

(ii) Decision on the "The United Nations Decade of International Law"

(Adopted on 18.4.98)

The Asian African Legal Consultative Committee at its Thirty-seventh Session

Having taken note of the Report of the Secretary-General on the United Nations Decade of International Law set out in Doc.No. AALCCXXXVII\New Delhi \98\S.2;

1. **Reaffirms** that many of the political, economic and social problems which riddle the Member States of the international society call be resolved on the basis of the rule of law;
2. **Reiterates** the importance of strict adherence to the Principles of International Law as enshrined in the Charter of the United Nations;
3. **Requests** Member States to continue to give serious attention to the observance and implementation of the Decade;
4. **Also requests** the Secretary-General to apprise the Secretary-General of the United Nations of the initiatives taken by the Committee in this regard;
5. **Directs** the Secretariat to continue its efforts towards the realization of the objectives of the UN Decade of International Law;
6. **Decides** that the item be given serious attention and that it be placed on the agenda of the Meeting of the Legal Advisers of Member States of the Committee to be convened at the UN Office in New York during the Fifty-third Session of the General Assembly;
7. **Approves** of the Secretary General's proposal to hold seminars relevant to the objectives of the United Nations Decade of International Law; and

8. **Decides** to place the item "United Nations Decade of International Law" on the agenda of its Thirty-eighth Session.

(iii) Secretariat Study : The United Nations Decade of International Law

The Fifty-Second Session of The General Assembly

The General Assembly at its 51st Session had adopted the programme of activities for the third term of the UN decade of international Law (1997-99).¹ At its Fifty-second Session the General Assembly considered the Note of the Secretary General on the United Nations Decade of International Law.² That Note reviewed United Nations activities for the progressive development of international law and its codification and considered work in the fields of human rights, disarmament, outer space, economic development, crime prevention and criminal justice, the environment, international trade, and the Law of the Sea. It also addressed the relevant work of the Sixth Committee and the International Law Commission.

In a letter addressed to the Secretary General the Permanent Representative of Mongolia to the United Nations requested the inclusion in the agenda of the 52nd session of the General Assembly an item entitled "Draft Guiding Principles for International Law."³

The explanatory memorandum calling for the inclusion of the sub-item "Draft Guiding Principles for International Negotiations" inter alia stated that the rejection of the use or threat of use of force implied greater recourse to cooperation and negotiation. International negotiations, as the most flexible and effective means of cooperation between States plays an important role in the management of contemporary international relations and the peaceful settlement of disputes as well as the creation of new international norms of conduct. While the role of international negotiations would continue to grow in the future the conduct of international negotiations remained unregulated.

Accordingly, Mongolia believed that it was "necessary and timely for

the international community to identify and elaborate a set of principles to guide States in the conduct of international negotiations." These principles, it was suggested, could be embodied in an international document in the form of a code of conduct of States or guiding principles containing a set of generally agreed rules necessary for the conduct of international negotiations, in conformity with the principles and norms of contemporary international law.⁴

The General Assembly at its fifty second session noting that the identification and harmonization of guiding principles for international negotiations could contribute to enhancing the predictability of negotiating parties, reducing uncertainty and promoting an atmosphere of trust at negotiations and could offer a frame of reference for negotiations, underscored the importance of conducting effective negotiations in managing international relations and the peaceful settlement of disputes and in the creation of new international norms of conduct of States. It decided to continue the consideration of this sub-item in the Working Group on the United Nations Decade of International Law during the fifty-third session of the General Assembly and invited all States and relevant international organizations to submit in writing to the Secretary-General, before 1 August 1998, comment and proposals on the content of the "Draft guiding principles for international negotiations."⁵

It will be recalled that at its 51st session the General Assembly had considered a proposal sponsored by the Netherlands and Russian Federation on action in 1999 to mark the closing of the Decade and the centennial of the first International Peace Conference. It had then requested the Governments of Netherlands and Russian Federation to discuss with other States on the substantive content of the proposed 1999 action.⁶ At its recently concluded 52nd Session the General Assembly considered the Programme of Action For the Celebration of the Centennial of the First International Peace Conference as drawn up pursuant to General Assembly Resolution 51/159 of 16 December 1996 by the Russian Federation and the Netherlands.⁷

⁴ *Ibid.* pp. 2-3

⁵ For details see United Nations Decade of International Law, Report of the Sixth Committee, A/52/647 dated 25 November 1997.

⁶ For details see General Assembly Resolution 51/159 of 16 December 1996 Third International Peace Conference, Reproduced in A/CONF/XXXV/I/Teheran/97/S2, Annex III.

