

more favourable atmosphere for the progress and development of international law.

The Secretariat was requested to prepare a study on the United Nations Decade of International Law to appropriately reflect the Committee's initiatives on the Elements of a Legal Instrument on Friendly and Good Neighbourly Relations Between States of Asia, Africa and the Pacific. It was felt that the United Nations Decade of International Law was an opportunity to highlight the activities of the Asian-African Legal Consultative Committee.

The Secretariat, subsequent to the 29th Session prepared and forwarded to the office of the Legal Counsel of the United Nations its observations and views, on the matter which were reproduced in the report of the UN Secretary General on the UN Decade of International Law (Doc. A/45/430 of 12 September 1990). This report served as the basis of discussions in the meetings of the Working Group on the United Nations Decade of International Law constituted during the Forty-fifth Session of the General Assembly to prepare generally acceptable recommendations for the Decade. On the basis of the recommendations made by the Working Group, the General Assembly at its Forty-fifth Session adopted a programme of activities to be commenced during the first term (1990-92) of the Decade and requested the Working Group to continue its work during the Forty-sixth Session in accordance with its mandate.

At the thirtieth Session of the AALCC held in Cairo (April 1991), the Secretariat presented a further study (AALCC/XXX/Cairo/91/4). This study, *inter alia*, enumerated the initiatives which the Secretariat had undertaken in the fulfilment of the mandate entrusted to them. The study also included the observations and views which the Secretariat had prepared and forwarded to the Office of the UN Legal Counsel, reproduced in Doc. No. A/C/6/45.WG/CRP. 2 of 26 October 1990. At the Cairo Session, the AALCC, while directing the Secretariat to continue its efforts at making contributions to the success of the Decade, decided to place the item on the agenda of its next session.

## (ii) Decisions of the Thirtieth Session (1991)

### Agenda Item : "United Nations Decade of International Law"

The Asian-African Legal Consultative Committee having taken note at its Thirtieth Session, of the Note of the Secretary-General on the United Nations Decade of International Law (Doc. No. AALCC/XXX/Cairo/91/4) and having heard the comprehensive and lucid Report of Professor Budislav Vukas, Chairman of the Working Group on the United Nations Decade of International Law established during the Forty-fifth Session of the United Nations General Assembly.

- Reaffirms the importance of strict adherence to the principles of the UN Charter and International Law,
- Expresses its gratitude to Professor Budislav Vukas, the Chairman of the Working Group,
- Decides that the item be given serious attention and therefore placed on the agenda of the meeting of the Legal Advisors of Member States of the Committee to be convened at the UN Office in New York during the 46th Session of the General Assembly,
- Requests the Secretary-General to report to the Secretary-General of the United Nations of the initiatives taken by the Committee in this regard,
- Directs that the Secretariat continue its efforts towards its contributions to the success of the U.N. Decade of International Law.
- Decides to place the item the U.N. Decade of International Law on the agenda of the 31st Session of the Committee.

(iii) **Secretariat Study : Decade of International Law :**  
**Note of the Secretary-General**

By its resolution 44/23 the United Nations General Assembly, *inter alia* declared the period 1990-1999 as the United Nations Decade of International Law. It considered that the main purposes of the Decade should be :

- (A) To promote acceptance of and respect for the principles of international law;
- (B) To promote means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice;
- (C) To encourage the progressive development of international law and its codification; and
- (D) To encourage the teaching, study, dissemination and wider appreciation of international law."

The General Assembly also requested the Secretary-General of the United Nations to seek the views of member States and appropriate international bodies, on the programme for the decade and on appropriate action to be taken during '*the Decade*', including the possibility of holding a third international peace conference or other suitable international conference at the end of the Decade, and to submit a report thereon to the General Assembly at its Forty-fifth Session. The question will be considered at the forthcoming regular session of the General Assembly in a working group of the Sixth

Committee with a view to preparing generally acceptable recommendations for the Decade.<sup>1</sup>

The Asian-African Legal Consultative Committee—a unique regional organization whose very *raison d'être* is the progressive development of International Law and its Codification has always endeavoured to promote acceptance of and respect for the principles of international law in the Asian-African region. It is therefore appropriate for AALCC to address itself to and respond to the forementioned General Assembly Resolution. Inputs into the deliberations on the matter are also required to be made in view of the Cooperation Agreement which the AALCC entered into with the United Nations and in pursuance of which the Secretariat of the AALCC is, *inter alia*, required to furnish Notes and Comments on the Agenda items (of the United Nations) that are likely to be allocated to the Sixth Committee.

