively participate in the deliberations and seek your cooperation and guidance to make it a highly successful Session.

Thank you very much for a patient hearing.

I have the honour now to invite the President of the Forty-Fifth Session of the AALCO, His Excellency Mr. Narinder Singh to deliver his address on the course of his Presidency.

(ii) Statement of His Excellency Mr. Narinder Singh, Joint Secretary and Legal Adviser, Ministry of External Affairs, Government of India and the President of the Forty-Fifth Session of AALCO

Your Excellency Mrs. Brigitte Sylvia Mabandla, Minister for Justice and Constitutional Development, Republic of South Africa,

Hon'ble Mr. Amos S. Wako, Attorney-General of the Republic of Kenya and the President of the Forty-Fourth Session of AALCO,

Your Excellency Ambassador Dr. Wafik Zaher Kamil, Secretary-General of AALCO,

Hon'ble Ministers, Attornies General and Heads of Delegations, Distinguished Delegates and Observers,

At the outset, may I take this opportunity to thank our Chief Guest for taking time from Her Excellency's busy schedule for gracing this occasion by inaugurating this important Session.

Excellencies, I express my sincere gratitude to all the Member States of AALCO and the Secretary-General in extending full cooperation and support to me during my tenure as the President of the Forty-Fifth Session of AALCO. Since our historic Forty-

Fifth Golden Jubilee Session, I am proud that the Organization has been active in fulfilling its mandate entrusted to it by the Member States. I am confident that the Forty-Sixth Annual Session, would be an excellent one, like previous Sessions, with the cooperation from all those who are gathered here.

I take this opportunity to express my sincere gratitude and appreciation to the Government of the Republic of South Africa, for hosting this Session in this historic and beautiful city of Cape Town and for the excellent organizational arrangements for the Session. South Africa is a country, which inherits rich historical and cultural traditions. It has a special place in the hearts of Indians, because of Mahatma Gandhi's association.

Excellencies, the Forty-Fifth Annual Session witnessed the inauguration of the Permanent Headquarters Building of AALCO by Hon'ble Shri. Anand Sharma, Minister of State for External Affairs, Government of India. It was a truly historic moment in the life of AALCO. The Permanent Headquarters would provide a more conducive environment for the Secretariat and would certainly enhance the AALCO's image in the community of international organizations and also strengthen cooperation in the field of international law in the continents of Asia and Africa. I hope that the Organization will soon move into its new Headquarters Building, during this month itself.

Another important moment in the last year was the admission of another new member of AALCO, the Republic of Cameroon. I am confident AALCO stands to gain by Cameroon's membership and also hope that in the

coming years, many more would join this Organization.

Excellencies, Since its inception, the AALCO remains a unique Organization, which has played an extremely important role in shaping and developing Asian-African perspectives of international law and cooperation in this field. The Annual Sessions of AALCO have always facilitated interaction between officials and Experts from Member States and on important contemporary issues of international law and contributed towards their better understanding. I sincerely hope that Member States would actively participate in the deliberations in the next five days and also provide creative inputs in the Special Meetings, which would discuss matters related to "International Investment, Trade and Development" and "International Cooperation in countering Terrorism".

Excellencies, let me outline some of the important events during my presidency. One notable event was the five-day Meeting of International Experts on Human Rights in Islam hosted by the Government of Malaysia, which highlighted human rights principles in Islam. The Government of Malaysia and the Attorney-General of Malaysia, Tan Sri Abdul Gani Patail, deserve special appreciation for this Meeting.

In pursuance of its mandate from the Forty-Fifth Session, the Secretariat also organized a one-day Meeting of Experts on the Emerging Issues on the UN Convention on the Law of the Sea on 24 November 2006. This Meeting recalled the contribution of the AALCO and its Member States to the development of the 1982 United Nations Convention on the Law of the Sea. A number of experts participated in

this Meeting, including Judge Choon-ho Park of the International Tribunal for the Law of the Sea, who spoke on "Problems of Agreement on Boundary Delimitation in Northeast Asia with special reference to Intransigent Attitudes of Coastal States".

Also, in continuum with our previous efforts, the Secretariat has also drafted some of the Draft Articles of Proposed Model Legislation on Prevention of Trafficking in Persons Especially Women and Children.

Excellencies, I would now like to make a comment regarding the substantive agenda items before the AALCO. The work of the International Law Commission is one of the regular items on our agenda. However, I regret to note that once the Commission has completed work on any topic, it is no longer considered by the AALCO. It may be noted that after submission of its recommendations by the ILC, the topic is to be considered by the Sixth Committee and the General Assembly before a decision is taken on the final outcome of the topic. For example, while the ILC submitted its Final Draft Articles and commentaries on the topic of Jurisdictional Immunities of States and Their Property in 1991, the Convention on the topic was adopted by the General Assembly only in 2004.

Another important topic on which the ILC has submitted Draft Articles and on which AALCO could play an important role in coordinating the views of the Member States is that of State Responsibility. The Sixth Committee is scheduled to begin its consideration of the topic this year. Accordingly, I would recommend that the AALCO consider including on its agenda the topics being considered by the Sixth Committee.

