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## I. Asian African Legal Consultative Committee

### (i) Background Note

The Asian-African Legal Consultative Committee, an inter-governmental organization was constituted on 15th November, 1956 as a tangible outcome of the historic Bandung Conference held in April 1955. The Committee has at present a membership of forty-two governments<sup>1</sup>, comprising almost all the major States from Asia and Africa. In addition, the Committee's regular sessions are normally attended by forty to fifty observer delegations representing governments and international organizations from all regions consistent with the global impact of its work in a number of fields.

#### 1. Basic Purpose

The purposes of the Committee, as originally envisaged, were to serve as an advisory body to its member governments in the field of international law and as a forum for Asian-African co-operation in legal matters of common concern. Its activities have, however, been broadened from time to time to keep pace with the needs and requirements of its member governments and this has been especially so in recent years in the field of economic relations. The Committee

1. Arab Republic of Egypt; Bangladesh; China; Cyprus; Gambia; Ghana; India; Indonesia; Islamic Republic of Iran; Iraq; Japan; Jordan; Kenya; Democratic People's Republic of Korea; Republic of Korea; Kuwait; Libya; Malaysia; Mauritius; Mongolia; Nepal; Nigeria; Oman; Pakistan; Philippines; Qatar; Saudi Arabia; Senegal; Sierra Leone; Singapore; Somalia; Sri Lanka; State of Palestine; Sudan; Syria; Tanzania; Thailand; Turkey; Uganda; United Arab Emirates; and Yemen Arab Republic. Botswana is an Associate Member. Australia and New Zealand have the status of Permanent Observers.

as the only organization at governmental level embracing the two continents of Asia and Africa has also oriented its activities to complement the work of the United Nations in several areas. In the light of the Committee's growing involvement in this field, the General Assembly by a Resolution, adopted at its thirty-fifth Session in 1980 decided to accord the Committee Permanent Observer Status at the United Nations, a distinction which it shares with eleven other inter-governmental organizations. The Committee meets once annually by rotation in its member countries on the basis of invitations received. In addition, consultations and meetings are held throughout the year in Sub-Committees, Working Groups or special meetings related to specific topics.

## **2. The Secretariat**

The Committee's Secretariat is located in New Delhi and is headed by an elected Secretary General. He is assisted by Deputy Secretaries General and Assistant Secretaries General who are senior officers of Member Governments sent on secondment besides the regular staff of the Secretariat in professional and administrative categories. The Committee also maintains Permanent Observer Missions to the United Nations both at New York and at Vienna.

## **3. Procedure for Membership**

Membership of the Committee is open to Asian and African Governments desirous of participating in the Committee in accordance with its Statutes and Statutory Rules. Any such government has to address a written communication to the Secretary General of the AALCC intimating its desire to participate in the Committee as a full or an associate member and stating its acceptance of the Statutes and Statutory Rules. The communication when received is circulated among the Member Governments with a request for submission of their comments within a period of six weeks. Unless objections are received from not less than one-third of the total membership of the Committee, the government concerned is declared admitted as a member. The only distinction between full members and associate members is that the associate members pay a fixed contribution and do not participate in the policy or organisational matters.

## **4. Finances**

The Committee's finances are met primarily from three sources, namely (i) the general budget to which contributions are made by all Member States; (ii) voluntary contributions including contribution in the form of deputation of officers; and (iii) special budget for specific purposes such as for the Arabic Division.

All members have obligation to contribute towards the general budget which is shared on the basis of an agreed formula. The minimum contribution on this basis comes to approximately US \$ 5,000 whilst the upper limit is considerably higher depending upon various factors such as the country's rate of contribution to the budget of the United Nations. The Arab Member States also make contribution towards the Arabic budget which goes towards translation of documents into Arabic and for interpretation during the Annual Session. All other contributions are on a voluntary basis.

## **5. Activities of the Committee**

The Committee and its Secretariat work very closely with its Member Governments, particularly in the context of its advisory role, resulting in frequent consultations between the Secretary-General of the Committee and the Member Governments at ministerial and official levels.

During the first ten years of the Committee's establishment its main functions centered on consideration of international law problems referred to the Committee by its Member Governments. Some of the topics so referred were of considerable importance to the region where uniformity of approach was desirable. The subjects considered by the Committee during this period included Diplomatic Immunities and Privileges; Immunity of States in respect of Commercial Transactions; Extradition of Fugitive Offenders; Status and Treatment of Aliens; Dual or Multiple Nationality; Legality of Nuclear Tests and the Rights of Refugees.

