

ASIAN AFRICAN LEGAL CONSULTATIVE COMMITTEE

(i) Introduction

The Asian-African Legal Consultative Committee (AALCC), an inter-governmental organization, was constituted on 15th November 1956 as a tangible outcome of the historic Bandung Conference held in April 1955. Seven Asian States Burma, India, Indonesia, Iraq, Japan, Ceylon and the United Arab Republic founded the Asian Legal Consultative Committee on 15 November 1956. Later, on 19 April 1958 its name was changed to Asian African Legal Consultative Committee so as to include participation of the continent of Africa.

The Committee has at present a membership of 45 countries comprising almost all the major States from Asia and Africa. The Committee's regular sessions are attended by many Observer delegations representing governments and international organizations from all regions consistent with the global impact of its work in a number of fields. The Committee has since been examining international law matters, which are before the United Nations and specifically the International Law Commission and the Sixth Committee of the General Assembly.

The Committee has concluded Cooperation Agreements with concerned Member States to establish regional arbitration centres under auspices of the AALCC namely: Kuala Lumpur, Cairo, Lagos and Tehran centres. Also, negotiations for setting up similar centers in Nairobi and Doha are in progress.

Purpose and Objectives

To serve as an advisory body to its Member States in the field of international law and as forum for Asian-African co-operation in legal matters of common concern.

To examine the 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.

Recommendations thereon to the Governments of the participating States;

To communicate the point of view of the Committee on international legal problems referred to it, to the United Nations, other institutions and international organizations;

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;

To exchange views and information on matters of concern having legal implications and to make recommendations if deemed necessary.

To undertake, with the consent of or at the request of participating States, such other activities as may be deemed appropriate for fulfillment of the functions and purposes of the Committee.

The Committee meets once annually for its regular sessions. At these sessions, Member States are represented by high level delegations, which include Chief Justices, Judges, Cabinet Ministers, Attorney Generals and Senior Officials of the Ministry of Law, Justice and Foreign Affairs. A large number of non-Member States from the Asian-African region and the rest of the world and intergovernmental and international organizations are usually represented by their legal experts in the capacity of observers at these sessions.

The AALCC has working relationship with the UN, its bodies and a number of international and intergovernmental organizations such as the ILC, UNCTAD, UNCITRAL, UNHCR, UNDP, UNIDO, UNEP, WIPO, WTO, IMO, FAO, IAEA, UNIDROIT, Hauge Conference on Private International Law, Commonwealth Secretariat, OAU and League of Arab States

(ii) Progress of Work since the Thirty-eighth Session:

Subsequent to the thirty-eighth Session held in Accra in 1999 the Secretariat followed the work programme as approved at the Session. This included the work supportive of the United Nations; preparation of studies and consultation on matters before the United Nations and other inter-governmental organizations; organization of meetings and seminars under the auspices of the AALCC; representation at international conferences; preparation of briefs for consideration at Cairo Session and other promotional activities. A brief report on these activities is as follows:

A. Co-operation and Consultation with the United Nations and AALCC's work supportive of the United nations, its Specialized Agencies and other Inter-governmental Organizations.

(a) Secretary General's visit to New York to attend the fifty-fourth session of the General Assembly.

The Secretary-General attended the fifty fourth session of the General Assembly in November 1999. Apart from convening the meeting of the Legal Advisers of the AALCC Member States on 26th October 1999, he and the AALCC's Permanent Observer at New York, Mr. Bhagwat Singh attended the meetings of the Sixth Committee also. The Secretary-General also attended the informal meetings of the Legal Advisers held on 25th and 26th October 1999.

(b) Secretary General's Meeting with the Legal Counsel of the United Nations

During his stay in New York, the Secretary General met with Mr. Hans Corell, the United Nations Legal Counsel and other United Nations Officials and expressed his gratitude and appreciation to the United Nations for its continued support to the AALCC's work.

(c) Secretary General's Meeting with the Chairman of the Sixth Committee.

