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ASIAN-AFRICAN  
LEGAL  
CONSULTATIVE COMMITTEE

REPORT OF THE ELEVENTH SESSION

A C C R A (Ghana)

1970

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# REPORT OF THE ELEVENTH SESSION

ACCRA 1970

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## I. INTRODUCTORY

### Establishment and functions of the Committee

The Asian Legal Consultative Committee, as it was originally called, was constituted in November 1956 by the Governments of *Burma, Ceylon, India, Indonesia, Iraq, Japan* and *Syria* to serve as an advisory body of legal experts and to facilitate and foster exchange of views and information on legal matters of common concern among the Member Governments. In response to a suggestion made by the then Prime Minister of India, the late Mr. Jawaharlal Nehru, which was accepted by all the then participating countries, the Committee's name was changed to that of *Asian-African Legal Consultative Committee* as from the year 1958, so as to include participation of countries in the African continent. The present membership of the Committee is as follows : *Burma, Ceylon, Ghana, India, Indonesia, Iran, Iraq, Japan, Jordan, Kuwait, Malaysia, Nigeria, Pakistan, Sierra Leone, Syria, Thailand* and *the United Arab Republic*, as *Full Members*, and the Republic of Philippines and the Republic of Korea as *Associate Members*.

The Committee is governed in all matters by its Statutes and Statutory Rules. Its functions as set out in Article 3 of its Statutes are :

- (a) To examine questions that are under consideration by the International Law Commission and to arrange for the views of the Committee to be placed before the said Commission ; to examine the reports of the Commission and to make recommendations thereon to the Governments of the participating countries ;
- (b) To consider legal problems that may be referred to the Committee by any of the participating countries and to make such recommendations to governments as may be thought fit ;



- (c) To exchange views and information on legal matters of common concern and to make recommendations thereon, if deemed necessary ; and
- (d) To communicate with the consent of the Governments of the participating countries the points of view of the Committee on international legal problems referred to it, to the United Nations, other institutions and international organisations.

The Committee normally meets once annually by rotation in the countries participating in the Committee. Its first session was held in New Delhi (1957), second in Cairo (1958), third in Colombo (1960), fourth in Tokyo (1961), fifth in Rangoon (1962), sixth in Cairo (1964), seventh in Baghdad (1965), eighth in Bangkok (1966), ninth in New Delhi (1967), tenth in Karachi (1969) and the eleventh session in Accra (Ghana) from 19th to 29th January, 1970. The twelfth session of the Committee is scheduled to be held in Colombo during January 1971.

#### **Office-bearers of the Committee and its Secretariat**

During the Eleventh Session held in Accra, the Committee elected Hon. N.Y.B. Adade, Attorney-General and Minister of Justice of Ghana and Mr. B.A. Shitta-Bay, Acting Principal State Counsel in the Federal Ministry of Justice of Nigeria, respectively as the President and Vice-President of the Committee for the year 1970-71.

The Committee maintains its permanent Secretariat in New Delhi (India) for day-to-day work and for implementation of the decisions taken by the Committee at its sessions. The Committee functions in all its matters through its Secretary who acts in consultation with the Liaison Officers appointed by each of the participating countries.

The Committee decided at its first, second, fourth, sixth, seventh, ninth and eleventh sessions that Mr. B. Sen, Senior

Advocate of the Supreme Court of India, should perform the functions of the Secretary to the Committee.

#### **Cooperation with other organisations**

The Committee maintains close relations with and receives published documentation from the United Nations, the International Law Commission, the International Court of Justice, the U.N. High Commissioner for Refugees, the United Nations Conference on Trade and Development, the United Nations Commission on International Trade Law, the Organisation of African Unity, the League of Arab States, the International Institute for the Unification of Private Law and the Hague Conference on Private International Law. The Committee has taken steps to cooperate with the United Nations in its Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, and as part of that programme it has decided to sponsor a training scheme which may be availed of by nationals of Asian and African countries.

The Committee is empowered under its Statutory Rules to have at its sessions Observers from international and regional inter-governmental organisations. The International Law Commission is usually represented at the Committee's sessions by its President or one of the members of the Commission.

The Secretary-General of the United Nations has also been represented at various sessions of the Committee.

The Committee sends Observers to the sessions of the International Law Commission in response to a standing invitation extended to it by the Commission. The last session of the Commission was attended by the Committee's President, Hon. N.Y.B. Adade, Minister of Justice of Ghana. The United Nations also invites the Committee to be represented at all Conferences convoked by it for consideration of legal matters. The Committee was represented at the U.N. Conferences of Plenipotentiaries on Diplomatic Relations as also on



the Law of Treaties. The Committee participated in the Second United Nations Conference on Trade and Development held in New Delhi in 1968. The Committee is also invited to be represented in various meetings of the UNCTAD, the UNCITRAL and various inter-Governmental Organisations concerned in the field of law.