The Committee may therefore wish to consider mandating the Secretariat to initiate and undertake the preparation of a brief on appropriate action to be taken during the Decade. The Committee may wish to consider whether such a brief may be restricted for the official use of the Member States only or be submitted to the Secretary-General of the United Nations, as was done at the instance of the Committee's initiative on the Fortieth Anniversary of the United Nations on the question of strengthening of the role of the United Nations.

It may be recalled in this regard that at its Kathmandu Session the Committee mandated the Secretariat, *inter alia*, to undertake a study on "*Strengthening the Role of the United Nations through Rationalization of Functional Modalities With Special Reference to the General Assembly*" and that the Secretariat thereafter submitted a report to the Secretary-General of the United Nations, which was thereafter circulated as a document of the Fortieth Session of the General Assembly.<sup>2</sup> The said study received wide support from the members of the United Nations.

It is indeed appropriate that the Decade which shall witness, *inter alia*, the golden jubilee year of the Charter of the United Nations and the Statute of the International Court of Justice should have been declared as the Decade of International Law. The years ahead

1. See General Assembly Resolution 44/23 of 17 November 1989, in Resolutions and Decisions adopted by the General Assembly during the First Part of its Forty-fourth Session, 19 September to 29 December 1989 in Press Release GA/7977 dated 22 January 1990.  
2. See Doc. A/40/726 and A/41/437 Annex.

hold an array of impressive number of landmarks in the history of progressive development and codification of international law in all its aspects and dimensions. The decade of Nineties shall witness, *inter alia*, the Fiftieth Anniversary of the International Law Commission, the Genocide Convention,<sup>3</sup> and the Revised General Act for the Pacific settlement of Disputes.<sup>4</sup> Other important landmarks in this decennium include the Fortieth Anniversary of Conventions on the Status of Refugees<sup>5</sup> and the Status of Stateless persons<sup>6</sup> as also the Thirtieth Anniversary of the Convention on Reduction of Statelessness.<sup>7</sup>

The first year of this decade i.e. 1990 marks the Thirtieth Anniversary of the Declaration on the Granting of Independence to Colonial Countries and Peoples<sup>8</sup> and its significance can hardly be overemphasized. The decade would witness the Silver Jubilee of the Stockholm Declaration on Environment<sup>9</sup> and mark the Fortieth Year of what Professor Bin Cheng called "*instant customary international law*" (of outer space)<sup>10</sup>. Important milestones are also to be reached at and surpassed in the field of diplomatic and Consular Relations<sup>11</sup>; the Law of Treaties<sup>12</sup>; Human