The Secretary General met Mr. Phakiso Mochochoko, Chairman of the Sixth Committee and apprised him of the work of the AALCC. Mr. Mochochoko stressed the need for strengthening co-operation between the AALCC and the Sixth Committee.

(d) Secretary General's Consultation with WIPO Officials

During the week long stay in Geneva to attend the International Law Commission's 51st Session, the Secretary General visited WIPO Headquarters in Geneva on 27 May 1999. He met Mr. Roberto Castelo, Deputy Directory General and Mr. N.K. Sabharwal, Director of the Bureau of Asia and the Pacific for Co-operation and Development, (WIPO) and discussed the matters concerning AALCC's Seminar in New Delhi in the latter half of November 1999 on the issue of intellectual property.

(e) Consultations with the Commonwealth Secretariat

The Secretary-General met Mr. K. Srinivasan, Deputy Secretary General in the Commonwealth Secretariat in London and discussed matters concerning promotion of co-operation between the AALCC and the Commonwealth Secretariat.

It may be recalled that a formal Co-operation Agreement between the two Organizations was signed in 1993. Mr. Srinivasan, attended the AALCC's 37th session held in New Delhi and had consultations with the Secretary General on matters of mutual interest between the two organizations. Mr. Srinivasan assured the Secretary General that the Commonwealth Secretariat would be ready to support AALCC in organizing an Expert Group Meeting in New Delhi in 2000 on matters concerning Extradition.

B. Meetings organized under the auspicious of the AALCC

(a) AALCC's Legal Advisers Meeting held on 26 October 1999 at New York

It is now an established practice to convene a meeting of the AALCC's Legal Advisers in New York during the General Assembly Session when most of the Legal Advisers are there to attend the Sixth Committee Meetings. Because of its close cooperation with the United Nations, the facilities for holding this meeting are provided by the United Nations at no cost to the AALCC.

The recent Legal Advisers Meeting was held on the 26th October 1999. President Hon'ble Martin A.B.K. Amidu Deputy Attorney General and Deputy Minister of Justice, Ghana and current President of the Committee chaired the meeting. Besides the Legal Advisers of the 37 AALCC Member States^{1[1]} and 4 Observer States^{2[2]}, the Meeting was attended by the Chairman of the International Law Commission, Chairman of the Sixth Committee, and the representative of the Under Secretary General and Legal Counsel of the United Nations.

The Agenda of the Meeting included two specific items, for consideration:

- (i) AALCC's Role in the first Decade of Twenty-first Century;
- (ii) Electronic Commerce: Legal Issues and its impact on Developing Countries.

The President in his opening remarks recalled the deliberation at the Accra Session on areas of common concern and emphasized the need for the expansion of AALCC's membership to include more francophone African Countries as this would help in putting forth a united approach to problems confronting the Asian and African States. The Secretary-General in his welcome address stated that basic objective of the Legal Advisers Meeting was to seek opinion and policy guidance on the two agenda items. The Chairman of the Sixth Committee said that in view of the commonality of the subjects dealt by the AALCC and the Sixth Committee there was need for greater cooperation between them. The Chairman of the ILC recognized the close relationship between the AALCC and the ILC.

1[1] Arab Republic of Egypt, Bangladesh, China, Cyprus, Ghana, India, Indonesia, Islamic Republic of Iran, Japan, Kenya, Kuwait, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mongolia, Myanmar, Nepal, Nigeria, Oman, Pakistan, Philippines, Qatar, Palestine, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Sri Lanka, Sudan, Syrian Arab Republic, Thailand, Turkey, Uganda, United Arab Emirates Yemen and Botswana.

2[2] Cuba, Fiji, Swaziland and Trinidad and Tobago.

Statements were also made by the delegation of the Arab Republic of Egypt, People's Republic of China, Ghana, Myanmar, Sierra Leone, supporting the AALCC's work programme and the new topics suggested for consideration.

(b) Seminar on "Issues Relating to the Implementation of Intellectual Property Rights" held in New Delhi on 15th and 16th November, 1999.

