

REPORT OF THE  
SIXTEENTH SESSION



TEHRAN

26th January to 2nd February, 1975

ASIAN - AFRICAN  
LEGAL  
CONSULTATIVE COMMITTEE



REPORT OF THE SIXTEENTH SESSION  
Held in Tehran  
From 26th January to 2nd February, 1975

THE SECRETARIAT OF THE COMMITTEE  
20, Ring Road, Lajpat Nagar-IV,  
New Delhi-110024 (India)

*Published by :*  
THE SECRETARIAT OF THE COMMITTEE  
20, Ring Road, Lajpat Nagar-IV  
New Delhi-110024 (India)

*Printed at :*  
TARA ART PRESS  
B-4, Hans Bhawan  
1, Bahadur Shah Zafar Marg  
New Delhi-110002

REPORT OF THE SIXTEENTH SESSION

Held in Tehran

From 26th January to 2nd February, 1975

CONTENTS

	<i>Pages</i>
I. INTRODUCTORY	1
II. BUREAU OF THE CONFERENCE DELEGATES OF PARTICIPATING COUNTRIES AND OBSERVERS ATTENDING THE SIXTEENTH SESSION	8   9
III. AGENDA OF THE SIXTEENTH SESSION	27
IV. LAW OF THE SEA	29
(i) Introductory Note	31
(ii) Short Notes and Tentative Draft Proposi- tions on the Topics relating to Law of the Sea to serve as an aid to discussions (Prepared by the Secretariat of the Committee)	34
(iii) Summary Record of Discussions held during the Sixteenth Session	79

( iv )

V. LAW RELATING TO HUMAN ENVIRONMENT	101
(1) Introductory Note	103
(2) A Preliminary Study on Human Environment (Prepared by the Secretariat of the Committee)	105
(3) Summary Record of Discussions on the Law relating to Human Environment	172
VI. TRADE LAW MATTERS	179

## 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 Jawaharlal Nehru, which was accepted by all the then participating governments, 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 :-

*Full Members* :- Arab Republic of Egypt, Bangladesh, Democratic People's Republic of Korea, The Gambia, Ghana, India, Indonesia, Iran, Iraq, Japan, Jordan, Kenya, Kuwait, Libya, Malaysia, Mauritius, Nepal, Nigeria, Oman, Pakistan, Philippines, Qatar, Republic of Korea, Sierra Leone, Singapore, Somalia, Sri Lanka, Syrian Arab Republic, Tanzania, Thailand, Turkey and Yemen Arab Republic.

*Associate Members* :- Botswana and Saudi Arabia.

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 consider

\*September 1976

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 meets once annually by rotation in the various members States. 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), eleventh in Accra (1970), twelfth in Colombo (1971), thirteenth in Lagos (1972), fourteenth in New Delhi (1973), fifteenth in Tokyo (1974) and the sixteenth in Tehran from 26th January to 2nd February 1975.

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

During the sixteenth session of the Committee held in Tehran, the Committee elected H.E. Dr. Ezzedin Kazemi, Leader of the Delegation of Iran, and Mr. S.K.O'Brien Coker, Leader of the Delegation of the Gambia, respectively as the President and Vice-President of the Committee for the year 1975-76. The Secretary-General of the Committee, Mr. B. Sen was unanimously re-elected for a further term of three years commencing April 1975.

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 matters through its Secretary-General who acts in consultation with the Liaison Officers appointed by each of the participating Governments.

#### **Co-operation with other organisations**

The Committee maintains close relations with the United Nations, some of its organs, such as the International Law Commission, the International Court of Justice, the U.N. High Commissioner for Refugees (UNHCR), the U.N. Conference on Trade and Development (UNCTAD), the U.N. Commission on International Trade Law (UNCITRAL), and the Food and Agriculture Organisation (FAO) ; the Organisation of African Unity (OAU), the League of Arab States, the International Institute for the Unification of Private Law (UNIDROIT), the Hague Conference on Private International Law, and the Commonwealth Secretariat. The Committee has been co-operating 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 sponsored a training scheme which may be availed of by officials of Asian and African governments.

The Committee is empowered under its Statutory Rules to admit 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 U.N. Secretary-General 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 United Nations invites the Committee to be represented to all the conferences convoked by it for consideration of legal matters. The Committee was represented at the U.N. Conferences of Plenipotentiaries on Diplomatic Relations and the Law of Treaties. The

Committee has been invited to be represented in the sessions of the Third Law of the Sea Conference. The Committee is also invited to be represented at the meetings of the UNCTAD, 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-General 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 Immunities and Privileges.

#### **Membership and procedure**

The membership of this Committee which falls into two categories, namely, Full Members and Associate Members, 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-General of the Committee stating its acceptance of the Statutes and Statutory Rules. Associate Members do not have a voice in the management of the organisation but they can fully participate in the discussions in the Committee and are entitled to receive all documentation.

#### **Financial obligations**

Each member government contributes towards the expenses of the Secretariat, whilst a part of the expenses for holding of the sessions is borne by the country in which the session is held. The contribution of each member country at present varies between £ 1,100 (sterling) and £ 3,000 (sterling) per annum depending upon the size and national income of the country. Associate members, however, pay a fixed contribution of approximately £ 550 (sterling) per annum.

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

During the past nineteen years of its existence the Committee has had to concern itself with all the three types of

activities envisaged in clauses (a), (b) and (c) of Article 3 of its Statutes, namely, examination of questions that are under consideration by the International Law Commission, consideration of legal problems referred by member governments and consideration of legal matters of common concern.