3. Convention on the Prevention of the Crime of Genocide adopted by the General Assembly of the United Nations on 9 December 1948. For the text see *United Nations Treaty Series* Vol. 78 p. 277.  
4. Adopted by the General Assembly of the United Nations on 28 April 1949. For the text of the Act see *UNTS* Vol. 71 p. 101.  
5. Convention Relating to the Status of Refugees Signed at Geneva on 28 July 1951. For the text of the Convention see *United Nations Treaty Series*, Vol. 189 p. 137.  
6. Convention Relating to the Status of Stateless Persons, Done at New York on 28 September 1954. For the text of the Convention see *United Nations Treaty Series*, Vol. 360, p. 117.  
7. Convention on the Reduction of Statelessness, Concluded at New York on 30 August 1961. For the text of the Convention see *United Nations Treaty Series*, Vol. 989, p. 175.  
8. General Assembly Resolution 1514(XV) of December 1960.  
9. See the Report of the United Nations Conference on the Human Environment in UN Doc. A/CONF/48/14 and Corr. 1.  
10. Cheng, B: United Nations Resolutions on Outer Space: 'Instant' International Customary Law. *Indian Journal of International Law*, Vol. 5 (1965).  
11. See the Vienna Convention Diplomatic Relations, 1961 in *UNTS* Vol. 500, p. 95; the Vienna Convention on Consular Relations, 1963 in *UNTS* Vol. 596, p. 261; the Convention on Special Missions, 1969 annexed to General Assembly Resolution 2530 (XXIV) of 8 December 1969; the Convention on the Prevention and Punishment of crimes against Internationally Protected Persons including Diplomatic Agents, 1973 in *UNTS* Vol. 1035, p. 167.  
12. See the Vienna Convention on the Law of Treaties, 1969 in *UNTS* Vol. 1156 p. 331; the Vienna Convention on Succession of States in Respect of Treaties, 1978 in UN Publication Sales No. F.79, V. 10 and the Vienna Convention on the Law of Treaties Between States and International Organizations or Between International Organizations, 1986 in A/CONF/129/15.

Rights including the questions of Racial Discrimination<sup>13</sup>; and *Apartheid*<sup>14</sup>; the Safety of Civil Aviation<sup>15</sup>; the Control of Traffic in Narcotic Drugs and Psychotropic Substances<sup>16</sup> and the like.

In the field of international economic and trade law matters too several significant events shall coincide with the decade. Since the adoption by the General Assembly, of the Declaration and Programme of Action for the New International Economic Order<sup>17</sup> and the Charter of Economic Rights and Duties of States<sup>18</sup> a number of multilateral instruments have been negotiated and adopted under the aegis of the UNCTAD and the UNCITRAL. The international instruments adopted under the auspices of the UNCTAD include, *inter alia*, the Convention on a Code of Conduct for Liner Conferences, 1974.<sup>19</sup> The United Nations Convention on International Multimodal Transport of Goods, 1980,<sup>20</sup> the United Nations Convention on the Conditions of Registration of Ships, 1986.<sup>21</sup> The UNCTAD has also been instrumental in the adoption of several international commodity agreements including the Agreement Establishing the Common Fund for Commodities, 1980<sup>22</sup> and the set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.<sup>23</sup> It is hoped that efforts to realize the goals of these Conventions shall achieve significant results during the decade.

The UNCITRAL is the other body active in the progressive development and codification of matters relating to international

13. See the Universal Declaration on Human Rights, 1948; UN General Assembly Resolution of 8 December 1948; the International Covenant on Civil and Political Rights, 1966 in *UNTS* Vol. 999, p. 171; the International Covenant on Economic, Social and Cultural Rights in *UNTS* Vol. 999, p.3. Also see the International Convention on the Elimination of All Forms of Racial Discrimination, 1966 in *UNTS* Vol. 660 p. 195.
14. The International Convention on the Suppression and Punishment of the Crime of *Apartheid*, 1973 in *UNTS* Vol. 1015 p. 244 and the International Convention Against *Apartheid* in Sports, General Assembly Resolution 40/64 of 10 December 1985.
15. The Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1963 in *UNTS* Vol. 704; The Hague Convention on the Suppression of the Unlawful Seizure of Aircraft, 1969 in *UNTS* Vol. 860; the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971 in *UNTS* Vol. 974.
16. See the Single Convention on Narcotic Drugs, 1961 in *UNTS* Vol. 520, p.161 and the Protocols thereto and the Convention on Psychotropic Substances, 1971 in *UNTS* Vol. 1019 p. 175. Also see the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. Doc. E/CONF./82/15 and Corr. 1.
17. See General Assembly Resolution 3201 (S. VI) and 3202 (S. VI) of 1 May 1974.
18. See General Assembly Resolution 3281 (XXIX) of 12 December 1974.
19. For text of the Convention see TD/Code 11/Rev. 1 and Corr. 1.
20. For text of the Convention see TD/MT/CONF. 16.
21. For text of the Convention see TD/RS/CONF. 19 Add. 1.
22. For text of the Agreement see TD/IPC/CF/CONF. 24.
23. See General Assembly Resolution 35/63 of 5 December 1980.