Since the year 1968 the main emphasis of the Committee's work has been in regard to rendering of assistance to the Member Governments to prepare themselves on some of the major international questions before the United Nations and especially those which become the subject matter of Plenipotentiary Conferences. In this connection, mention may be made of the Vienna Convention on the Law of Treaties and the Negotiations on the Law of the Sea spread over a

period of eleven years. More recently, the Committee is actively involved in the preparatory work related to the United Nations Conference on Environment and Development, Brazil in 1992.

Almost simultaneously with the establishment of the Committee on a regular footing, the United Nations and evinced considerable interest in the Committee's activities and close collaboration has been developed not only through inter-secretariat consultations but also through the Committee's participation in a number of plenipotentiary conferences convoked by the United Nations. In the year 1960 the Committee entered into official relations with the International Law Commission (ILC) in pursuance of which the Commission is traditionally represented by its Chairman at the Committee's regular sessions. The Committee is also represented by its Secretary-General at the Annual Sessions of the ILC. In 1968 the Committee was accorded the status of a participating inter-governmental organization with the UNCTAD and in 1970 official relations between the Committee and the UNCITRAL were established. In addition, the Committee has been working in close co-operation with the United Nations High Commissioner for Refugees (UNHCR), the United Nations Environment Programme (UNEP), the International Maritime Organization (IMO), the Food and Agricultural Organisation (FAO), International Atomic Energy Agency (IAEA) and various regional economic commissions of the United Nations. The Committee also maintains relations with the Commonwealth Secretariat, the Hague Conference on Private International Law, the UNIDROIT, the Organisation of African Unity (OAU), the League of Arab States, and other regional intergovernmental organisations.

During the past few years a good deal of the Committee's activities has been devoted to the field of economic relations and trade law and in this area the Committee has been working closely with the UNCTAD as a participating inter-governmental organisation as well as with the UNCITRAL. In addition, special items of importance to Member Governments have been taken up such as preparation of Standard/Model Contracts for use in international trade transactions relating to commodities and model bilateral agreements on promotion and protection of investments, formulation of schemes for industrialisation and organization of dispute settlement system in economic matters through establishment of Regional Centres for Arbitration and development of national arbitral institutions. Three Regional Centres for Arbitration have so far been constituted under the auspices of the Committee which are located in Kuala Lumpur,

Cairo and Lagos. The Committee also sponsored two ministerial meetings on regional co-operation in industry, one in Kuala Lumpur in 1980 and other in Istanbul in 1981.

The items on the current work programme of the Committee comprises of the following: Preparation of notes and comments on agenda items before the Sixth Committee and items having legal implications for the Annual Session of the General Assembly; United Nations Decade of International Law; Status and Treatment of Refugees; International Rivers; Law of the Sea; Mutual Co-operation on Judicial Assistance; Jurisdictional Immunities of States; Legal Framework of the Zone of Peace; Nuclear Free Zone in Africa; Elements of a Legal Instrument on Friendly and Good Neighbourly Relations of States of Asia, Africa and the Pacific; Indian Ocean as a Zone of Peace; Environmental Protection; Control of Transboundary Movement of Hazardous Waste and its Disposal; Criteria for the distinction between Terrorism and People's Struggle for Liberation; Deportation of Palestinians as a violation of international law, particularly the 1949 Geneva Convention; Responsibility and liability of former colonial powers; Debt burden of developing countries; Regional co-operation in Industries; Attachment of Assets of Foreign Governments; Follow-up of the work of ILC, UNCITRAL, UNIDO and UNCTAD, Hague Conference and UNIDROIT on legal issues and preparation of notes and comments as may be necessary; Periodic meetings of Legal Advisers of member governments; Training Programme; Rendering of assistance by the Committee's Secretariat to a Member Government on any problem of particular interest to that government upon request.

## **6. Appointment of the Secretary General**

The Asian-African Legal Consultative Committee at its Twenty-Eighth Session held in Singapore in March 1988 elected the present Secretary-General Mr. Frank X. Njenga for a term of three years. The Secretary-General assumed charge of the Secretariat of the Committee on 10 May, 1988.

At its Thirtieth Session the Committee decided to reappoint Mr. Frank X. Njenga for a further term of three years, in accordance with the Statutory Rules of the Committee, with effect from 10 May, 1991.

## **7. The Statutes**

The original Statutes of the Asian-African Legal Consultative Committee were drawn up in 1956. Efforts have been made from time to time, especially since 1972, to revise the Statutes to bring them into conformity with the changed structure of the Organization. At the Twenty-Second Session of the Committee, held in Colombo in May 1981, action was initiated to revise the Statutes on an urgent basis which culminated in the preparation of a revised text of the Statutes by an inter-sessional meeting held in New Delhi in September 1985. The matter was discussed at the Arusha Session in February 1986 and thereafter a communication was sent to all member governments for their acceptance of the text drawn up at the inter-sessional meeting.