#### **Immunities and Privileges**

The Committee, the representatives of the Member States participating in its sessions, the Secretary of the Committee and the members of the Secretariat are accorded certain immunities and privileges in accordance with the provisions of the Committee's Articles on Privileges and Immunities.

#### **Membership and Procedure**

The membership of this Committee is open to Asian and African governments who accept the Statutes and Statutory Rules of the Committee. The procedure for membership as indicated in the Statutory Rules is for a Government to address a note to the Secretary of the Committee, stating its acceptance of the Statutes and Statutory Rules. There is also provision for Associate Membership under conditions set out in the Statutory Rules.

Each Member Government contributes towards the expenses of the Secretariat, whilst the expenses for the holding of the sessions are borne by the country in which the session is held. The contributions towards the expenses of the Secretariat of each Member Country at present vary between £900 and £2,500 per annum depending upon the size and national income of the country. Associate Members, however, pay a fixed fee of approximately £450.

#### **Resume of work done by the Committee**

During the past thirteen years of its existence the Committee had to concern itself with all the three types of activities referred to in clauses (a), (b) and (c) of its Statutes,

namely examination of questions that are under consideration by the U.N. International Law Commission; consideration of legal problems referred by Member Governments and consideration of legal matters of common concern. The subjects on which the Committee has been able to make its final reports (recommendations) so far include "Diplomatic Immunities and Privileges", "State Immunity in respect of Commercial Transactions", "Principles of Extradition", "Status and treatment of Aliens", "Dual or Multiple Nationality", "Legality of Nuclear Tests", "Arbitral Procedure", "Recognition and Enforcement of Foreign Judgments in Matrimonial Matters", "Reciprocal Enforcement of Foreign Judgments, Service of Process and Recording of Evidence both in Civil and Criminal Cases", "Free Legal Aid", "Relief against Double Taxation", certain questions relating to the 1966 Judgment of the International Court of Justice in the *South West Africa Cases*, and the Law of Treaties.

The Committee had also finalised its recommendations on the subject of "Rights of Refugees" at its Eighth Session held in Bangkok (1966), but at the request of one of its Member Governments it has decided to reconsider its recommendations in the light of new developments in the field of international refugee law. The subject was accordingly given consideration by the Committee again at its Tenth and Eleventh Sessions.

The topics on which the Committee has made some progress are "the Law relating to International Rivers", "International Sale of Goods" and "International Legislation on Shipping".

Some of the other topics which are pending consideration of the Committee include "Diplomatic Protection and State Responsibility", "the Law of Outer Space", "Revision of the U.N. Charter from Asian-African Viewpoint", "Codification of the Principles of Peaceful Co-existence", "Relations between States and Inter-Governmental Organisations", "State Succession" and "the Law of the Sea" with particular reference to peaceful



uses of the sea-bed and the ocean-floor beyond the limits of national jurisdiction. The Law of the Sea will be the priority item before the Twelfth Session of the Committee.

### Studies in Economic Laws

The topics at present under consideration of the Committee in relation to International Trade and Economics are as follows :—

- (1) *Rules of Private International Law or Conflict of Laws relating to Sales and Purchases in Commercial Transactions between States or their Nationals :*

This subject was considered by a Sub-Committee appointed by the Committee at its Fourth Session (1961). Thereafter it was not possible to take up this subject until the Eleventh Session of the Committee on account of its preoccupation with other pressing matters. The subject was taken up at the Eleventh Session following upon a request by the United Nations Commission on International Trade Law to study the subject and acquaint it with its views. The Sub-Committee appointed at that Session presented an Interim Report wherein it suggested for the establishment of a Standing Sub-Committee with view to making a report at the Twelfth Session of the Committee. This suggestion was accepted by the Committee.

- (2) *International Transport Law :*

This topic has been included in the programme of work of this Committee under Article 3(c) of its Statutes on the suggestion of the International Institute for the Unification of Private Law. "International Legislation on Shipping" which forms a part of this subject was included in the agenda of the Eleventh Session of the Committee, following upon a request from the United Nations Commission on International Trade Law and the United Nations Conference on Trade and Development to assist them in their work on this subject. The subject was considered by a Sub-Committee appointed at that

Session which recommended that the first topic to be considered by the Committee under International Legislation on Shipping should be the question of Bills of Lading. The Committee accepted the recommendation of the Sub-Committee.