⁷ Doc. No. A/C.6/52/3 dated 15 October 1997, Reproduced in Ann

¹ See General Assembly resolution 51/157 of 16 December 1996.

² See the United Nations Decade of International Law - Note by the Secretary General, Doc. No. A/52/363.

³ See A/52/141 dated 18 June 1997. Reproduced in Annexure IV. For detail see *infra*.

Acceptance of And Respect For The Principles of International Law

Pursuant to the mandate of the 36th Session of the AALCC held in Tehran the Secretariat has continued to urge Member States, which have not already done so to consider ratifying or acceding to relevant multilateral codification conventions.

At its 52nd Session the General Assembly, *inter alia*, encouraged States to consider ratifying or acceding to the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations. It also encouraged international organizations that have signed the Convention to deposit an act of formal confirmation of the Convention and other international organizations entitled to do so to accede to it. It may be recalled in this regard that the AALCC was represented at the Vienna Conference on the Law of Treaties -between States and International Organizations or between International Organizations.⁸

The Secretariat of the AALCC in fulfilment of its advisory and recommendatory functions will endeavour to promote the acceptance of and respect for the principles of international law by urging its member States that they ratify or accede to codifying international instruments.

In the sphere of international economic and trade law matters, the AALCC at its 1997 session expressed, its appreciation for the continued cooperation with the various international organizations competent in the field of international trade law and expects that this cooperation will be intensified in the future. It considered a Secretariat study on the WTO as a Framework Arrangement and Code of Conduct for World Trade. The Secretariat will continue to monitor the developments related to the conduct of World Trade and the settlement of disputes in the field.

⁸ The AALCC is a signatory to the Final Act of the Vienna Conference.

Peaceful Settlement of Disputes

The programme for the activities for the final term (1997-99) of the United Nations Decade of International Law had *inter alia* invited "States, the United Nations System of organizations and regional organizations, including the Asian-African Legal Consultative Committee," to study the means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice.

The AALCC has always attached great significance to the cardinal principle of the peaceful settlement of disputes. The Secretariat proposes to continue to monitor the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization with regard to the peaceful settlement of disputes.

It may be recalled in this regard that to encourage the wider use of the role of the International Court of Justice and its wider use in the peaceful settlement of disputes, the AALCC Secretariat had organized an International Seminar on the "Work and Role of the International Court of Justice". The Seminar had been organized with the dual objective of commemorating the 50th Anniversary of the Sitting of the ICJ and to promote the awareness about the Court as a part of the Commemoration programme in the Asian Region.

In matters relating to the Law of the Sea the General Assembly at its 51st Session welcomed the establishment of the International Tribunal for the Law of the Sea, the Council of the International Seabed Authority its Legal and Technical Commission and Finance Committee, and its resolution encouraged States parties to the Convention to consider making a written declaration choosing from the means set out in article 287 of the Convention for the settlement of disputes concerning the interpretation or application of the Convention.⁹ It may be stated in this regard that the General Assembly at its 51st Session, *inter alia*, welcomed the establishment of the International Tribunal for the Law of the Sea under the United Nations Convention on the

⁹ See Law of the Sea, A/51/L. 21 of 19th November 1996

Law of the Sea as a new means of settlement of disputes. The programme for activities for the final term (1997-1998) of the United Nations Decade of International Law adopted by the General Assembly at its 51st Session took note of the "establishment of the International Tribunal for the Law of the Sea in October 1996 in accordance with the United Nations Convention on the Law of the Sea" and encouraged "the States and other entities referred to in Article 20 of Annex VI of the Convention to consider making use of the Tribunal for the peaceful settlement of disputes in accordance with Article 21 of Annex VI of the Convention".¹⁰

As regards disputes stemming from international economic and trade law matters the AALCC Secretariat shall continue to exhort and urge member States to resolve their differences in accordance with the arbitration and or conciliatory rules framed by the UNCITRAL. The AALCC shall also endeavor to expand and enlarge the activities of its Regional Centers of Arbitration functioning at Cairo, Kuala Lumpur, Lagos and Tehran. The Lagos Regional Center for International Commercial Arbitration was reactivated recently and has facilities for handling arbitration. The Center provides secretarial support services which may be availed by parties and arbitrators alike. Steps have been initiated to establish and make operational a similar center at Nairobi for serving the countries in Eastern and Southern Africa.