A Seminar on "Issues Relating to the Implementation of Intellectual Property Rights", held in New Delhi on 15th and 16th November 1999, was co-sponsored by the AALCC and the Government of India and organized in collaboration with the World Intellectual Property Organization (WIPO). Ambassadors/High Commissioners and representatives from 28 AALCC Member States and 4 non-Member States, Senior Officials from International Organizations which included, WIPO, the League of Arab States Mission and Kuala Lumpur Regional Arbitration Centre attended the Seminar. The participants included academics, lawyers and experts from other Institutions. The deliberations were informal in character and all participants spoke in their individual capacities, with no resolution or conclusion adopted by the Seminar.

The AALCC publication, Report of the Seminar Relating to Certain Aspects of the functioning of the WTO's Dispute Settlement Mechanism and other Allied Matters (organized by the AALCC in November 1998) was released on the occasion.

(c) International Seminar cum Workshop on the Oil and Gas Industry (supported by the AALCC)

The India International Law Foundation (IILF) held a Seminar cum Workshop on Oil and Gas Industry in New Delhi on the 22nd and 23rd November 1999. It was the third of a series on the subject. In March 1997 the IILF had organized an international seminar on the Petroleum Industry in India: Legal, Financial and Environmental Issues. It was followed by a three day workshop on Oil and Gas Contracts in New Delhi in March 1998. The Secretariat of the AALCC had supported these seminars.

C. Preparation of Studies on Matters before the United Nations and other International Organizations.

In pursuance of the Committee's programme for rendering assistance to Member Governments for their active participation in the work of the sixth Committee, the Secretariat prepared Notes and Comments on selected items on the agenda of the 54th Session of the General Assembly. These studies were submitted for consideration at the AALCC's Legal Advisers' Meeting held in New York on 26th October 1999.

A Document submitted to the Meeting contained notes and comments on the work of the International Law Commission at its 51st Session, Jurisdictional Immunities of States and their Property, United Nations Decade of International Law; Work of the United Nations Commission on International Trade Law at its 32nd Session, Oceans and the Law of the Sea; Establishment of an International Criminal Court, and Implementation of the Provisions of the Charter of the United Nations related to assistance to the third States affected by applications of Sanctions.

D. Agenda for the Thirty-ninth Session, Held in Cairo (Egypt)

The Agenda for Cairo Session apart from the Organizational matters, included the following items:

I. Matters under Article 4(a) of the Statutes: Matters Relating to the International Law Commission

1. Report on the Work of the International Law Commission at its 51st Session.

- II. Matters under Article 4(c) of the Statutes: Matters Referred to the Committee by Members States
 - 1. Status and Treatment of Refugees
 - 2. Deportation of Palestinians and other Israeli practices among them the Massive Immigration and Settlement of Jews in Occupied Territories in violation of International Law particularly the Fourth Geneva Convention of 1949.
 - 3. Legal Protection of Migrant Workers.
 - 4. Extra-territorial Application of National Legislation: Sanctions Imposed Against third Parties.
 - 5. Jurisdictional Immunities of States and their Property.^{3[3]}
- III. Matters under Article 4 (d) of the Statutes: Matters of Common Concern having Legal Implications.
 - 1. The United Nations Decade of International Law
 - 2. Follow-up of the United Nations Diplomatic Conference of Plenipotentiaries of an International Criminal Court (Rome, Italy, 15th June -17th July, 1998); work of the Preparatory Commission for ICC.
 - 3. The United Nations Conference on Environment and Development: Follow up.
- IV. Trade Law Matters
 - 1. Progress Report concerning the Legislative Activities of the United Nations and other International Organizations engaged in the field of International Trade Law.
 - 2. Report on the Seminar on Issues Relating to Implementation of Intellectual Property Rights held in New Delhi on 15th and 16th November 1999.
 - 3. Report on the outcome of the WTO's Third Ministerial Conference held in Seattle, 30th November - 3rd December 1999.
- V. Special Meeting on Electronic Commerce: Legal Issues and Implications for the Developing Countries.