The text of the Statutes as drawn up at the inter-sessional meeting held in New Delhi in September 1985 was thereafter approved at the Twenty-Sixth Session of the Committee held in Bangkok in January 1987. The Statutes were adopted on January 12, 1987 and have since abrogated the Statutes drawn up in 1956.

#### 8. The Statutory Rules

The Statutory Rules of the Committee which were drawn up in April 1957 had virtually remained unaltered over the years in spite of major changes in the functioning of the Committee. A decision was taken at the Colombo Session, held in 1981, that the Rules should be revised to conform to the pattern suited for an international organization taking into account the body of practice which had already emerged. At the Kathmandu Session, held in February 1985, it was decided to entrust the task of revision of Statutory Rules to an inter-sessional meeting. The meeting was held in New Delhi in September 1985 which was able to adopt the revised version of the Rules 1 to 3. That meeting had also requested to Liaison Officers to prepare a revised text of the remaining provisions of the Rules for consideration of the Committee at its Arusha Session. At that Session it was pointed out that the Committee itself would have to undertake the task of revision of the Rules.

A Working Group of the Whole established at the Twenty-sixth Session of the Committee held in Bangkok in January 1987, substantially improved upon the text of the draft statutory rules drawn up by the Liaison Officers. The report of the Working Group of the Whole was considered at the Twenty-seventh Session of the Committee held in Singapore in 1988. During that session Rule 20 relating to the

Secretary-General was adopted. Thereafter at the Twenty-eighth Session held in Nairobi in February 1989, the text of the Rules was adopted and the Rules were brought into force w.e.f. 1st May, 1989.

### TEXT OF THE STATUTES AS BROUGHT INTO FORCE WITH EFFECT FROM 12th JANUARY, 1987

#### *Article 1*

The Asian-African Legal Consultative Committee constituted by the original participating States of Burma<sup>2</sup>, Ceylon<sup>3</sup>, India, Indonesia, Iraq, Japan and the United Arab Republic<sup>4</sup> shall also consist of other Asian-African States that are or may be admitted.

#### *Article 2*

The Government of a participating State shall nominate a legal expert to serve on the Committee as Member. Alternate Members, advisers and experts may also be nominated if considered necessary.

#### *Article 3*

The Committee may admit any other Asian-African State as an associate participating State.

The terms of admission of an associate participating State shall be prescribed by rules to be framed by the Committee under Article 9.

#### *Article 4*

The functions and the purposes of the Committee shall be as follows :

- (a) To examine questions that are under consideration by the International Law Commission and to arrange for the view of the Committee to be placed before the Commission; to consider

2. Burma withdrew from the membership of the Committee with effect from 1 January 1974  
3. Now Sri Lanka.  
4. Now Arab Republic of Egypt and Syrian Arab Republic.

the reports of the Commission and to make recommendations thereon to the governments of the participating States;

- (b) To communicate with the consent of the governments of the participating States the point of view of the Committee on international legal problems referred to it, to the United Nations, other institutions and international organisations;
- (c) To consider legal problems that may be referred to the Committee by the participating States and to make such recommendations to governments as may be thought fit;
- (d) To exchange views and information on matters of common concern having legal implications and to make recommendations thereto if deemed necessary; and
- (e) To undertake, with the consent of or at the request of participating States, such other activities as may be deemed appropriate for fulfilment of the functions and purposes of the Committee.

#### *Article 5*

- (1) The Committee shall normally meet once in every year and such meetings shall be held in the participating States by rotation to the extent possible.
- (2) Annual Sessions, other meetings and consultations shall be held in accordance with the rules framed by the Committee.

#### *Article 6*

- (1) The Committee shall have its permanent Secretariat at New Delhi.<sup>5</sup>
- (2) The Secretariat shall be headed by a Secretary-General appointed by the Committee for a term of three years in accordance with the provisions of the Statutory Rules.

#### *Article 7*

The expenditure to be incurred for the purposes of the Committee including the Secretariat shall be borne by the participating and associate participating States in such proportions as may be agreed

5. This article will become operative upon the conclusion of the headquarters agreement with the Government of India.

upon and the contributions shall be paid annually in advance and deposited in the account or accounts to be maintained in the name of the Committee.

The expenses locally incurred in connection with the meetings of the Committee shall normally be met by the participating State in which the meeting is held, unless otherwise agreed upon between the Secretary-General and the host country.

The expenditure and expenses shall be approved in accordance with the provisions of the Statutory Rules

#### *Article 8*

The Committee may enter into arrangements for cooperation with the United Nations, its organs and agencies and such other international organizations or bodies as may be deemed appropriate.

#### *Article 9*

The Committee may from time to time frame such rules as may be considered necessary for carrying into effect the purposes of the Committee.