The World Trade Organization (WTO) has been actively involved in the settlement of disputes among its Member States. An overview of the dispute settlement mechanism of the WTO as well as the dispute settled thereby set out in the brief of document on WTO: Dispute Settlement Mechanism.¹¹ The WTO Secretariat has *inter alia* conducted special courses on dispute settlement mechanisms to train and enable the experts of its Member States to be better acquainted in that regard.

¹⁰ See United Nations Decade of International Law, Report of the Sixth Committee Doc. A/51/625 of 3rd December 1996. Also see A/C.6/51/L.11.

¹¹ See Document No. AALCC/XXXVII/New Delhi/98/S

Progressive Development And Codification Of International Law

The AALCC at its 36th session had requested the Secretary General of the AALCC to convey to the ILC its earnest expectation of the completion of the draft articles on the "Code of Crimes Against the Peace and Security of Mankind" and the first reading of the draft articles on "State Responsibility" at its session in 1996. It may be recalled that the AALCC at its 35th session had requested the Secretary-General to convey to the General Assembly and the ILC its interest that the ILC include in its agenda the topic "Diplomatic Protection". That item is currently on the agenda of the ILC.

It may be recalled that at the meeting of the Legal Advisers of Member States held in New York in 1996 a view had been expressed that there was a need to examine the humanitarian law aspects of the ICC as also the code of Crimes Against the Peace and Security of Mankind. It was also suggested in this regard that the Treaties related to International Humanitarian Law need to be updated. The Secretariat, working closely with the International Committee of the Red Cross (ICRC), organized a Special Meeting on the Inter-related Aspects between the International Criminal Court and International Humanitarian Law during the 36th Session of the AALCC.

The Special Meeting furnished a forum for an informal exchange of views on both the Work of the Preparatory Committee on the Establishment of an International Criminal Court as well as the issues and problems in the implementation of the Four Geneva Conventions of 1949 and the two Protocols of 1971 thereto. At that Session the AALCC had, *inter alia*, urged Member States to take part actively in the Preparatory Committee Meetings on the Establishment of the International Criminal Court.¹²

The AALCC Secretariat shall continue to furnish assistance to the member States of the Committee to facilitate their participation in the process of multilateral treaty making, their adherence thereto and the implementation thereof in accordance with their national legal systems.

¹² For details See Doc. AALCC/XXXVI/Tehran/97/S8.

In the matters relating to Environment and Development the AALCC at its 33rd session held in Tokyo in 1994 had inter alia directed the Secretariat to continue to monitor the progress in environmental matters particularly towards the implementation of Agenda 21. Thereafter the AALCC at its 36th session had emphasized the significance of the work of the Commission on Sustainable Development in the implementation of Agenda 21 and directed the Secretariat to continue to monitor the progress in environmental matters particularly towards the implementation of Agenda 21 as well as the recent multilateral instruments relating to the environment. The AALCC at its 35th Session had invited the UNEP to collaborate with it in the follow up of the UNCED and to continue to participate actively in the work of the AALCC.

In partial fulfilment of its mandate the AALCC Secretariat had undertaken steps to assist its Member States in their representation at the "Special Meeting of the General Assembly for the purpose of an overall review and appraisal of the implementation of Agenda 21" held in 1997. It may be recalled that the item had been placed on the agenda of the meeting of the Legal Advisers of Member States of the AALCC held at the United Nations Headquarters in New York in October 1996. Thereafter, the Secretary General represented the AALCC at the Nineteenth Special Session of the General Assembly held in June 1997.

In the field of refugee law the AALCC at its 35th session had decided, to organize, with the financial and technical assistance of the UNHCR, a meeting of experts on the Status and Treatment of Refugees to commemorate the 30th Anniversary of the Principles Concerning Treatment of Refugees ('Bangkok Principles') adopted by the AALCC in Bangkok in 1966. Pursuant to the mandate of the 36th Session of the AALCC held in Tehran in May 1997 a two day seminar to consider the recommendations of the seminar to commemorate the 30th Anniversary of the Bangkok Principles convened in Manila, Philippines in December 1996.

The two fold aim of the commemoration of the 30th Anniversary of the Bangkok Principles was: (a) "The promotion of the knowledge of the Bangkok Principles; and (b) their re-examination in the light of the regional development in law and practice since 1966, with a view to recommending

further action within the AALCC context." The Manila Seminar made substantive recommendations in respect of four issues viz. (i) the definition of refugees; (ii) standards of treatment; (iii) durable solutions; and (iv) burden sharing and in recognition of the universal dimension of the refugee problem, recommended that the AALCC ensure that the discussion of the refugee item at the 36th and subsequent sessions be fed into, and influence, broader initiatives for the development of international law and principles at the universal level, particularly under the auspices of the United Nations.¹³

The report of the Manila seminar was thereafter considered at the 36th Session of the AALCC held in Tehran in May 1997, where the Committee requested the Secretariat to convene a meeting of experts to conduct an in-depth study of the recommendations of the seminar as well as the views and comments thereon. The Government of the Islamic Republic of Iran offered facilities to hold the meeting of experts in Tehran and in fulfilment of its mandate the Secretariat in collaboration of the UNHCR convened a two-day meeting of experts in Tehran in March 1998. A report of the Meeting of Experts held in Tehran was placed before the 37th session of the AALCC.