Almost all the items listed above were taken up for discussion and a detailed account of the background of each subject, resolutions adopted and the studies prepared by the Secretariat have been given in different chapters ahead in this volume.

E. Headquarters Agreement between the AALCC and the Government of Nigeria relating to Lagos Regional Centre for Arbitration Signed at Lagos (Nigeria)

The Regional Centre for International Commercial Arbitration, Lagos had organized a seminar on "International Commercial Arbitration in the African Sub-Region: Meeting the users Needs" on 26-27 April, 1999. The Director of the Centre invited the Secretary General to deliver the key-note address at that Seminar. The Secretary General was also informed that on the occasion the Government of Nigeria desired to sign the Headquarters Agreement relating to the Lagos Centre.

On 26th April, 1999, Hon'ble Alhaji Abdullahi Ibrahim OFR (SAN), Attorney General and Minister of Justice, on behalf of the Government of Nigeria, and Mr. Tang Chengyuan, Secretary General of the AALCC, signed the Headquarters Agreement. Such Agreements

^{3[3]} At the 265th Meeting of the Liaison Officers held on 9th December 1999, the Liaison Officer of Japan proposed for inclusion of this item on the agenda of the 39th Session.

have also been signed with respective host Governments in respect of AALCC's Arbitration Centres in Cairo, Kuala Lumpur and Tehran.

Although Lagos Centre was established in March 1989, pursuant to an Agreement concluded by an exchange of letters in 1980 between the then Secretary General of the AALCC and the Government of Nigeria, because of the administrative and technical constraints the Centre had not been able to function effectively. The Government of Nigeria recently decided to reactivate the Lagos Centre and provide annual grants to meet its operational costs as well as suitable administrative office premises and other facilities.

The Headquarters Agreement concluded on 26th April 1999 formalizes the continued functioning of the Centre for a further period of five years with effect from January 1999 to December 2004. The Government of Nigeria has given due recognition to the Centre as an international, independent and neutral arbitral institution and has also accorded certain privileges and immunities to respect the independent functioning of the Centre.

F. Lebanon Joins AALCC Membership

Following the procedure stipulated in Rule 4 of the AALCC's Statutory Rules, Lebanon has been admitted as a participating State in the AALCC with effect from 1st December, 1999. This brings the total membership of the AALCC to 45, namely:

Arab Republic of Egypt, Bahrain, Bangladesh, China, Cyprus, Gambia, Ghana, India, Indonesia, Iran (Islamic Republic), Iraq, Japan, Jordan, Kenya, DPR Korea, Republic of Korea, Kuwait, Lebanon, Libya Malaysia, Mauritius, Mongolia, Myanmar, Nepal, Nigeria, Oman, Pakistan, Palestine, Philippines, Qatar, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Sri Lanka, Sudan, Syria, Tanzania, Thailand, Turkey, Uganda, United Arab Emirates and Yemen. Botswana is an associate member.

(iii) Data Collection Unit

A computerized Data Collection Unit has been set up in the Secretariat since 1st February 1992. The main function of the Unit has been to collect information on the economic laws and regulations of Member States. At the Tokyo Session, it was decided that the Data Unit will be an integral part of the Secretariat. A Working Group consisting of the Liaison officers from Egypt, Malaysia, Philippines, Republic of Korea and India had been constituted to oversee and advise on the technical aspects of the Unit. Mr. Mohamed Reza Dabiri, Deputy Secretary-General is in-charge of the Unit. At the Accra Session (1999) the Committee requested the Secretariat to establish a home-page on the AALCC which would provide basic information on the activities of the AALCC.

It is important to note that the Accra Session Resolution did not confine itself to the work of the Data Collection Unit only in respect of international economic and trade law matters, but covers the entire gamut of the substantive activities of the Secretariat, including research and dissemination of information.

The internet and the world wide web facilities can be utilized to monitor almost all subjects that are of interest to Member states. These would open two-way channel with intergovernmental organizations with which the AALCC has established close cooperation, such as UN, ILC, UNCITRAL, UNCTAD, UNEP, UNIDROIT, WIPO, WTO, the Commonwealth Secretary OAU etc.