- (3) *Laws and Regulations relating to Commerce and Industry :*

This Committee, at its Third Session held in 1960, had decided on the suggestion of the Government of India that it would proceed to prepare a Study including a compilation of the Laws and Regulations on "Commerce and Industry and connected Labour Problems" in the Asian and African countries. To begin with, the Study was confined to Member Countries of the Committee on the following three topics :

- (1) Foreign Investment Laws and Regulations ;
- (2) Laws and Regulations relating to Control of Industry ;
- (3) Laws and Regulations relating to Control of Import and Export Trade.

The Secretariat of the Committee has already published in mimeographed form its studies on the first and third topics. The Secretariat has now expanded the scope of these studies by including the laws and regulations of all Asian and African countries on these topics.

### Publications of the Committee

The full reports, including the verbatim record of discussions together with the recommendations of the Committee are made available only to the Governments of the Member States of the Committee. The Committee, however, brings out regularly shorter reports on its sessions for general circulation and sale. So far it has published reports on its first to



tenth sessions. The Committee has also published five special reports entitled as under :

- (1) *The Legality of Nuclear Tests—Report of the Committee and Background Materials.*
- (2) *Reciprocal Enforcement of Foreign Judgments, Service of Process and Recording of Evidence both in Civil and Criminal Cases—Report of the Committee and Background Materials.*
- (3) *The Rights of Refugees—Report of the Committee and Background Materials.*
- (4) *Relief against Double Taxation and Fiscal Evasion—Report of the Committee and Background Materials.*
- (5) *South West Africa Cases—Report of the Committee and Background Materials.*

The Secretariat of the Committee has also prepared and published a compilation of the Constitutions of Asian countries. Its compilation of the Constitutions of African countries is to be published shortly. The Secretariat has made considerable progress on the preparation of a Digest of important decisions of the municipal courts of Asian and African countries on international legal questions as also a Digest of Treaties and Conventions registered with the United Nations Secretariat to which an Asian or African State is a party.

## II. DELEGATES OF PARTICIPATING COUNTRIES AND OBSERVERS ATTENDING THE ELEVENTH SESSION

### A. Delegations of Member States :

#### CEYLON

Member and Leader of Delegation	Hon. L.B.T. Premaratne, Q.C., Attorney-General.
Alternate Member	Mr. C. Mahendran, Acting High Commissioner for Ceylon in Ghana.
Adviser	Mr. R.C.A. Vandergert, Assistant Secretary (Legal), Ministry of Defence & External Affairs.

#### GHANA

Member and Leader of Delegation	Hon. N.Y.B. Adade, Attorney-General and Minister of Justice.
Alternate Member	Dr. S.K.B. Asante, Solicitor-General.
Adviser	Mr. W.W.K. Vanderpuye, Director, Legal and Consular Divisions, Ministry of External Affairs.



Adviser	Mr. Justice A.N.E. Amissah, Professor and Dean of the Faculty of Law, University of Ghana.
Adviser	Mr. Joe Reindorf, Barrister-at-Law.
Adviser	Mr. T.E.K. Kwaku, Barrister-at-Law and formerly Chairman of the Black Star Line.
Adviser	Mr. G.K.A. Ofose-Amaah, Senior Lecturer at the Faculty of Law, University of Ghana.
Adviser	Dr. E.K. Nantwi, Solicitor & Secretary, Ghana National Trading Corpo- ration.
Adviser	Mr. D.M. Mills, Senior State Attorney.
Adviser	Mr. M.A.F. Ribeiro, State Attorney.
Adviser	Mr. Y.K. Quartey, Shipping Commissioner, Ministry of Communications.
Adviser	Dr. S.K. Date Bah, Professor, Faculty of Law, University of Ghana.

## INDIA

Member and Leader of Delegation	Dr. Nagendra Singh, Secretary to the President of India and Member of the Inter- national Law Commission.
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Alternate Member	Dr. S.P. Jagota, Director, Legal & Treaties Divi- sion, Ministry of External Affairs.
Adviser	Mr. V.N. Nagaraja, Joint Commissioner, Ministry of Irrigation and Power.
Adviser	Mr. A.S. Mani, First Secretary, High Commission of India in Ghana.
Adviser	Dr. R.K. Dixit, Assistant Legal Adviser, Legal and Treaties Division, Ministry of External Affairs.
Adviser	Mr. K.L. Sarma, Law Officer, Legal and Treaties Division, Ministry of External Affairs.

## INDONESIA

Member and Leader of Delegation	Mr. Zahar Arifin, Minister-Counsellor, Indonesian Embassy, Cairo.
Alternate Member	Mr. S.A.M. Alaydrus, First Secretary, Indonesian Embassy, Lagos.