The topics which the Committee has considered and on which it has been able to make recommendations include "Diplomatic Immunities and Privileges", "State Immunity in respect of Commercial Transactions", "Extradition of Fugitive Offenders", "Status of Aliens", "Dual or multiple Nationality", "Legality of Nuclear Tests", "Arbitral Procedure", "Recognition and Enforcement of Foreign Judgements in Matrimonial Cases", "Reciprocal Enforcement of Foreign Judgements, Service of Process and Recording of Evidence both in Civil and Criminal Cases", "Legal Aid", "Relief against Double Taxation", "the 1966 Judgements of the International Court of Justice in 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 had decided to reconsider its recommendations in the light of new developments in the field of international refugee law. The subject was accordingly given further consideration by the Committee at its tenth and eleventh sessions.

The subjects on which the Committee has made considerable progress are the "Law of International Rivers", "International Sale of Goods and related topics", "International Commercial Arbitration", and the "Law of the Sea with particular reference to the peaceful uses of the sea-bed and the ocean floor lying beyond the limits of national jurisdiction". The Committee at its eleventh session had decided to include the Law of the Sea and the Sea-Bed as a priority item on the agenda of its twelfth session having regard to the recent developments in the field and the proposal for convening a U.N. Conference of Plenipotentiaries to consider various aspects of this subject. In view of the paramount importance of the problems concerning the Law of the Sea to the countries of the Asian-African

region, it was also decided to invite all such countries to participate in the discussions on the subject at the twelfth session. Thereafter, the subject was further considered on a priority basis at the thirteenth, fourteenth and fifteenth sessions of the Committee respectively held in Lagos (1972), New Delhi (1973), Tokyo (1974) and Tehran (1975) and almost all the countries of the Asian African region were invited to join in the deliberations on the subject at those sessions. The main object underlying the Committee's taking up the subject of the Law of the Sea has been to provide a forum for mutual consultations and discussions among the Asian and African governments and to assist them in making concerted and systematic preparations so as to be able to project a common stand point at the Third Law of the Sea Conference.

The Committee at its fourteenth session also took up the question of Organisation of Legal Advisory Services in Foreign Offices and for an exchange of views and information on this subject between the participating countries.

Some of the other topics which are pending consideration of the Committee include 'Diplomatic Protection and State Responsibility', 'State Succession', 'International Legislation on Shipping' and 'Protection and Inviolability of Diplomatic Agents and other persons entitled to special protection under International Law. The last mentioned topic was placed on the agenda of the fourteenth session, but at the suggestion of some of the delegations this matter was deferred for consideration at some future session of the Committee.

#### **Publications of the Committee**

The full reports, including the verbatim record of discussions in the Committee and its Sub-Committees, together with the recommendations, are made available 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. The Committee has also brought out five special reports on the following subjects :-

1. The Legality of Nuclear Tests.

2. Reciprocal Enforcement of Foreign Judgements, Service of Process and Recording of Evidence.
3. The Rights of Refugees.
4. Relief against Double Taxation and Fiscal Evasion ; and
5. The South West Africa Cases.

The Secretariat of the Committee published in 1972 a compilation of the Constitutions of African States with the co-imprint of Oceana Publications Inc., New York. Earlier, it had brought out a compilation of the Constitutions of Asian States in the year 1968. The proposed publications of the Committee include following :-

- (1) Digest of important decisions of the municipal courts of Asian and African countries on international legal questions.
- (2) Digest of Treaties and Conventions registered with the U.N. Secretariat to which an Asian or African State is a party.
- (3) Foreign Investment Laws and Regulations of Asian and African Countries.
- (4) Laws and Regulations relating to Control of Import and Export Trade in Asian and African countries.
- (5) Laws and Regulations relating to control of Industry in Asian and African countries.

## II. BUREAU OF THE CONFERENCE

<i>President</i>	H.E. Dr. Ezzedin Kazemi (Iran)
<i>Vice-President</i>	Mr. S.K. O'Brien Coker (The Gambia)
<i>Secretary-General</i>	Mr. B. Sen
<i>Deputy Secretary-General</i>	Mr. K. Furusawa

### Sub-Committee of the Whole on the Law of the Sea

<i>Chairman</i>	Hon. Mr. E.N. Moore (Ghana)
<i>Rapporteur</i>	Dr. S.P. Jagota (India)

### Sub-Committee on the Trade Law Subjects

<i>Chairman</i>	H.E. Mr. Hussain Mohamed Zaki (Egypt)
<i>Rapporteur</i>	Mr. Abdul Aziz bin Mohamed (Malaysia)

## DELEGATES OF PARTICIPATING COUNTRIES AND OBSERVERS ATTENDING THE SIXTEENTH SESSION

### A. DELEGATIONS OF MEMBER AND ASSOCIATE MEMBER GOVERNMENTS

#### THE ARAB REPUBLIC OF EGYPT

Member (Leader of Delegation)	H.E. Mr. Gamal Sadek El-Marsafawy, President of the Cour de Cassation
Alternate Member	H.E. Mr. Hussein Zaki President, Court of Appeal of Cairo
Adviser	H.E. Mr. Mohamed M. Hassan Counsellor in the State Council
Adviser	Mr. Ibrahim Youssri Counsellor, Ministry of Foreign Affairs
Adviser	Mr. Amr Mohamed Abbas Zaki First Secretary, Embassy of the Arab Republic of Egypt in Tehran

#### BANGLADESH

Member (Leader of Delegation)	H.E. Mr. Faqueer Shahabuddin Ahmad Attorney-General
----------------------------------	--