The e-mail address of AALCC is: aalcc@del3.vsnl.net.in. The text of the resolution on AALCC's Data Collection Unit is as follows:

RESOLUTION ON THE AALCC's DATA COLLECTION UNIT

(adopted on 23.2.2000)

The Asian-African Legal Consultative Committee at its Thirty-ninth Session,

Recognising the need and significance of exchange of information between the Committee, the United Nations, its related agencies and other International Organizations;

Having in mind the effective role of research and study in the objectives of the Committee;

Appreciating the financial assistance given by the Government of the Republic of Korea for the establishment of the Data Collection Unit and by the Government of Japan for the purchase of computers and the internet facilities.

Also appreciating the efforts of the Secretariat towards the establishment of a web-site and electronic mailing facilities;

1. **Requests** the Secretary General to continue to update and improve the technical efficiency of the Unit for facilitating communication between the Secretariat, Member States and other International Organizations;
2. **Urges** Member Governments to furnish information and other relevant material in order to enrich the Data Collection Unit;
3. **Requests** the Secretary General to reactivate and consider the expansion of the Advisory Panel of Liaison Officers to facilitate consultations on technical matters related to the Unit; and
4. **Requests** the Secretary General to report on the progress of the Data Collection Unit to the fortieth session.

(iv) Publications

The AALCC Secretariat has been bringing out a Quarterly Bulletin regularly for the last twenty-five years. However, since 1998, it is being published half-yearly. The bulletin has served as a useful tool for wider dissemination of information about the activities of the AALCC and the developments in the field of international law. In order to enhance its legal character so as to render better service in legal matters to Member States, the Bulletin now includes one or two research articles and papers contributed by legal experts and scholars from the Asian and African region. The Secretary General hopes that the Member Government would encourage scholars in their respective Universities and academic institutions to contribute articles for the Bulletin. A Board of Editors, headed by the Secretary General and comprising senior officials in the Secretariat has been constituted to advice on the matters concerning the Bulletin.

During the year 1999, the Secretariat, in co-operation with the UNEP brought out a publication the "Asian-African Hand book on Environmental Law".

The Secretariat has also published the Report of the Seminar Relating to certain aspects of the functioning of the WTO Dispute Settlement mechanism and other allied matters, November 1998, New Delhi.

Each year the Secretariat publishes an annual Report entitled "Report and Selected Documents". The present volume is the latest in this series entitled "Report and Selected Documents of the Thirty ninth Session" held in Cairo (Egypt). This publication contains

background information, the research studies prepared and the decisions adopted at the Cairo Session.

I. Appointment of the New Secretary General

The then secretary General Mr. Tang Chengyuan completed his term of office on 9 May 2000. His contribution in steering effectively the activities of the AALCC were deeply appreciated at the Cairo Session.

Ambassador Dr. Wafik Zaher Kamil, earlier the Deputy Secretary General in the AALCC, was nominated by the Government of the Arab Republic of Egypt for the post of the Secretary General. He was unanimously appointed to the post of the secretary general at Cairo session (2000).

(V) AALCC'S Regional Centres for Arbitration

The question of organization of a dispute settlement scheme in relation to economic and commercial transactions with and within the countries of the Afro-Asian region was first discussed at AALCC's Tokyo Session, (1974). At that session, the AALCC endorsed the recommendation of its Trade Law Sub-Committee, that efforts should be made to develop institutions and facilities for the conduct of international arbitrations in the Afro-Asian region so that the flow of arbitrations to arbitral institutions outside the region could be minimized. After subsequent discussions on this matter at its Kuala Lumpur (1976) and Baghdad (1977) sessions, and consultations with the Member Governments and concerned international institutions, the AALCC decided at its Doha Session held in January 1978 upon the establishment of a Regional Centre for Arbitration in Kuala Lumpur, a second Centre in Cairo and a third one to be located in an African country in consultation with the Member Government concerned. It was also envisaged that additional Centres might be set up progressively in the light of experience gained from the activities of these Centres.