Excellencies, I extend my profound gratitude to the Secretary-General of AALCO and his dedicated team for their meticulous efforts in making the activities of AALCO a grand success. I wish success to the incoming President and am confident that the Forty-Sixth Session would be a great success under her leadership. I also assure best possible cooperation from the Government of India in facilitating the activities of AALCO.

Let me once again wish all delegates and observers attending this Session, a fruitful week of deliberations and a pleasant stay in Cape Town. Thank you.

May I now invite Her Excellency Mrs. Brigitte Mabandla, Minister for Justice and Constitutional Development, the Republic of South Africa to deliver her Inaugural Address and declare open the Forty-Sixth Session of AALCO.

(iii) Inaugural Address by Her Excellency Mrs. Brigitte Mabandla, Minister for Justice and Constitutional Development, Government of the Republic of South Africa

His Excellency, Mr Narinder Singh, President of the AALCO;

His Excellency, Dr. Wafik Z. Kamil, Secretary-General of AALCO;

Honourable Ministers of the Member States of the AALCO;

Excellencies, Distinguished delegates, special invitees, Ladies and Gentlemen.

The Government of the Republic of South Africa and its people extends a warm welcome to all of you.

It is a momentous occasion for our Government of the Republic of South Africa and its people to host the Forty-Sixth Session of Asian-African Legal Consultative Organisation (AALCO). This is momentous because we are a country that can be classified as an emerging democracy and hard at work building democratic institutions addressing the challenges of poverty, disease and lack of skills. The ruling party, the African National Congress, has just held its policy conference, which bears relevance to the reconstruction and development of our country. This conference therefore takes place at a time when we ourselves are searching for answers.

South Africa like many African and Asian countries faces similar socio-economic and development challenges in an unequal and fast globalising order. We have a common destiny.

The fact that AALCO is an outcome of the 1955 Bandung Conference is important. Bandung was an expression of solidarity of those who fought for the human development and in particular the advancement of the people of Asia and Africa. At that time South Africa was fighting against part of that people-to-people solidarity that was concretized in Bandung in 1955. At that time, the majority of the people of South Africa were struggling against apartheid and keen to see Bandung succeed.

The then Acting Secretary General of the African National Congress, O. R. Tambo, in a message to the Asian-African Conference in Bandung observed that: ***“To the vast majority of the Asian-African peoples it will certainly be a source of inspiration. It will be regarded as***

paving the way for good things to come, and a step in the direction of meeting aspirations of the vast majority of mankind, particularly the oppressed peoples of Asia and Africa.”

Celebrating the jubilee of the Asian – African strategic partnership in Indonesia in 2005, President Mbeki said: ***“There is no doubt that we can report to our people that we are today stronger than we were 50 years ago, that we have much better possibilities to achieve the vision of 1955 than the generation of ‘55 had.”***

President Mbeki also acknowledged that there are challenges. He said that ***“despite all this progress, we continue to face the daunting challenges to eradicate the poverty and underdevelopment that afflict millions of our peoples, which coexist side by side with the availability of sufficient resources in the global economy to make poverty history.”***

Over the years AALCO has held together the spirit of Bandung in the field of international law and as a forum for Afro-Asian co-operation in international legal matters. It has contributed to substantive reform and promotion of international law whilst providing a vital platform for intellectual interaction amongst legal experts from all over the world. However, I believe that we need greater participation of African states in AALCO. AALCO is as relevant and important to African and Asian countries as it was when it was formed. AALCO can contribute significantly to the re-structuring of legal systems in post-conflict countries of Africa. More African states should join AALCO, as they would benefit from interaction at the numerous codification conferences

that feed into treaty making bodies of the United Nations Organization.

Peace, stability and development is as much a challenge today as it was during the early days of the League of Nations. Over the decades a body of human rights has developed and numerous instruments developed to enhance and promote peaceful co-existence. Today we are seized with the challenge of combating terrorism, especially trans-national aggression of this kind. And this is one of the issues that AALCO is also seized with. In pursuit of the promotion of good governance new instruments are being considered for fighting corruption and organised crime. Corruption contributes to poverty and underdevelopment. The United Nations Convention Against Corruption will not be effective by mere signing, ratification and accession by member states. Domestication of these instruments is not enough as well. We need to show our commitment to this by acting decisively against those who commit corruption and are involved in organised crime. South Africa is committed to fighting corruption. I am pleased that this is one another matter that AALCO is seized with.

Mr President, Asia and Africa have identified poverty and underdevelopment as a huge challenge. Indeed, disparities in wealth of the people of the North and South define the inequality of the people of the world. The World Summit on Sustainable Development, which took place in our country in 2002, presented a platform at which strategies for development were considered and the Millennium Development Goals were adopted to deal with these challenges. It is thus in this context that AALCO is

now discussing a legal framework and code of conduct for world trade.

Mr. President, a rising concern is being raised against trafficking in women and children. This is a scourge that should be eradicated. There needs to be effective instruments trans-nationally and domestically to effectively eradicate trafficking. I am pleased that this is one of the topics for discussion at this AALCO meeting.

