

ASIAN-AFRICAN LEGAL
CONSULTATIVE
COMMITTEE

REPORT
AND
SELECTED DOCUMENTS
OF THE
THIRTY-FOURTH SESSION
OGHA, QATAR
(17-22 APRIL, 1983)



THE AALCC SECRETARIAT

ASIAN-AFRICAN LEGAL CONSULTATIVE COMMITTEE

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Preface

The Thirty-fourth Session of the Asian-African Legal Consultative Committee was held in Doha, Qatar, from 17th to the 22nd April 1995. The six-day session was attended by delegations from more than 35 Member States, observers from non-member States, international and regional organizations and the United Nations including its subsidiary bodies and specialized agencies.

A number of Justice Ministers attended the session which was held under the chairmanship of H.E. Dr. Najeeb Bin Mohamad Al-Nauimi, the then Minister Legal Adviser at the office of the H.H. the Heir Apparent and Defence Minister now Minister of Justice of the State of Qatar.

At this session the delegations discussed various legal issues and stressed for support to formulate the views of the Asian and African States on these issues to enable them to participate in the deliberations of international and regional organizations.

Most of the subject items on the Agenda were taken up for discussion at the Doha Session. The present Report provides detailed background information, deliberations of the Thirty-fourth Session and the decisions adopted at that Session.

The papers prepared for the session, highlighted the undisputed common denominator of indispensable international and regional approaches to relevant international law. The AALCC's work in the above mentioned field is designed to project the subjects more adequately and fully appraise its Member States. There was prolific discussion during the high-level meetings. The ensuing decisions have been structured to express an overall vision and wider applicability of the basic principles of international law.

On the 'Status and Treatment of Refugees' the Committee appealed to Member States to take all possible measures to eradicate the causes and conditions which force people to leave their countries and cause them to suffer unbounded misery, and urged those states who have not already done so to ratify or accede to the Convention relating to the

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Status of Refugees, 1951 and the 1967 Protocol thereto. It also requested the member governments to send their comments and observations on the proposed legal framework for the establishment of safety zones for displaced persons in their country of origin and model legislation on the status and treatment of refugees prepared by the Secretariat, and directed the Secretariat to study further the two concepts of safety zones and the model legislation in light of the comments received.

On the 'Report on the work of the International Law Commission (ILC)' the Committee expressed its appreciation for the study and monitoring of progress at the International Law Commission at its 46th Session. The Committee commended the adoption of the draft articles on the non-navigational uses of international watercourses as adopted by the International Law Commission on second reading. The committee urged Member States to consider utilising the Secretariat studies and commentaries while furnishing comments on the draft articles before July 1996 to the United Nations.

On the 'Establishment of International Criminal Court', it was pointed out that equal emphasis should be placed on the completion of the work on the Draft Code of Crimes against the Peace and Security of Mankind as it might eventually be applied by the Court. The Code forms an integral part of the proposed international criminal jurisdiction. Consideration should also be given to the issues arising out of complementary jurisdictions which might become optional once the ICC is established. A widely accepted view was that pre-trial procedures concerning the international crimes within the national boundaries should be governed by the relevant domestic laws. Also, provisions concerning the relationship of the ICC with the United Nations needed consideration. Special emphasis would need to be laid on the possible implications which might flow from the role of the Security Council. It is the view of the AALCC that the role given to the Security Council in this context should in no way affect the independent functioning of the ICC.

On the 'Law of the Sea', the Committee urged the Member States who have not yet ratified the Convention on the Law of the Sea to consider doing so. It urged the full and effective participation of the Member States in the International Seabed Authority so as to ensure and safeguard the legitimate interests of the developing countries; and for the development of the principle of common heritage of mankind. The Committee reminded member states to give timely consideration to the need for adopting a common policy and strategy for the interim period before the commercial exploitation of the deep seabed minerals becomes feasible, and, for this purpose urges Member States to take an evolutionary

approach especially to the "initial function" of the authority so as to make the International Seabed Authority useful to the international community and developing countries during this initial period.