economic and trade law. The UNCITRAL has, *inter alia*, drawn up international instruments in the fields of International Sales of Goods<sup>24</sup> Maritime Transport<sup>25</sup>; International Negotiable Instruments<sup>26</sup>; International Commercial Arbitration<sup>27</sup>; International Contracts for the Construction of Industrial Works<sup>28</sup>; and Electronic Funds Transfer<sup>29</sup>. The role of UNCITRAL during the decade should be further enhanced towards achieving its main objective of the promotion of the progressive harmonization and unification of the law of international trade.<sup>30</sup>

In the realm of Disarmament and Environment too the 'Decade of the Nineties' will witness the Twentieth Anniversary of the Convention on the Prohibition of Military or any other Hostile Use of Environmental Modification Techniques.<sup>31</sup> Other significant developments in recent years in this field include the Adoption of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects.<sup>32</sup> All efforts to eliminate the scourge of war through comprehensive disarmament and removal of the nuclear threat should be accelerated during the decade which was started auspiciously in the relaxation of international tension.

As regards the protection and preservation of the Environment the decade ahead will mark, *inter alia*, apart from the silver jubilee year of the Stockholm Declaration<sup>33</sup> the Twentieth Anniversary of the Convention on Long Range Transboundary Air Pollution, 1979.<sup>34</sup> Other significant landmarks in this field include the adoption of the

24. See the United Nations Convention on Limitation Period in the International Sales of Goods, 1974, Doc. No. A/CONF. 63/15. Also see the United Nations Convention on Contracts for the International Sales of Goods, 1980 in A/CONF.97/18; and the Convention on Agency in International Sales of Goods, 1983.
25. For instance the UN Convention on the Carriage of Goods by Sea, 1978 in A/CONF.89/13.
26. See the UN Convention on International Bills of Exchange and International Promissory Notes, adopted by General Assembly Resolution 43/165 of 9 December 1988.
27. The UNCITRAL Model Law of International Commercial Arbitration 1985; the UNCITRAL Arbitration Rules, 1974; and the UNCITRAL Conciliation Rules, 1980.
28. UNCITRAL Legal Guide on Drawing of International Contracts for the Construction of Industrial Works. A/CN.9 Ser. B/2 Sales No. E87 Vol. 10.
29. UNCITRAL Legal Guide on Electronic Funds Transfer A/CN.9 Ser. B/1 Sales No. E87 Vol. 9.
30. General Assembly Resolution 2205 (XXI) of 17 Dec., 1966.
31. For text of the Convention see *UNTS* Vol. 1108 p. 151.
32. For text of the Convention see Doc. A/CONF.95/15 and Corr. 1, 2, 3, 4 and 5.
33. The General Assembly has by its resolution 44/228 resolved to convene a United Nations Conference on Environment and Development, in Brazil to coincide with World Environment day on June 5, 1992.
34. Text in Doc. E/EC (XXXIV)/L-18.

Convention for the Protection of the Ozone Layer, 1985<sup>35</sup> and the Montreal Protocol on Substances that Deplete the Ozone, 1987<sup>36</sup> and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 1989. The progress made by the IMO in the fields of protection of the marine environment, and the safety of life at sea etc. are too well known to be recounted. It is hoped that further awareness of the need to preserve ecological balance internationally will be highlighted during the decade.