## IRAQ

Member and Leader of Delegation	H.E. Dr. Hassan Al-Rawi, Ambassador, Director-General of Legal and Treaties Department, Ministry of Foreign Affairs.
Alternate Member	Mr. Haqi Al-Mufti, Charge d'Affaires, Embassy of Iraq, Accra.
Adviser/Secretary to the Delegation	Mr. Asif Al-Omari, Third Secretary, Embassy of Iraq, Accra.

## JAPAN

Member and Leader of Delegation	Dr. Kumao Nishimura.
Alternate Member	Mr. Seiichi Omori, Counsellor, Embassy of Japan, New Delhi.

Adviser	Mr. Kiyoaki Suehiro, Official, Legal Affairs Division, Treaties Bureau, Ministry of Foreign Affairs.
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## JORDAN

Member and Leader of Delegation	Hon. Shukri Al Muhtadi, Legal Adviser to the Prime Minister.
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## NIGERIA

Member and Leader of Delegation	Mr. B.A. Shitta-Bay, Acting Principal State Counsel, Federal Ministry of Justice.
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## PAKISTAN

Member and Leader of Delegation	Hon. Syed Sharifuddin Pirzada, Attorney-General.
Alternate Member	Mr. M.A. Samad, Legal Adviser, Ministry of Foreign Affairs.
Adviser	Mr. Mirza Gholam Hafiz, Senior Advocate.

## UNITED ARAB REPUBLIC

Member and Leader of Delegation	Hon. Mr. Justice Hassan Fahmy El Badawi, Chief Justice of the U.A.R.
Alternate Member	Hon. Mr. Justice Salah Eldin Habeeb, Director of Legislation Department, Ministry of Law.
Adviser	Hon. Mr. Justice Omar Shareef, Member, Conseil d'etat.

## SECRETARY TO THE COMMITTEE

Mr. B. Sen,  
Secretary,  
Asian-African Legal Consultative  
Committee.

## B. Delegations of Associate Member States

## REPUBLIC OF PHILIPPINES

Associate Member	Mr. Wilfrido I. Enverga, Adviser, Philippino Delegation to the United Nations at Geneva.
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## REPUBLIC OF KOREA

Associate Member

H.E. Dr. Woonsang Choi,  
Ambassador,  
Consul-General of the Republic  
of Korea in New Delhi.

Adviser

Mr. Kwang Je Cho,  
Chief, Treaty Section,  
Ministry of Foreign Affairs.

Adviser

Mr. Sai Taik Kim,  
Treaty Section,  
Ministry of Foreign Affairs.

**C. Representatives of Non-Member States  
attending as Observers :**

ALGERIA

Mr. M. Abdellaziz Bouchouk.

CAMBODIA

H.E. Mr. Chan Youran,  
Ambassador of Cambodia to  
Senegal.

CONGO (KINSHASA)

Mr. H. Kaseba.

KENYA

Mr. D.W. Kaniaru,  
Assistant Secretary,  
Ministry of External Affairs.

LEBANON

H.E. Mr. Said Hibri,  
Ambassador of Lebanon in  
Ghana.

Mr. Moustafa Kanj,  
Embassy of Lebanon in Ghana.

LIBERIA

Mr. Herbert Brewer,  
Counsellor,  
Department of State.

## MALAYSIA

Hon. Dato' Mohd. Salleh bin  
Abas,  
Solicitor-General.

Mr. L.C. Vohrah,  
Senior Federal Counsel.

## MALI

Mr. Garba Asse.

## MOROCCO

Mr. M.A. El Alaoui,  
Charge d'Affaires,  
Embassy of Morocco in Ghana.

## NIGER

H.E. the Ambassador of Niger  
in Ghana.

## TANZANIA

Mr. J.S. Warioba,  
State Attorney.

## TURKEY

Mr. Imal Patu,  
Charge d'Affaires,  
Embassy of Turkey in Ghana.

**D. Representatives of United Nations and  
U.N. Agencies attending as Observers :**

INTERNATIONAL  
LAW COMMISSION

Prof. Nikolai Ushakov,  
Chairman of the International  
Law Commission.

## UNITED NATIONS

Mr. John Honnold,  
Chief of the International Trade  
Law Branch.

Mr. A.M. Akiwumi,  
Regional Adviser on Economic  
Co-operation,  
Economic Commission for  
Africa.

U.N. HIGH COMMIS-  
SIONER FOR REFUGEES

Dr. Ebehard Jahn,  
Deputy Director,  
Legal Division.