The AALCC Secretariat shall continue to study the progress of work of both the ILC and the UNCITRAL and to prepare notes and comments thereon by way of facilitating their consideration by the member States. These comments have hitherto been a part of its modest contribution to the progressive development and codification of international law. The AALCC attaches great significance to the items currently on the agenda of the ILC, as they are of particular relevance to its members. During the period under review the Secretariat prepares notes and comments on the Work of the International Law Commission at its 49th Session¹⁴ as well as the work of the UNCITRAL at its 30th Session.¹⁵

¹³ For a detailed account of the recommendations of the Seminar see the Report of the Seminar to commemorate the 30th Anniversary of the Bangkok Principles held in Manila, Philippines 11 - 13 December 1996 document No. AALCC\XXXVI\Tehran\97\S\5

¹⁴ For details see Doc. AALCC\UNGAL.1\96\2

¹⁵ Ibid.

In the context of the Meeting of the Legal advisers of Member States of the AALCC held in New York during the 52nd Session of the General Assembly a reference was made to the Reservation to Treaties. Following the views expressed at that meeting of the Legal Advisers the AALCC Secretariat convened a Special Meeting on that subject within the administrative arrangements of the forthcoming 37th session as the matter is of interest to all the Member States. It may be recalled in this regard that an item entitled "The Law and Practice Relating to the Reservation to Treaties" is currently on the agenda of the ILC. The Special Meeting was organized with the technical assistance of the UN Office of Legal Affairs.

Promotion Of Teaching, Study, dissemination And Wider Appreciation Of International Law

Apropos the objective of encouraging teaching, study, dissemination and wider appreciation of international law, the AALCC Secretariat continues to print the reports of its annual sessions and the verbatim records, thereof. The Report of the 36th Session held, in Tehran, Islamic Republic of Iran, in May 1997 is in the press. A noteworthy feature of these volumes is that the brief of document prepared by the AALCC Secretariat for the annual session of the AALCC on some select topics are reproduced therein. The Secretariat has taken steps to ensure the widest possible dissemination of the aforementioned reports in the Afro-Asian region.

The Seminar convened with financial and technical assistance of the UNHCR to commemorate the 30th Anniversary of the Bangkok Principles had recommended that the working documents, presentations and reports and recommendations of the Seminar be published, under the auspices of AALCC and UNHCR, and that these institutions, as well as Member States, adopt the necessary measures for the widest possible dissemination of such publication. The Secretariat has in the course of the year published a report on the proceedings of the Manila Seminar.

In the period since the Tehran session the Secretariat has brought out a printed report on the Special Meeting on the Interrelated Aspects Between the International Criminal Court and International Humanitarian Law organized

within the framework of the 36th session of the AALCC

Third International Peace Conference

Paragraph 3 of General Assembly Resolution 44\23 adopted on 17 November 1989 it may be recalled, had requested the Secretary-General to seek the views of Member States and appropriate international bodies, as well as non-governmental organizations working in the field, on the programme for the Decade and an 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 Assembly at its 45th session.

In his report to the General Assembly, the Secretary-General of the United Nations had, inter alia, observed that while "there was support for the international conference at the end of the Decade to reaffirm the primacy of international law in the maintenance of peace and security and the importance of the peaceful settlement of disputes in international relations"¹⁶ it had been emphasized that such a conference would require careful planning and preparation so as to make it truly useful and important and to draw the widest participation.

On the other hand, a view had been expressed that the decision on the convening of such a conference depended on the agreement of States and that it was premature at that stage to take a decision on whether or not such a Conference would be the best way to mark the end of the Decade.¹⁷ It had then been suggested that a mid-term review (1995) of the programme would

¹⁶ See A/45/430 p. 12

¹⁷ At the 35th Session of the AALCC a view was expressed in this regard that whether the conference was needed and how it could turn out to be an international conference lay in its expected objectives and substantive results. The view was also expressed that a feasibility study of the need for a third Peace Conference was required to be made.