### Role of the AALCC

In the course of the Decade of International Law the Asian-African Legal Consultative Committee could, *inter alia*, urge member States which have already not done so, to consider ratifying or acceding to multilateral conventions. The AALCC Secretariat would be glad to assist such member States as may lack the necessary expertise or professional human resource in this regard. Negotiations in multilateral treaty making process are a long drawn affair and an instrument which codifies international law ought to be ratified as early as possible to bring a law making convention into force without undue delay. This would ensure that the time, energy and labour as well as other resources invested in its adoption are not wasted. In this regard one may refer to such conventions as the Law of the Sea Convention 1982, adopted by UNCLOS III, and such other treaties and conventions whose draft articles are drawn up by the International Law Commission over a period of years with the collaboration of the Sixth (Legal) Committee of the General Assembly of the United Nations.<sup>37</sup>

It should be noted that in many jurisdictions while a State may have ratified or acceded to a treaty, in the absence of a national enabling legislation the provisions of the international instrument can only be cited but cannot be invoked before the courts of that State. It is hoped that member States while declaring their willingness to be bound by the provisions of an international instrument, should simultaneously take steps to ensure its enforcement as a part of the law of the land. This, it is felt, would help put an end to the time long debate on the question of primacy of municipal law *vis-a-vis*

35. Concluded at Vienna on 22 March, 1985.

36. The Protocol was adopted on 16 September 1987 by the Conference of Plenipotentiaries on the Protocol on Chlorofluorocarbons to the Vienna Convention for the Protection of the Ozone Layer held in Montreal in September, 1987.

37. For instance the Law of Treaties Between States and/or International Organizations or Between International Organizations Concluded at Vienna on 21 March 1986.

international law. Whilst promoting "acceptance of respect for the principles of international law" (one of the main purposes of the Decade of International Law) all efforts should be made to ensure that such principles are effective and legally binding within the member States.

Member States may wish to consider strengthening and fortifying the rule of international law, abiding by the principle of *pacta sunt servanda* as incorporated in Article 26 of the Vienna Convention of 1969. The Vienna Convention on the Law of Treaties, 1969 which has effectively codified customary international law will celebrate its thirtieth anniversary in the course of this decade.

Member States may wish to consider instituting international law fellowships as part of the programme of Technical Cooperation among Developing Countries (TCDC). The universities and institutions of higher learning of several member States are known to have academicians and other professional personnel—well versed and experienced and could institute and offer training programmes and scholarships to nationals of member States where such facilities are also lacking or are inadequate. Some member States may also, perhaps, wish to consider providing material and financial resources for these academic courses. The institutions and sponsoring of such fellowships would supplement the endeavours of existing fellowship programmes in international law sponsored, *inter alia*, by the United Nations and UNITAR, the International Law Seminar Programme of the International Law Commission, the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea, the Hague Academy of International law and others.

Such Member States as have a separate Legal and Treaties Division, functioning either within the Ministry of Foreign Affairs or the Ministry of Law may also like to consider providing 'in-house' training to junior and medium ranking officials of fellow Member States who are in the process of developing and establishing such a division. This would be to the mutual advantage of both the trainee State and the trained personnel—not so much as individuals or in their individual capacities but as Legal Advisers to their respective governments.

The Secretariat of the AALCC proposes to undertake the publication of a yearbook which could be used as primary source for the activities of the Committee, its work programme etc. and which yearbook would list out in a concise fashion the basic documents at

the Sessions of the Committee. This project, it is felt, would have several advantages which include, *inter alia*, the wider dissemination of the international law from the perspective of the AALCC and its promotion of the appreciation.

Member States may also wish to consider contributing material and human resources to the training programme of the Secretariat. The training programme of the Committee offers a unique opportunity to identify and understand the particular problems and issues of the Asian-African region and to be acquainted, first hand, with the functioning of the Secretariat of the Committee. The training programme has in the past been of mutual benefit to both the trainee and the Secretariat and some of the studies undertaken by the trainees have been used as working documents/briefs at the annual sessions of the Committee.

The United Nations, the UNITAR and other Specialised Agencies of the UN system may wish to consider being affiliated with the Secretariat's training programme. In-house training in the AALCC Secretariat may have an edge over the training programmes run in developed countries in that they would place in sharp focus the problems and difficulties of the Afro-Asian region. It is felt that trainees would be better placed to appreciate the aspirations of the people of the two regions.

