

**ASIAN-AFRICAN LEGAL
CONSULTATIVE
COMMITTEE**

**REPORT
AND
SELECTED DOCUMENTS
OF THE
THIRTY-SECOND SESSION
KAMPALA, UGANDA
(1-6 February, 1993)**



THE AALCC SECRETARIAT

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Preface

The Thirty-Second Session of the Asian-African Legal Consultative Committee (AALCC) was held in Kampala (Uganda) from 1st to 6th February 1993. The Session was attended by high ranking officials from the member States of the AALCC. Observer delegations from non-member countries also attended. Representatives of the United Nations, its subsidiary bodies, the specialized agencies and other international and regional organizations actively participated in the deliberations.

The subject items on the Agenda of the Thirty-second Session were as follows: (i) Law of the Sea; (ii) Environmental Law — United Nations Conference on Environment and Development (UNCED); (iii) Status and Treatment of Refugees; (iv) Deportation of Palestinians in Violation of International Law, particularly the Geneva Convention of 1949; (v) International Law Commission; (vi) UN Decade of International Law; (vii) Law of International Rivers; (viii) Responsibility and Accountability of Former Colonial Powers; (ix) International Trade Law (A) Legal Aspects of Privatisation (B) Debt Burden of Developing Countries and (x) World Conference on Human Rights: PREPCOM.

Most of the above topics were taken up for discussions. The present Report covers the background information, deliberations of the Thirty-second Session, the decisions adopted and the following selected studies prepared by the AALCC Secretariat for the Session:

(a) Report on the work of the International Law Commission (ILC) at its Forty-Fourth Session

At the Kampala Session, a report containing the progress made at the Forty-fourth Session of the ILC, held from 4th May to 24th July 1992 was placed before the Committee. During that Session, there were as many as five substantive topics on the Agenda. These included:

- (i) Draft Code of Crimes Against the Peace and Security of Mankind;
- (ii) The Law of Non-Navigational Uses of International Watercourses;

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(iii) International Liability for Injurious Consequences Arising Out of Acts Not Prohibited by International Law;

(iv) State Responsibility; and

(v) Relations between States and International Organizations (Second Part of the Topic).

(b) Status and Treatment of Refugees

(i) AALCC's Model Legislation on Refugees: A Preliminary Study

The Secretariat study attempts to analyse the shortcomings of the 1951 Convention and its 1967 Protocol. It also discusses whether the definition of "refugees" provided for in the 1951 Convention satisfied today's problems and conditions and whether this definition should be expanded to cover the areas dealt with in 1969 OAU Convention, the 1984 Cartagena Declaration and in the AALCC's Bangkok Principles of 1966. The latter part of the study provides an outline for a draft of the Model Legislation.

(ii) Establishment of a Safety Zone for Displaced Persons in Their Country of Origin

The Secretariat was mandated not only to update its study on this topic but also to analyse the legal implications of recent attempts to establish such zones in either war-stricken countries or areas of conflict compounded by natural calamities like drought, famine etc.

(c) Law of International Rivers

For the Thirty-first session the study prepared by the Secretariat provided a detailed analysis of all the articles on the ILC draft namely "Law of Non-Navigational Uses of International Watercourses", as adopted by ILC on first reading. The study under consideration of the Committee has undertaken a preliminary examination of the State practice in the region (Asia and Africa) of user agreements and also examines the modalities employed in the sharing of water.

(d) Responsibility and Accountability of Former Colonial Powers

The Secretariat study for the Kampala Session, examined briefly the international law dealing with the responsibility and liability of colonial powers to return to their rightful owner the cultural heritage which was illegally plundered and removed by them.

(e) United Nations Conference on Environment and Development (UNCED): Outcome and Follow-up

The Committee's Secretariat has prepared Notes and Comments on the

outcome of the Rio Summit and analytical studies on the Framework Convention on Climate Change and the Convention on Biological Diversity. Environment was the main topic on the agenda of the AALCC's Legal Adviser's Meeting held in New York in October 1992.

(f) United Nations Decade of International Law: Note of the Secretary General

The paper prepared for the Kampala Session includes the observations of the AALCC Secretariat forwarded to the office of the Legal Counsel of the United Nations in pursuance of the General Assembly resolution 46/53 requesting an update of activities undertaken on the Decade.

(g) Preparation for the World Conference on Human Rights

At its 31st session the AALCC Secretariat was mandated to monitor the preparatory process of this Conference, focussing on the issues with legal implications and to make necessary studies. A documents entitled "The Preparation for the World Conference on Human Rights" was prepared by the Secretariat for its consideration at the Kampala Session with a view to exchanging views and developing possibly a common position on the basic principles of human rights. A draft declaration in this regard was prepared and adopted by the Committee.

(h) Trade Law Matters: Legal Aspects of Privatization

The study presented at the Kampala Session was a preliminary study submitted to the Islamabad Session (1992) with the final objective of preparation of a guide on legal aspects of privatization in Asia and Africa. It has been elaborated in the light of the information collected by the Secretariat.

To attain the objective of encouraging study, dissemination and wider appreciation of international law, the Committee continues to print the research-oriented reports of its annual sessions. It is intended to publish regularly in the annual reports, some selected AALCC studies. Also, the emphasis in the work programme of the UN Decade of international Law has encouraged the AALCC to reproduce its studies which have a direct bearing on current topics of International Law.

Frank X. Njenga
Secretary General

New Delhi,
1st October, 1993

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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 the 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 three countries,¹ comprising almost all the major States from Asia and Africa. The Committee's annual sessions are attended by about fifty observer delegations representing governments and international organizations from all regions consistent with the global impact of its work in a number of fields, every year.

1. Basic Purpose

The purpose of the Committee, as originally envisaged, was 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 as the only organization at governmental level embracing the two continents of Asia and Africa has also oriented its

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; Myanmar; 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.

activities to complement the work of the United Nations in several areas. In the light of the Committee's growing involvement with the work of the United Nations, 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 holds its annual session in its member countries on the basis of invitations received. In addition, consultations and meetings are held throughout the year, in 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 have to pay a fixed contribution and can 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 Sessions. 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 advisory role, resulting in frequent consultations between the Secretary-General of the Committee and the Member Governments at ministerial and expert levels.

During the first ten years of the Committee's establishment its main functions centered on consideration of international legal questions 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 1968, the main emphasis of the Committee's work has been to render assistance to the Member Governments to prepare themselves on some of the major international questions before the United Nations and especially those 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 has actively been involved in the preparatory and follow-up work related to the United Nations Conference on Environment and Development, held in Brazil in June 1992.

Almost simultaneously with the establishment of the Committee on a regular footing, the United Nations had 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