Mr. President, it is also pleasing to note that folklore and its international protection is part of the agenda. Indigenous knowledge and folklore are important in the lives of many people in both Africa and Asia. Adding value and protecting of rights in indigenous knowledge can have an economic benefit for many indigenous practitioners and crafters in Africa and Asia.

Excellencies, Ladies and Gentlemen, in conclusion, I wish this conference every success. I would also like to wish the distinguished delegates a pleasant stay in our country. The hectic schedule permitting, I am hoping you will find time to explore this beautiful city.

Having said that I declare on behalf of the President and Government of the Republic of South Africa the Forty-Sixth Session of AALCO, opened.

I thank you.

President: I now invite Hon'ble S. Amos Wako, Attorney-General of the Republic of Kenya and the President of the Forty-Fourth Session of AALCO to propose a vote of thanks.

(iv) Vote of Thanks by Hon'ble Mr. Amos S. Wako, Attorney-General of the Republic of Kenya and the President of the Forty-Fourth Session of the AALCO

Thank you very much. Excellencies,

Your Excellency Mrs. Brigitte Sylvia Mabandla, Minister for Justice and Constitutional Development, Republic of South Africa and President-designate of the Forty-Sixth Session of AALCO,

Your Excellency Mr. Narinder Singh, the President of the Forty-Fifth Session of AALCO,

Your Excellency Ambassador Dr. Wafik Z. Kamil, Secretary-General of AALCO,

Hon'ble Ministers, Excellencies, Senior Officials, Distinguished Guests and Observers, Ladies and Gentlemen,

I do recognize the distinguished presence of the Premier of the Western Cape Mr. Ebrahim Rasool.

It is indeed an honour for me to propose the vote of thanks on behalf of the Asian-African Legal Consultative Organization to Her Excellency Mrs. Brigitte Sylvia Mabandla, Minister of Justice and Constitutional Development, Republic of South Africa for gracing this occasion by inaugurating the Forty-Sixth Annual Session of AALCO.

On behalf of all Member States of AALCO and the dignitaries gathered here, I extend our sincere thanks and gratitude to Her Excellency.

Excellency, it is our privilege that we all have come together in this beautiful city of Cape Town, a city, which symbolizes cultural pluralism and heritage and carries the burden of Africa on its shoulder. As the Secretary-General of AALCO informed us earlier that infact, it is for the first time that at a very short notice, which in itself is a record because of the fact that the matter was being handled by Mrs. Brigitte Sylvia Mabandla a person who fought apartheid, sought exile in the neighboring country and had been Minister of Justice for South Africa. In just about a few moments, we would be making history by electing her as the first women President of the AALCO.

We express our sincere gratitude to the Government of South Africa for hosting the Forty-Sixth Annual Session of AALCO. On behalf of all the Member States and Delegates attending this Session, I express our profound gratitude for the excellent warm hospitality, particularly during the cold winter of Cape Town, on behalf of all Member States and on my own behalf to the Government of South Africa.

May I also take this opportunity to thank all the Member States for their kind support in the election of International Law Commission Members by the United Nations General Assembly. At the Golden Jubilee Headquarters Session in New Delhi, last year, Member States had expressed their support for candidates for the ILC from AALCO Member States. Both AALCO and ILC have the same objective, that is, the progressive development and codification of International Law. Therefore, it is essential to bring in third world perspective to the work of the International Law Commission. Thus, in the election which took place, a record 12 Members from AALCO

Member States, namely from Qatar, South Africa, Jordan, Egypt, Cameroon, Nigeria, Sri Lanka, India, Kenya, Indonesia, China and Japan were elected. Our outgoing President Mr. Narinder Singh and myself were also elected as Members of the ILC.

I express my sincere appreciation to H. E. Mr. Narinder Singh for presiding over the Forty-Fifth Session and giving a strong direction for the activities during the last one-year.

I would like to take this occasion to thank Hon'ble Ministers, Distinguished Delegates and Observers who came all the way from their respective capitals to attend the Forty-Sixth Session of AALCO.

I would also thank the Secretary-General of AALCO H. E. Amb. Dr. Wafik Z. Kamil for the outstanding leadership in steering the work of the Secretariat together with his Deputy Secretaries-General and all the AALCO Secretariat staff for the excellent preparation of the background documents and logistics for the Session.

To conclude, I once again thank our Chief Guest Her Excellency Mrs. Brigitte Sylvia Mabandla, Minister of Justice and Constitutional Development, Republic of South Africa and the Government of South Africa and all the delegates who are present here. Indeed this signifies the importance, which you attach to the work of AALCO. I wish the Forty-sixth Annual Session a grand success. Thank You Excellencies.

President: I thank the various delegations from Member States and Observers for their participation in the Forty-Sixth Session of AALCO. With this I close the Inaugural Session and

we would reassemble here at 11:30 AM to convene the First Meeting of Delegations of AALCO Member States.

The Meeting was thereafter adjourned.