With respect to the specific purposes of the Decade of International Law the Secretariat of the Committee could, *inter alia*, liaise with the United Nations and its specialised agencies in convening meetings in the Afro-Asian region on various international law themes. Such regional meetings could be held in joint collaboration with such bodies as UNCITRAL, UNHCR, UNCTAD, etc. The convening for Asian States in New Delhi in October 1989 of a meeting on Trade Law Matters jointly with the UNCITRAL is a case in point. A similar conference could be convened for the African States. Such regional meetings could contribute to the promotion of the acceptance and respect for the principles of international law. Such joint meetings in collaboration with other international institutions such as the UNEP, OAU and IMO on the question of liability and compensation for damages arising from the transboundary movement of hazardous and toxic wastes and their disposal could be envisaged.

Also currently envisaged is a seminar on joint venture in Deep Sea-Bed Mining which is hoped to be organized in the near future in cooperation with the International Ocean Institute (IOI).

The organization of such joint meetings and seminars would also contribute to the Decade of International Law in the study, dissemination and wider appreciation of international law.

On the question of the promotion of means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice, it should be emphasized that in recent times in the changing political climate of the late 1980s the court has come to assume a significance hitherto unwitnessed. It is hoped that the near future could well witness a universal, virtually unqualified acceptance of the role that the World Court can play in the pacific settlement of disputes.

The faith and confidence that Nauru and Australia, Senegal and Guinea Bissau as well as several other States, have recently reposed in the chief judicial organ of the United Nations are among the many positive pointers that the World Court has a crucial and pivotal role to play in the changing texture of international relations and the intricate relations of the international society. The Secretariat, therefore, deems it necessary to undertake a study on the promotion of the wider use of the International Court of Justice in the 1990s. The proposed study, it may be mentioned, would supplement an earlier endeavour entitled "*Role of the International Court of Justice*" prepared by the Secretariat of the Committee and circulated at the Fortieth Session of the General Assembly.<sup>38</sup>

The encouragement of the progressive development of international law and its codification is the very *raison detre* of the Committee. In the realisation of this purpose of the decade of international law the Secretariat intends to intensify its cooperation programmes with such bodies and specialised agencies as the ICJ; ILC; UNCITRAL; UNIDO; UNCTAD; UNHCR; IMO; UNEP; IAEA; UNITAR etc.

The Secretariat also hopes to undertake a regular and vigorous programme with such other regional groups as the OAU; the LAS; the OIC; the ASEAN; and SAARC. Together with these regional bodies and the organs or agencies of the United Nations, the AALCC Secretariat could consider the progressive development and codification of international law. The Secretariat's proposal to organize an expert group meeting together with the IMO, UNEP and the OAU to draw up a list of elements which could, perhaps, be included in a protocol on compensation for liability for damages arising from the

38. See Doc. No. A/40/680.

transboundary movement of hazardous wastes and their disposal is a case in point.

Finally, it needs to be mentioned that the Fortieth Anniversary of the AALCC is among the many historic events in the history of contemporary international law which this decade would witness. Consideration therefore, should be given to planning other activities to mark and celebrate the Fortieth Anniversary of the Bandung Conference as well as that of the Asian-African Legal Consultative Committee in due course.

## **X. Mutual Cooperation on Judicial Assistance : Extradition of Fugitive Offenders**

### **(i) Introduction**

Soon after the establishment of the Committee in November 1956, the Government of Burma by a reference made under Article 3(b) of the Committee's Statutes had requested consideration of the topic, 'Extradition of Fugitive Offenders'. The Government of India had also by a separate reference requested the opinion of the Committee on certain specific questions. The Government of Japan submitted a memorandum dealing with various issues raised in the two references.

The Committee, having considered the subject at its first to fourth Sessions, presented its final report in February 1961 which contained a set of articles on the principles concerning extradition of fugitive offenders together with commentaries, without expressing any opinion whether extradition should take place under a multilateral convention or a bilateral treaty.