In April 1978 an Agreement was concluded through an exchange of letters between the Government of Malaysia and AALCC for the establishment of a Regional Centre for Arbitration in Kuala Lumpur. The Kuala Lumpur Centre was formally inaugurated by the Prime Minister of Malaysia on 16 October 1978. A similar agreement was concluded with the Government of the Arab Republic of Egypt in January 1979 for establishing a second Centre in Cairo. The Cairo Centre was formally inaugurated on 5 February 1979 by Hon'ble Ahmed Aly Moussa, the then Minister of Justice of Egypt.

An agreement had been concluded with the Federal Government of Nigeria in 1980 for the location of a third Centre in Lagos and the same was formally inaugurated in March 1989. On 26 April 1999 Hon'ble Alhaji Abdullahi Ibrahim OFR (SAN), Attorney General and Minister of Justice, on behalf of Nigeria and Mr. Tang Chengyuan, Secretary General of the AALCC, signed the Headquarters Agreement. The agreement formalizes the continued functioning of the Centre for a period of five years with effect from January 1999 to December 2004.

An Agreement has also been concluded between the Government of the Islamic Republic of Iran and the AALCC on 3 May 1997, for the establishment of a Regional Centre for Arbitration in Tehran. The Agreement, among other things, provided that the Centre would function under auspices of the AALCC. The Government of Islamic Republic of Iran would respect the independent functioning of the Centre, and have conferred certain privileges and immunities to the Centre, as may be necessary for the purpose of executing its functions. The Centre would be administered by a Director who shall be a national of the Islamic Republic of Iran and would be appointed by the Government in consultation with the Secretary General of the AALCC. Until such time that the Centre becomes financially

independent, the Government could make available premises and make an annual grant for the purposes of the functioning of the Centre. Among the various initiatives taken by the interim Secretariat, the important ones include the preparation of the promotional material of the Centre; and drafting the Rules of Arbitration for conducting arbitrations under the auspices of the Tehran Centre. The Agreement has already been confirmed by the Cabinet and also approved by the Commission of Foreign policy of Iranian Parliament (Majlis). It is awaiting final ratification by the Parliament. The Iranian Parliament has also approved the Arbitration Legislation, based on UNCITRAL Model Law, which has become effective from September 1997.

Activities of the AALCC'S Regional Centres for Arbitration

The tasks entrusted to the AALCC's Centres in the light of the overall objectives of the AALCC's dispute settlement scheme include:

- (i) Providing arbitration under the auspices and rules of the Centres;
- (ii) Assistance and facilities for holding ad hoc arbitral proceedings under UNCITRAL Arbitration Rules 1976.
- (iii) Assistance in the enforcement of awards;
- (iv) Rendering of administrative services and secretarial assistance upon request to other institutions with which appropriate arrangements may have been made with regard to arbitral proceedings under the auspices of those institutions; and
- (v) Promotional work in association with the AALCC Secretariat.

Although in the beginning the promotional activities of the Regional Centres for Arbitration were primarily carried out by the AALCC in view of its established contacts with Governments, governmental agencies and international institutions. Over the past few years, such activities have been mainly carried out by the Centres themselves. However, the AALCC Secretariat too periodically organizes international conferences and seminars aimed at promoting awareness about the role and functions of the Regional Centres for Arbitration.

4[1] Arab Republic of Egypt, Bangladesh, China, Cyprus, Ghana, India, Indonesia, Islamic Republic of Iran, Japan, Kenya, Kuwait, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mongolia, Myanmar, Nepal, Nigeria, Oman, Pakistan, Philippines, Qatar, Palestine, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Sri Lanka, Sudan, Syrian Arab Republic, Thailand, Turkey, Uganda, United Arab Emirates Yemen and Botswana.

5[2] Cuba, Fiji, Swaziland and Trinidad and Tobago.

6[3] At the 265th Meeting of the Liaison Officers held on 9th December 1999, the Liaison Officer of Japan proposed for inclusion of this item on the agenda of the 39th Session.