On 'Deportation of Palestinians in violation of International Law particularly the fourth Geneva Convention of 1949 and the massive immigration and settlement of Jews in the occupied territories', the Committee directed the Secretariat to continue to monitor the developments in the occupied territories and to take cognizance of the hardships suffered by Palestinian refugees.

On the "United Nations Conference on Environment and Development: Follow-up", the Committee, while recognising the importance of the work of the Commission on Sustainable Development towards the implementation of Agenda 21 programmes, invited the United Nations Environment Programme to collaborate with the AALCC in the follow-up on the United Nations Conference on Environment and Development and to continue to participate actively in the work of the AALCC in the future. The Committee also underscored the need to participate actively in the relevant meetings on environment and urged member governments to make voluntary contributions to the special fund on environment.

On the 'United Nations Decade on International Law', the Committee reaffirmed the importance of strict adherence to the principles of international law as enshrined in the charter of the United Nations and reiterated that many of the political, economic and social problems which riddle the member states of the international society can be resolved on the basis of the rule of law.

On the subject 'International Trade Law', the Secretariat presented a report on the recent legislative developments in this field, to enable Member States to keep informed with the latest developments. The organizations covered include UNCITRAL, UNCTAD, UNIDO and UNIDROIT. A Report of the seminar entitled:

"International Seminar on Globalization and Harmonization of Commercial Arbitration Law" has also been included.

As regards the follow-up of the decision taken at the Kampala Session in 1993 about shifting the headquarters of the AALCC from New Delhi to Doha, Qatar, a 'Headquarters Agreement' has been signed between the AALCC and the Government of the State of Qatar. Details relating to shifting are to be worked out between the AALCC and the Government of the State of Qatar in due course.

I believe this volume would contribute to the development of new legal frameworks and mechanisms at national, regional and international levels for the purpose of achieving dissemination, study and wider appreciation of international law especially during the United Nations Decade of International Law.

New Delhi
10 August 1995

Tang Chengyuan
Secretary-General

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I. Asian-African Legal Consultative Committee

(i) Introduction

The Asian-African Legal Consultative Committee, an inter-governmental organization was constituted on 15 November 1956. The founding members included: Burma (Myanmar), Ceylon (Sri Lanka), India, Indonesia, Iraq, Japan and the United Arab Republic (Now Arab Republic of Egypt and Syrian Arab Republic). The Committee has at present a membership of forty-four governments*, comprising almost all the major States from Asia and Africa. The Committee's annual sessions are generally attended by about fifty observer delegations representing governments and international organizations from all regions consistent with the global impact of its work in various fields.

A. 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 as the only organization at governmental level embracing the two continents of Asia and Africa has also oriented its activities to complement the

* Arab Republic of Egypt, Bangladesh, Bahrain, 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.

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 holds a meeting annually by rotation in its Member countries on the basis of invitations received. In addition, consultations and special meetings related to specific topics are held throughout the year.

B. 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 Vienna.

C. Procedure for Membership

Membership of the Committee is open to Asian and African Governments which desire to participate in the Committee in accordance with its Statutes and Statutory Rules. Any such government desirous of membership has to address a written communication to the Secretary-General of the AALCC 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.

D. Functions 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.

E. AALCC's Co-operation with the United Nations, its Agencies and other International Organizations

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 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 1969 the Committee was accorded the status of a participating inter-governmental organisation 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 United Nations Industrial Development Organisation (UNIDO) and the International Atomic Energy Agency (IAEA). The Committee also maintains relations with the Commonwealth Secretariat, the Hague Conference on Private International Law, the UNIDROIT, the Organisation of African Unity (QAU), the League of Arab States and other regional inter-governmental organisations.

F. Work Programme of the Committee

During the first ten years of the Committee's establishment its work programme centered on consideration of international law topics 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 on rendering assistance to the Member Governments to prepare themselves on some of the major international questions before the United