**E. Representatives of Inter-Governmental  
Organisations attending as Observers :**

HAGUE CONFERENCE ON PRIVATE INTER- NATIONAL LAW	Mr. M.H. van Hoogstraaten, Secretary-General.
LEAGUE OF ARAB STATES	Mr. Mohamed Alie el Din Mohamed Ibrahim, Member of the Legal Depart- ment.
ORGANISATION OF AFRICAN UNITY	Mr. R.J. Hayfron Benjamin, Vice-President, Commission of Arbitration & Conciliation.

**F. Representatives of Non-Governmental  
Organisations attending as Observers :**

AMERICAN SOCIETY OF INTERNATIONAL LAW	Prof. Fletcher Baldwin.
INTERNATIONAL LAW ASSOCIATION (GERMAN SECTION)	Dr. G. Jaenicke.
INTERNATIONAL LAW ASSOCIATION OF U.S.S.R.	Mr. V.J. Shilin. -----

**LIAISON OFFICERS OF THE PARTICIPATING  
COUNTRIES ON THE COMMITTEE**

1. BURMA	U Tha Tun, Second Secretary, Embassy of Burma, New Delhi.
2. CEYLON	Mr. B.P. Tilakaratna, Deputy High Commissioner, Ceylon High Commission, New Delhi.
3. GHANA	Mr. W. Asare-Brown, Counsellor, High Commission for Ghana, New Delhi.
4. INDIA	Dr. S.P. Jagota, Director (L & T), Ministry of External Affairs, Government of India, New Delhi.
5. INDONESIA	Mr. Sos Wisudha, Minister Counsellor, Embassy of Indonesia, New Delhi.
6. IRAN	Mr. A. Makki, Second Secretary, Embassy of Iran, New Delhi.
7. IRAQ	Mr. Amir S. Araim, Third Secretary, Embassy of Iraq, New Delhi.



8. JAPAN Mr. K. Uchida,  
Second Secretary,  
Embassy of Japan,  
New Delhi.
9. JORDAN Dr. Khaled Rsheidat,  
Counsellor,  
Embassy of Jordan,  
New Delhi.
10. KUWAIT Mr. Abdul-Razzaq Al-Kanderi,  
Second Secretary,  
Embassy of the State of Kuwait,  
New Delhi.
11. MALAYSIA Mr. Abdul Halim Bin Ali,  
Second Secretary,  
High Commission for Malaysia,  
New Delhi.
12. NIGERIA Mr. Bayo Akinyemi,  
First Secretary,  
High Commission for Nigeria,  
New Delhi.
13. PAKISTAN Mr. K.M. Shehabuddin,  
Second Secretary,  
Pakistan High Commission,  
New Delhi.
14. SIERRA LEONE Mr. W. Asare-Brown,  
Counsellor,  
Ghana High Commission,  
New Delhi.
15. SYRIA Mr. Kassem Mardam,  
Counsellor,  
Embassy of Syrian Arab Republic,  
New Delhi.

16. THAILAND Mr. Thawee Manaschuang,  
First Secretary,  
Embassy of Thailand,  
New Delhi.
17. UNITED ARAB  
REPUBLIC
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### III. AGENDA OF THE ELEVENTH SESSION

#### I. Administrative & Organisational Matters

1. Adoption of the Agenda.
2. Election of the President and Vice-President.
3. Election of the Secretary for the term 1970-1972.
4. Admission of Observers to the Session.
5. Consideration of the Secretary's Report on Policy and Administrative Matters and the Committee's Programme of Work.
6. Consideration of the Reports of the Committee's Observers to the UN Conference on the Law of Treaties and the Twenty-first Session of the International Law Commission.
7. Dates and place for the Twelfth Session of the Committee.

#### II. Matters arising out of the Work Done by the International Law Commission under Article 3(a) of the Statutes :

State Succession (For preliminary discussion only).

#### III. Matters referred to the Committee by the Governments of the Participating Countries under Article 3(b) of the Statutes :

1. *Rights of Refugees* : (Reconsideration of the Committee's Report on the Rights of Refugees adopted at the Eighth Session of the Committee in the light of new developments —Subject originally referred by the Government of the United Arab Republic, referred for reconsideration by the Government of Pakistan.)
2. *Law of International Rivers* : (Referred by the Governments of Iraq and Pakistan.)

#### IV. Matters taken up by the Committee under Article 3(c) of the Statutes :

- \*1. International Sale of Goods (Taken up by the Committee at the suggestion of the Government of India.)
2. International Legislation on Shipping (For preliminary discussion only.)



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#### IV. THE RIGHTS OF REFUGEES

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