Since the submission of the Committee's final report in 1961 a number of new developments have taken place which necessitated a re-examination of this topic in certain specified fields. The general pattern of extradition arrangements on a bilateral basis continues to be the prevailing practice at present, even though some multilateral arrangements as between neighbouring and closely knit countries have been worked out.

In addition, some special arrangements between the countries of the Commonwealth have been contemplated, subsequent to the pattern which had previously existed for extradition of offenders within the

British Empire under the Fugitive Offenders Act of 1881. Some States also have laws providing for voluntary surrender of persons accused or convicted of criminal offences even outside extradition treaty arrangements.

It would appear that the same considerations which had weighed in favour of bilateral arrangements for judicial cooperation in other areas, any multilateral arrangement for the Asian African region on extradition of fugitive offenders might not be workable in practice. Consequently extradition arrangements on bilateral basis would probably remain the general rule. The main exception may be with respect to certain offences or classes of offence under multilateral treaties such as terrorism, unlawful seizure of aircraft, acts against safety of civil aviation, crimes against internationally protected persons and taking of hostages etc.

The Committee, at its Arusha Session, while considering the draft of the mutual bilateral arrangements for judicial cooperation in criminal matters in regard to service of process, recording of evidence and other related matters, expressed the view that as a further step forward in promoting mutual judicial cooperation, the current problems and issues concerning extradition of fugitive offenders should be taken up for study.

Since the Arusha Session in 1986 the Secretariat of the Committee has been working on the question of extradition of fugitive offenders with a view to reformulating the Committee's 1961 principles in the light of the aforesaid developments. Thus, the Secretariat prepared a preliminary brief for Bangkok Session (1987) demarcating the broad parameters for the proposed reformulation of the 1961 principles. For the Singapore Session a detailed analysis of the 1961 principles was undertaken by examining each article in the over-all context of the new developments. Attempt was made to focus on certain issues such as what are extraditable crimes, political offence exception. The requirement of *prima facie* evidence, principle of double jeopardy and the rule of speciality. The upshot of all the proposals on the matter was the recommendation that the Committee may, at the earliest, undertake the reformulation of its 1961 principles.

The Singapore Session, however, suggested that before undertaking such reformulation of 1961 principles, it would be worthwhile to study the developments within the Commonwealth, especially the 1966 Commonwealth Scheme Relating to the Rendition of Fugitive Offenders as Reviewed in 1983 and 1986.

Pursuant to the above suggestion the Secretariat prepared a study "Extradition of Fugitive Offenders: A Brief Comment on the Commonwealth Scheme for the Rendition of Fugitive Offenders As Reviewed in 1983 and 1986" which after a brief commentary on each provision of the Commonwealth Scheme and concluded.....

The 1966 Commonwealth Scheme relating to the rendition of Fugitive Offenders as reviewed in 1983 and 1986 has, while upholding certain time-honoured basic tenets of extradition law, also responded dynamically to the new challenges to the extradition process. It has also sought harmony with civil law system by accommodating some of its practice, as for instance, the method of prescribing extraditable offence, i.e. "no List" or eliminative method. Such trends indicate that several other aspects such as extradition of nationals, death penalty etc. may be tackled in a more workable manner.

The Nairobi Session (1989) which considered the item and the relevant document on the Commonwealth Scheme, decided that the developments within the Commonwealth relating to the subject matter would be a useful source for the Committee's efforts to update its principles. The Session also directed the Secretariat to prepare new draft principles on extradition as a basis for Committee's deliberations on this subject in future. [The Secretariat had accordingly prepared a set of draft articles on extradition for the Thirtieth Session of the AALCC].

## (ii) Decisions of the Twenty-ninth Session (1990)

### Agenda item : "Mutual Co-operation on Judicial Assistance"

- The Committee took note with appreciation the report on Extradition of Fugitive Offenders contained in Doc. AALCC/XXIX/90/11.
- The Committee decided that while it was desirable to hold an intersessional meeting of experts on this subject, it was necessary to discuss the report submitted in depth beforehand.
- The Committee decided to inscribe the item on the agenda for the 30th Session of the Committee.